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**ORDINARY MEETING**

**OF**

**CITY STRATEGY COMMITTEE**

**MINUTE ITEM ATTACHMENTS**

Time: 9:30 am  
Date: Thursday, 8 December 2016  
Venue: Committee Room 1  
Ground Floor, Council Offices  
101 Wakefield Street  
Wellington

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**Business**

**Page No.**

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**1.4.3 Con Anastasiou and Ian Leary, Spencer Homes Limited**

1. Approval of Stormwater Easement over Silverstream Road Reserve. 2

**CITY STRATEGY COMMITTEE**

**8 December 2016**

**Item 4.3**

**RESERVES ACT 1977: APPROVAL OF STORM-WATER EASEMENT  
OVER SILVERSTREAM ROAD RESERVE.**

**Resource Consents**

1. Park Lane Infrastruct Limited has obtained resource consent from the Wellington City Council and from the Greater Wellington Regional Council to develop the land at 131 Silverstream Road for residential purposes together with associated infrastructure.
2. Resource consent was granted by the Wellington City Council on a non-notified basis on 6 July 2016.
3. The application for resource consent stipulated that storm-water from the development would be captured by a storm-water detention pond where it would be retained and subjected to orderly release into an existing pipe or into a storm-water pipe along part of the eastern boundary of the site. The storm-water pipe would then exit the development site into Silverstream Road and enter the reserve. This intent was clearly disclosed in the application, was assessed by the consent authority and the effects on the environment were demonstrated to be less than minor.

**Application for Easement**

4. The application for an easement to enable the storm-water pipe to be located in the reserve is the natural sequel to the resource consents and is required to allow the implementation of those consents. In that sense, the easement sought is not dissimilar to the seeking of a building consent to chrysalise a resource consent for a structure albeit administered under a different Act.
5. Such easements are contemplated by section 48(1) of the Reserves Act 1977 and consent is required under that section. Whilst no criteria for consent are

stipulated in section 48(1) that section is subject to the Resource Management Act 1991 in the case of reserves vested in the administering body such as is the case here. In that context public interest is a relevant consideration.

**Environmental and Public Benefit of Development**

6. The development will provide significant environmental and public benefit.
7. It will provide 131 new residential allotments at a time when the residential property market is bereft of adequate supply with resultant unaffordability of housing stock.
8. Of the 25 hectares comprising the development site, approximately 15 hectares will be vested as reserve and incorporated into existing reserve.
9. Approximately 420 metres of the stream which is currently piped through the property will be “day-lighted”.
10. The new “day-lighted” stream will connect the lower stream below the site with streams above the site, enabling fish passage through 1000’s of metres of interconnected aquatic habitat. The new pipes will be laid at shallow grades to allow for fish passage and the shortest length of new pipe possible will be used to encourage fish migration.
11. The subdivision will achieve stormwater neutrality, reducing “first flush” flooding effects. Stormwater flows from the site will be the same as the pre-development level.
12. The standard requirement for drainage design in Wellington requires pipes and streams to cater to a 10% (1 in 10 year) Annual Event Probability storm. The drainage system on the development site will provide control for a 1% (1 in 100 year) Annual Event Probability storm with a margin built in for climate change.
13. Earthworks on the site will address and mitigate the unauthorised and uncertified fill placed on the site in the mid 1990’s when the site was under different ownership. Site works will include lands coping to a high standard.

14. The erosion and sediment control measures for construction will be thorough and comprehensive and designed to give the best protection possible.
15. The discharge point location was discussed with Parks and Reserves and placed in the most favourable location available.
16. The road reserve along Silverstream Road extends approximately 8 metres from the edge of Silverstream road carriageway (the kerb and channel) edge. This strip of road reserve is grassed and effectively incorporated into the grass used as part of the reserve itself.
17. If the easement across the reserve were not granted as proposed, it would require the pipe to be laid in road reserve along the edge of the carriageway, at least 200metres (to potentially 700 metres) to find a new outlet point to discharge to the stream. This would require a much greater level of disruption to the practical enjoyment of the reserve. It would also effectively prevent fish passage and migration.
18. There were rigorous conditions stipulated in the resource consent for sediment control during the implementation phase. These were all complied with. Minor discharges did occur occurred during an extreme weather event.
19. The developer has negotiated in good faith to try and obtain a discharge point across adjoining private land without success. At the end of the day, even if that negotiation had been successful, it would not have made any difference to the effects on the environment which in each case would be less than minor.

**Public Notification**

20. The proposal to grant an easement was publicly notified and attracted one submission in opposition.
21. I do not propose to address this submission in detail as this has been done by the reporting officer.

22. I agree with the reporting officer's assessment of the matters raised in the submission. However, I do want to address three matters raised in the submission.
23. That submission took issue with the fact that resource consent to the proposed development had been granted on a non-notified basis.
24. Had the submitter wished to challenge the contents there was a proper process available but the submitter did not pursue that process. This is neither the time nor the forum to relitigate that issue.
25. The submitter has incorrectly interpreted the provisions of the Reserves Act. Section 48(1) of the Reserves Act is not subject to section 55 of that Act. Section 55 is concerned with works by the administering body in scenic reserves, not with the grant of easements to other parties.
26. The submitter has raised the matter of mitigation. Council officers have clearly indicated that mitigation and restoration will be required and the applicant will accept such a condition of consent. Extensive mitigation is required in any event by the conditions of resource consent.

**Officer's Report**


27. I have read the officer's report.
28. In my view, the officer has correctly interpreted both the law and the facts.
29. I support the officer's recommendation that the easement be granted with conditions.

**Conclusion**

30. The granting of the easement sought will allow the development project to proceed as contemplated by the resource consent and in a manner which will enhance the environment and provide a public benefit.
31. Granting the easement will not offend the principles set out in the Reserves Act.

32. The applicant accordingly seeks that the easement be granted.

Dated at Wellington this 8<sup>th</sup> day of December 2016

A handwritten signature in black ink, appearing to read 'C. Anastasiou', written over a horizontal line.

**Con Anastasiou**  
Counsel for the Applicant