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**REPORT 11**

**STORMWATER EASEMENT THROUGH RESERVE: 80  
DAVIDSON CRESCENT**

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**1. Purpose of report**

To obtain Council approval for a stormwater drainage easement through land held under the Reserves Act 1977, at 80 Davidson Crescent, Tawa.

**2. Executive summary**

Capacity wishes to install a stormwater pipe extending from Davidson Crescent, via an existing pedestrian accessway and reserve, to Main Road Tawa (and the Porirua Stream beyond). The work is required as existing stormwater capacity in the area is inadequate; resulting in flooding issues. The route through the Main Road West Reserve has been elected as it provides the least disturbance to private property and is closest to the flooding-affected area.

Capacity intends on making good any area disturbed during the construction of the pipe; being either footpath resurfacing or restoration planting.

The proposed easement will be dealt with under section 48 of the Reserves Act 1977 (the Act).

**3. Recommendations**

Officers recommend that the Environment Committee:

1. *Receive the information.*
2. *Agree to grant a stormwater easement in perpetuity to Capacity over reserve land at 80 Davidson Crescent and 65 Fyvie Avenue, Tawa [being part of Lot 48 DP 26425 (CFR 146853) and part of Lot 28 DP 42752 (Proc. 511508) respectively] pursuant to Section 48 of the Reserves Act 1977.*
3. *Waive the requirement for public notification under section 48(2) of the Reserves Act 1977 in accordance with Section 48(3) of the Reserves Act 1977, as the reserve 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 easements in 2 above.*
4. *Note that the work within the easement area, and in adjacent legal road, will be subject to relevant bylaw, building and/or resource consent requirements.*

5. *Note that works will proceed in accordance with final Parks, Sport and Recreation agreement to all replanting mitigation plans and park management/work plans.*
6. *Authorise the Chief Executive Officer to carry out all steps to effect the easement.*

#### **4. Background**

In response to localised flooding issues in and around Davidson Crescent and Fyvie Avenue, Tawa, Capacity has explored several options for the construction of addition stormwater infrastructure in the area. A low point in the road outside 89 Fyvie Avenue is drained by existing pipes with limited capacity and for which no natural secondary flowpath exists; periodic flooding occurs as a result.

The straightforward solution to the flooding issue is to increase available capacity by the installation of a second, larger, stormwater pipe. The alignment of the proposed pipe is dictated by the location of the flooding-affected area and the practicalities of feeding the stormwater into Porirua Street; the route through Main Road West Reserve was elected for these reasons.

Other alternative options were considered for the location of the stormwater, but for two reasons were not pursued; an alternative layout on Leadley Lane is too far removed from the flood-affected area (and would not specifically solve the flooding issue in Davidson Crescent) and any other option would pass through private property bringing complications of negotiation and compensation.

The physical work will comprise the laying of approximately 130 metres of 400mm diameter polyethylene pipe from Davidson Crescent, via the accessway, reserve and Main Road to Porirua Stream. Several new sumps will be installed in Davidson Crescent along with 8 manholes.

Capacity, in consultation with the Parks, Sport and Recreation Team (Parks Team), intend to reinstate any ground disturbed by the proposed works. This would include the resurfacing of the concrete path, replacement of handrails, and re-contouring and re-vegetation of natural ground.

It is worth noting that the easement will only extend over the portion of the pipe that passes through the Main Road West Reserve; this is the 20 metres of pipe between Manhole 3 and 4 (refer Appendix 2). The Council-owned land outside of the reserve is legal road and an easement for this type of infrastructure is not required. Access and installation of the pipe will be handled by separate agreement with the infrastructure team.

The two parcels over which an easement will pass are classified as Recreation Reserve under either the Reserves Act 1977 or the Municipal Corporations Act 1954. The land is zoned Open Space 'B' under the Council's District Plan.

Easements through reserve land are dealt with under section 48(1)(f) of the Act. Capacity is aware of the need to apply for other approvals, such as road opening notices, building and earthworks consents, but which are not dealt with here.

## **5. Discussion**

Section 48(1)(f) of the Act provides for this type of easement in reserves. The reserve is an appropriate location for the stormwater pipe, given the proximity to both the point of discharge (Porirua Stream) and the location of the flooding-prone area. Landowner approval from the Parks, Sport and Recreation Team has been provided for the proposed work. It is recommended that a stormwater easement be approved.

Public notification is required under the Act, except where the reserve is not likely to be materially altered, or rights of the public to the reserve will not be permanently affected. As the affected area is expected to be restored after construction public notification is not required.

### **5.1 Consultation and Engagement**

The applicant has consulted with the Council's Parks, Sport and Recreation Team who have, in turn, required consultation with internal and external stakeholders (namely, the Friends of Tawa Bush Reserves and the Council's Ranger). The requested consultation forms part of the separate landowner approval process.

The Tawa Community Board endorsed the recommendations of the report at a meeting on 13<sup>th</sup> February 2014. The Board also wished to highlight the existing poor condition of stormwater drains within the access and reserve, and to have them addressed at time of the work. Capacity will be informed of this request.

I note this consultation process is separate and distinct from public notification, which is a required test under section 48 of the Act. Given that the reserve area will be restored to original condition after the work is completed, and the rights of the public with respect to the reserve will not be altered as a result of the work, I believe (3)(a) and (b) can be applied.

### **5.2 Financial considerations**

There are no financial considerations related to the granting of this easement. Any costs associated with the preparation of the easement agreement will be borne by Capacity.

### **5.3 Climate change impacts and considerations**

There are no climate change impacts that relate directly to this easement

### **5.4 Long-term plan considerations**

There is no specific mention of this easement within the 2012-22 Long Term Plan. Section 2.5 of the Plan, however, requires the protection of residents and property from flooding. By reducing reliance on the existing over capacity network the proposal achieves this aim.

## **6. Conclusion**

The proposal seeks the creation of an easement over a stormwater pipe. The purpose of the pipe is to relieve flooding-prone land on Davidson Crescent and Fyvie Avenue. The pipe is in a suitable location and is the most efficient route for servicing.

Following construction, the area is to be restored to enable public recreation use. Given there are no long term impacts on the reserve, public consultation can be waived.

Contact Officer: *Brett Smith, Property Advisor.*

## SUPPORTING INFORMATION

### 1) Strategic fit / Strategic outcome

*Agreeing to the easement will ensure the protection of a stormwater asset, which in turn will relieve flooding in parts of Davidson Crescent and Fyvie Street.*

### 2) LTP/Annual Plan reference and long term financial impact

*The proposal is broadly consistent with the Council's requirements for a robust stormwater network under the 2012-20 Long Term Plan. Such small scale works to address particular drainage issues are anticipated within Capacity's operating budget.*

### 3) Treaty of Waitangi considerations

*There is no Treaty of Waitangi implication for the proposed easement.*

### 4) Decision-making

*This is not a significant decision. The easement is consistent with the requirements of the Reserves Act 1977 for such activities in a Reserve.*

### 5) Consultation

#### a) General consultation

*General consultation can be waived by the Committee, under section 48(3) of the Reserves Act 1977, as the Reserve 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 easement.*

*Parks Sport and Recreation have been consulted with respect to the pipe location and site remediation and they have in turn recommended consultation with the local Community Group.*

*Consultation with the Tawa Community Board was undertaken. The Board endorsed the recommendations and, also, wished to have existing stormwater pipes in the area repaired as part of the work.*

#### b) Consultation with Maori

*No specific consultation has been undertaken with Māori.*

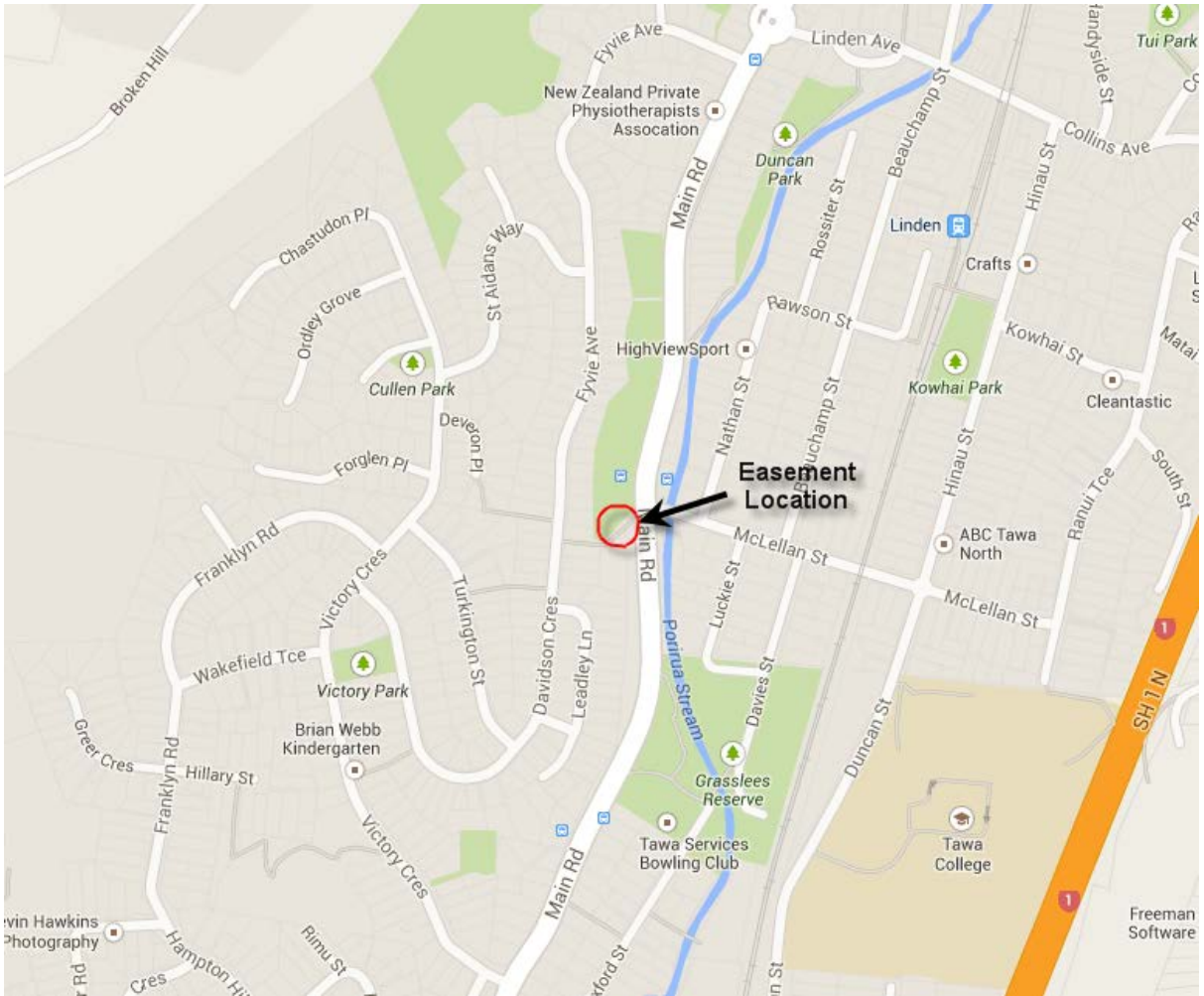
### 6) Legal implications

*The Council's lawyers will be consulted for the drafting of the easement document.*

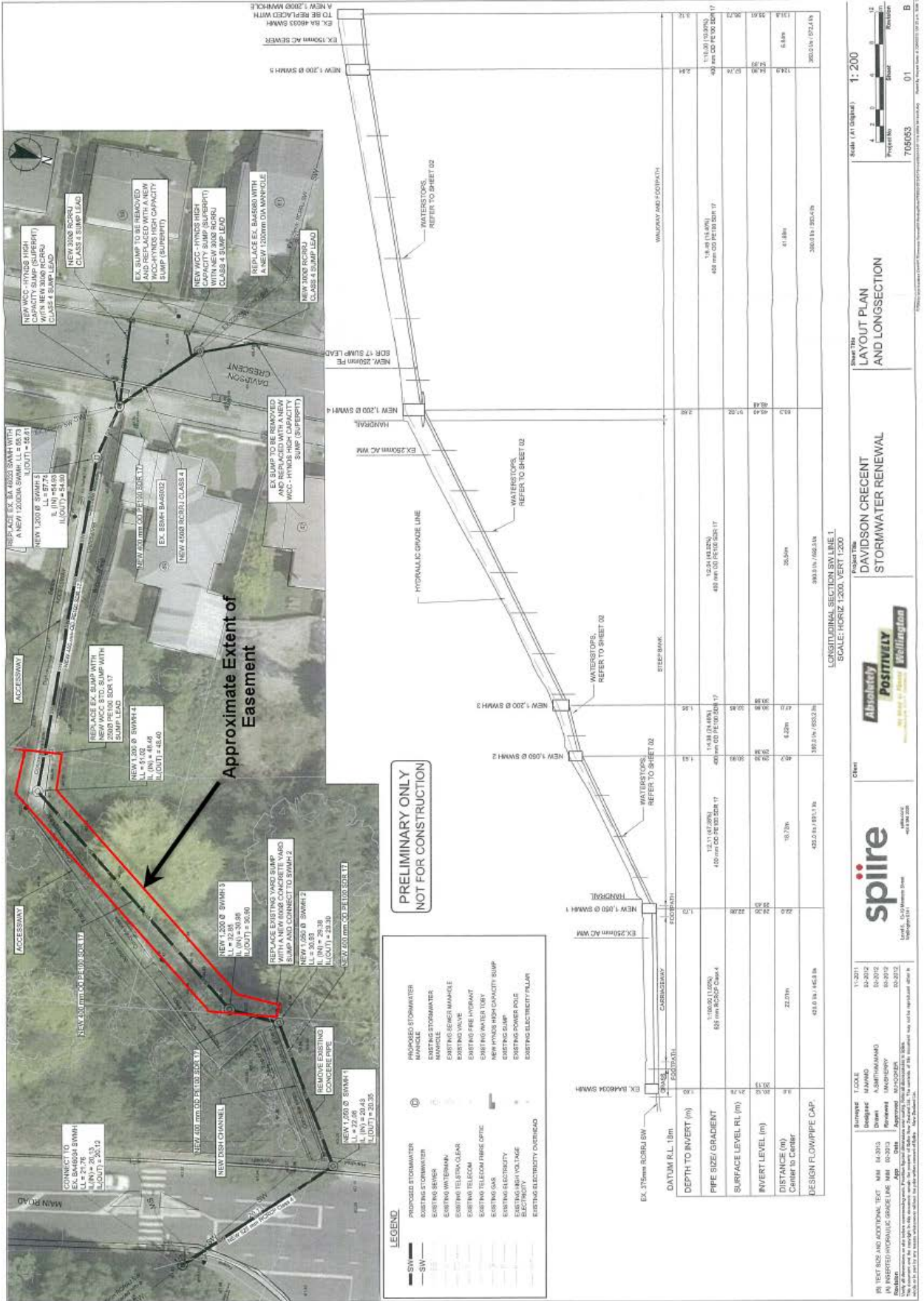
### 7) Consistency with existing policy

*The proposed easement is consistent with the Council's policies and legislation related to reserves.*

# APPENDIX 1 - LOCATION PLAN



# APPENDIX 2 - EASEMENT LOCATION



## APPENDIX 3 - SITE PHOTOS

Davidson Crescent and Fyvie Street, looking north towards low point; accessway to reserve between white and natural wood fences.



Accessway to Main Road West Reserve vegetation behind lamppost) – looking east





Steps through Main Road West Reserve – looking north-east.



Lower access point to reserve, on Main Road, looking west.

