
REPORT 2
(1215/53/IM)

APPROVAL FOR GRANTING AN EASEMENT OVER PART OF COUNCIL OWNED LAND AT 43 ROBIESON STREET, MT VICTORIA

1. Purpose of Report

To recommend the Committee approves granting an easement over part of the land at 43 Robieson Street, Mount Victoria (outlined in red on Appendix 1) to the owner of 28 Alexandra Road, Hataitai.

2. Executive Summary

The owner of 28 Alexandra Road, Hataitai approached the Council to obtain an easement over part of Council owned land at 43 Robieson Street, Mt Victoria. The granting of an easement over this land will enable vehicle access to 28 Alexandra Road, Hataitai.

This report recommends the Committee approves the granting of an easement over part of the land at 43 Robieson Street, Mt Victoria to the owner of 28 Alexandra Road.

The land at 43 Robieson Street, Mt Victoria is vested in the Council for water supply purposes and is classified as fee simple land. The land is managed as Recreation Reserve but is not legally subject to the requirements of the Reserves Act 1977.

The land at 43 Robieson Street, Mt Victoria has also been identified in the Town Belt Management Plan (1995) as a potential addition to the Town Belt.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

- 1. Receive the information.*
- 2. Agree, subject to the terms and conditions noted below, the granting of an easement over part of the land known as 43 Robieson Street, Mt Victoria (outlined in red on Appendix 1) to the owner of 28 Alexandra Road, Hataitai.*

3. *Note that the terms of the easement agreement are as follows:
Location: Part of the land at 43 Robieson Street, Mt Victoria.
Public Access: Public access over the land at 43 Robieson Street, Mt Victoria will be maintained at all times.
Maintenance and Repair: The owner of 28 Alexandra Road, Hataitai will be responsible for maintaining and repairing that part of 43 Robieson, Mt Victoria subject to the easement agreement.
Reserve Status: The owner of 28 Alexandra Road, Hataitai, agrees not do anything to prejudice the Council's ability to classify the land at 43 Robieson Street, Mt Victoria as Recreation Reserve.
Town Belt Status: The owner of 28 Alexandra Road, Hataitai, agrees not do anything to prejudice the Council's ability to incorporate the land at 43 Robieson Street, Mt Victoria into the Town Belt.
Betterment Payment: \$50,000 (plus GST).*
4. *Note that any approval to grant an easement is conditional on the legal and advertising costs associated with preparing the easement agreement is met by the owner of 28 Alexandra Road, Hataitai.*
5. *Agree that Council officers will finalise and negotiate the easement agreement details.*

4. Background

The owner of 28 Alexandra Road, Hataitai (Owner) has applied to obtain an easement over part of the Council owned land at 43 Robieson Street, Mt Victoria (Easement Land) to enable vehicle access to 28 Alexandra Road, Hataitai (Owner's Land).

There is an existing easement already in place over the Easement Land for the benefit of the neighbouring property at 30 Alexandra Road, Hataitai.

If the easement is granted, the Owner intends on widening the accessway and erecting a new retaining wall along part of the eastern side of the accessway in order to allow for more effective drive on access to a proposed garage that will be erected on the Owner's Land. Resource consent for these works was granted by Council on 18 April 2008.

The cost of this work will be at the Owner's expense. The Owner will also be equally responsible for all costs associated with maintaining and repairing the Easement Land with the owner's of 30 Alexandra Road, Hataitai.

As the provision of vehicular access to the Owner's Land will have a considerable impact on the value of the Owner's Land, Council officers sought valuation advice on granting an easement over the Easement Land.

Based on the valuation advice received, a betterment value of \$50,000 (plus GST) has been negotiated with the Owner and will be paid to Council on settlement.

5. Discussion

5.1 Impacts on the Open Space Values of the Proposed Easement

The Easement Land is zoned Open Space B and is part of a wider area which is near Town Belt land. The Easement Land was identified in the Town Belt Management Plan (1995) as a potential addition to the Town Belt.

As part of the Town Belt Reinstatement project (2002), it was recommended that when Lookout Road was legalised, the adjoining land areas, including the Easement Land, would be given appropriate reserve status. Lookout Road was legalised and vested in the Council as road on 15 August 2002. The adjoining land areas have not yet been given reserve status.

The proposed easement will not affect the open space values, as a formed accessway and easement already exists for 30 Alexandra Road, Hataitai. Resource Consent for the proposed driveway and retaining wall was granted on 18 April 2008. As part of the Resource Consent process it was concluded that the proposed works would have a minimum effect on open space values.

5.2 The Site

The Easement Land is known as part of the land at 43 Robieson Street, Mt Victoria and is legally described as Section 7 Survey Office Plan 303817 and is held in Certificate of Title 69533.

The Easement Land is part of a larger parcel of land which was vested in the Council for water supply purposes and is classified as fee simple land. The Easement Land is managed by officers as Recreation Reserve and may be classified as such in the future.

The Owner's Land is legally described as Lot 3 Deposited Plan 23142 and is held in Computer Freehold Register WNE4/282. The proposed easement will be registered against the Certificate of Title relating to the Owner's Land.

5.3 Consultation and Engagement

The Easement Land is managed by officers as Recreation Reserve but is not legally subject to the requirements of the Reserves Act 1977 (Reserves Act). Therefore, officers are not required to undertake the public notification process under section 48(2) of the Reserves Act or obtain the Minister of Conservation's approval under section 121.

If the Easement Land was subject to the Reserves Act, officers would be able to waive the requirement of public notification under section 48(3). Under this section, public notification is not required if the Easement Land is not likely to be materially altered or permanently damaged and the rights of the public are not likely to be permanently affected by the granting of the right of way.

If the Easement Land was subject to the Reserves Act, the proposal to grant a right of way would satisfy the requirements of section 48(3).

5.4 Financial Considerations

The granting of an easement over the Easement Land will allow vehicle access to the Owner's Land. This will add considerable value to the Owner's Land. Therefore, a betterment value of \$50,000 (plus GST) has been negotiated with the Owner and will be paid to the Council on settlement. The betterment payment will be allocated to the Town Belt and Reserves Management budget. It will be used for environmental improvements to the adjoining Reserve land.

The Owner will be responsible for all costs associated with maintaining and repairing the Easement Land.

7. Conclusion

Council officers recommend that the Regulatory Processes Committee approve the granting of an easement allowing vehicle access over part of the Council owned land known as 43 Robieson Street, Mt Victoria to the owner of 28 Alexandra Road, Hataitai.

Contact Officers: *Amber Bill, Manager, Community Engagement and Reserves, Parks and Gardens and Hanita Shantilal, Senior Property Advisor, Property Management.*

Supporting Information

1) Strategic Fit / Strategic Outcome

The granting of this easement has no links to any specific strategic outcome.

2) LTCCP/Annual Plan reference and long term financial impact

A betterment payment of \$50,000 (plus GST) will be paid to Council on settlement and will be allocated to the Town Belt and Reserves Management budget. The betterment payment will be used for environmental improvements to the adjoining Reserve land.

The owner of 28 Alexandra Road, Hataitai will be equally responsible for all costs associated with maintaining and repairing the Easement Land with the owner's of 30 Alexandra Road, Hataitai.

3) Treaty of Waitangi considerations

No Treaty implications have been identified.

4) Decision-Making

This is not considered a significant decision in terms of the Council's Significance Policy.

5) Consultation

The land is managed as Recreation Reserve but is not legally subject to the requirements of the Reserves Act 1977. Therefore, officers are not required to undertake the public notification process.

6) Legal Implications

Council's lawyers have been consulted during the development of this report and legal advice will be sought in the preparation of the easement agreement.

7) Consistency with existing policy

The granting of an easement over fee simple land is not covered by existing policy.

Appendix 1



Council owned land at 43 Robieson Street, Mt Victoria

Property boundaries, 20m contours, road names, rail line, streams & other public features from LINZ Information NZ, Crown Copyright reserved. Property boundaries accuracy: 1:1m to urban areas, 1:10m to rural areas. Contours and streams from Geotitles NZ. Road names extracted from NZ D.O.M. Owners, colours, names and other information shown in appropriate areas may not be same for aerial or ground based imagery.

MAP PRODUCED BY:
Wellington City Council
101 Wakefield Street
WELLINGTON, NZ

ORIGINAL MAP SHEET: AA
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DATE: 25th 02/11
REFERENCE: 10048

