

Report 13.80
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Committee Council
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Easement for fibre optic cable, Belmont Regional Park

1. Purpose

To recommend the approval of an easement for Transpower's fibre optic cable through Belmont Regional Park

2. The decision-making process and significance

Officers recognise that the matters referenced in this report may have a high degree of importance to affected or interested parties, in particular the farming lessee of Belmont Regional Park and recreational users of affected tracks.

The matter requiring decision in this report has been considered by officers against the requirements of Part 6 of the Local Government Act 2002 (the Act). Part 6 sets out the obligations of local authorities in relation to the making of decisions.

2.1 Significance of the decision

Part 6 requires Greater Wellington to consider the significance of the decision. The term 'significance' has a statutory definition set out in the Act.

Officers have considered the significance of the matter, taking the Council's significance policy and decision-making guidelines into account. Officers recommend that the matter be considered to have low significance.

Officers do not consider that a formal record outlining consideration of the decision-making process is required in this instance.

3. Background

In 2011 Transpower approached the owners of land in Belmont Regional Park (Hutt City Council, the Department of Conservation and Greater Wellington Regional Council) regarding the placement of fibre optic cable in Belmont Regional Park. The proposal is for an easement to lay fibre optic cable between

Glenside (Wellington), to Takapu Substation and across to the Haywards Substation. The route is shown in **Attachment 1**.

Such an easement is required to be granted by each individual owner of land along the route. Where the land is fee simple, this requires giving consent only, where the land is reserve, the provisions of the Reserves Act 1977 must also be considered. Further, as outlined in Part 7 of the Greater Wellington Parks Network Plan, any application for a concession, easement, lease or licence will need to be publicly notified prior to making a decision.

While WRC is manager of all of the land in Belmont either through delegation from the Department of Conservation (DOC) under the Reserves Act 1977 or by agreement with Hutt City Council under the Local Government Act 2002, easements must be granted separately by WRC, DOC and Hutt City Council (HCC) over the parts of the park each respectively owns.

3.1 Description of the proposal

The cable is part of a nationwide initiative to modernise the communication system for the National Grid. The fibre optic cable is to be buried along primarily existing tracks through the park and open grassed areas. To install the cable, a mole-plough (a plough which makes a narrow slit in the ground for inserting the pipe) pulled by a tractor will be used which buries the cable into a slot in the ground. It is expected that the work will take 10 weeks to complete and will create a temporary disturbance along the section of track being worked on. As part of the proposal, Transpower will reinstate the land (mainly track or grassed area) to its previous condition. This is noted as a condition of entry on the Access Agreement.

There is a small proportion of the easement that is through scrub rather than track or grass. This has been assessed by Greater Wellington Regional Council staff and it is considered to be of low value with no significant effect to the environment and fauna in the area. Notwithstanding this there are a number of measures that are included in the Access Agreement to ensure that in the installation and maintenance of the cable the environmental impact is minimised. Refer to Section 6.1 of this report for more detail.

Once finished, the cable will require maintenance checks twice yearly.

4. Assessment against the Reserves Act and public notification

Section 48 of the Reserves Act sets out how easements are dealt with. Most relevant is Section 48(3) which states that no public notice is required where the reserve is not likely to be materially altered or permanently damaged and that the rights of the public are not likely to be permanently affected by the establishment of the easement. In assessing this proposal, officers agree that the reserve land will not be permanently damaged and that public access is not permanently affected. In this regard, no public notice is needed. However, under the Parks Network Plan any easement over 10 years within a Regional Park or Forest requires public notification.

To this end, over the month of February 2012, the public were given opportunity to comment on the proposal and raise any concerns. No submissions were received.

The current lessee of the farm land at Belmont is Landcorp. They have been approached by Transpower directly and have agreed to the installation of fibre optic cable through the leased land.

The Department of Conservation will need to grant an easement for the reserve owned by the Crown. Pursuant to Section 48 of the Reserves Act, the Minister of Conservation (or its delegate) also has to consent to the easement on WRC and HCC owned land. They have been advised that there were no concerns raised through submissions. Following the decision of this Council, the Department of Conservation will consider giving final consent for the easement (pursuant to Section 48).

4.1 Assessment against the Parks Network Plan

Section 7.4.7 of the Parks Network Plan outlines the decision making guidelines for leases, licences and easements. The application has been assessed against these criteria and officers have the following comments:

- The proposal is not inconsistent with the park key characteristics, the management focus, policies or proposed concept plans
- An Access Agreement will ensure that park infrastructure (fences and roads) will be reinstated and that works will be carried out efficiently to minimise the impact on recreational users and the farm lessee. This will also ensure that environmental damage is minimised. A bond is required to ensure that works are completed to the agreed standard
- Tangata whenua have given their consent to the proposal (refer to Section 5 of this report)
- The developer has considered other options for the fibre route between Takapu and Hayward substations and concluded that running the cable through Belmont Regional Park is the only feasible option. Further discussion with the Park Ranger has helped to determine the best route through the Park that minimises its impact on the park

On the basis of this assessment, there is no reason for withholding consent to an easement over GWRC owned lands.

5. Views of other agencies

The cable installation runs at some distance from the Old Belmont Road before crossing beneath it. The road is a Category 2 historic place, and listed on the District Plan. The NZHPT has undertaken an assessment of the likely effects on heritage and consider the long term heritage impact is minor. This is on the basis that the proposal preserves the key elements and aesthetics of the road, uses a low impact method of installation and that the works are intended to maintain the functionality of the road.

Transpower has contacted Port Nicholson Block Settlement Trust and Ngati Toa Rangatira regarding the work. Both iwi have indicated that they are comfortable with the development.

Hutt City Council has agreed to the installation of fibre optic cable through the the land that it owns within Belmont Regional Park.

6. Recommendation to grant an easement

On the basis on submissions, the views of other agencies and assessment against the Parks Network Plan there is no reason to withhold consent for an easement as proposed. The main effect on the park is temporary disturbance and any issues regarding conflict with users and reinstatement can be addressed through the entry agreement.

6.1 Access Agreement and compensation

The proposed easement is for a 60 year term and would pertain to a width of three metres over the length of the route. An Access Agreement will be put in place prior to the work commencing on site. The agreement is currently being drafted and is subject to final negotiation, but will:

- Outline the scope of the work and confirm the route of the cable
- Detail the conditions that Transpower must adhere to in undertaking the work including: obtaining all necessary approvals and consents, particular requirements to satisfactorily protect and reinstate the park including the possible provision of a bond; liaison with park staff and Landcorp Farming to manage ongoing public access and farm operations; programming of the work to avoid the lambing season and poor weather; and management of any archaeological finds in conjunction with NZHPT and Iwi
- Formalise the details of the easement instrument to be registered following completion of the work
- Confirm the compensation payable. In this regard, Transpower is required to compensate all of the landowners along the route. It has put forward a compensation proposal based on methodology applied by DOC to similar easement compensation calculations nation-wide. It is based upon on a fee of \$2,000 per application, \$2 per metre of easement length, plus a 10% environmental premium applicable to reserve land. Over the entire 18 km length of the easement, this equates to approximately \$46,000 plus GST. Officers consider this an acceptable amount

While some of the land to which the compensation applies is owned by DOC or HCC, both agencies agree that as GWRC assumes the responsibility and cost of managing and controlling the entire park, it should be the recipient of the compensation in its entirety. In addition to this amount, Transpower may be required to compensate for disturbance to park operations and any damage caused which cannot be rectified or made good.

7. **Communication**

DOC and HCC will be notified of the resolutions of the Council.

When works are carried out, notification at park entrances will be posted.

8. **Recommendations**

That the Council:

1. ***Receives** the report.*
2. ***Notes** the content of the report.*
3. ***Approves** the easement through Belmont Regional Park.*
4. ***Notes** that prior to the development occurring, the following approvals are required:*
 - a. *Resource consent approvals from Hutt City Council, Wellington City Council and Greater Wellington Regional Council.*
 - b. *Granting of easements by the Department of Conservation and Hutt City Council over land along the route each respectively owns.*
 - c. *Approval of the Minister of Conservation (or its delegate) pursuant to Section 48 of the Reserves Act.*

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Attachment 1: Proposed route of fibre-optic cable.