

#### 4. SURPLUS PROPERTY BERESFORD STREET

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The purpose of this report is to inform the Council of the procedures to be taken to dispose of surplus property in Beresford Street, New Brighton, and to obtain a resolution to exempt the Council from offer-back obligations to one of the former owners.

##### BACKGROUND

The New Brighton Mall revitalisation project that has been approved by the Council includes the redevelopment of the Beresford Street car park, effectively bringing it closer to the mall. It is proposed that funding of this car park redevelopment be by sale of some of the existing car park property in the vicinity of Mafeking and Union Streets. This funding is included in the Council's 2001-02 Financial Plan and Programme, City Streets Major Amenity Improvements.

The Council's usual practice with property, which may be not required for its current use, is to circulate Business Units (through the Property Decision-Making Flow Chart) for any expressions of interest for alternative use prior to considering sale. Opportunity was not given to undertake that process in this case and, by publicly stating its intention to dispose of car parking property in Beresford Street, the Council has declared the property to be surplus, thus triggering offer-back obligations to the former owners pursuant to the Public Works Act.

##### THE PROPERTY

The properties proposed for disposal are Pt Lots 50 and 51 DP 94 contained in Certificates of Title 4B/1453, 129/19 and 149/287 as shown on the attached plan.

##### OBLIGATION TO FORMER OWNERS

Section 40 of the Public Works Act 1981 requires that land which is surplus to a public work must be offered back to the former owner unless there are grounds for exemption in terms of the Act. The titles to the above properties were transferred to the Council in 1967 from McKenzies (New Brighton) Limited and Self Help Co-op Limited. The latter company is still in existence and has changed its name to Self Help Limited. Extensive searching shows that McKenzies (New Brighton) Limited was a branch in the chain of McKenzies Limited stores but not a limited liability company in its own right even though shown in that name as joint registered owner of the land. McKenzies Limited, the chain stores company, was struck off the Companies Register on 24 July 1996.

In terms of the above, the Council will need to offer back the land to the existing company, Self Help Limited. However, for the reasons set out above it is considered to be impracticable to offer the land back to McKenzies (New Brighton) Limited and/or McKenzies Limited. A Council resolution to this effect is required.

##### PROPERTY DISPOSAL

It is proposed to offer back the property to the former owner, Self Help Limited. If that former owner does not take up the offer then the property will be available for disposal on the open market. In terms of Council policy, this would be by public tender in the first instance. Should the former owner not take up the offer there could also be opportunity for Council business units to consider an alternative Council use but this would need to be on the basis of transfer of funds to the City Streets budget, at no less sum than that contained in the offer to the former owner.

- Recommendation:**
1. That the Council resolve:
    - (a) That Pt Lots 50 and 51 DP 94 contained in Certificates of Title 4B/1453, 129/19 and 149/287 are surplus to the Council's requirements for a public work;
    - (b) That the above land not be offered back to McKenzies (New Brighton) Limited and/or McKenzies NZ Limited because it is impracticable, unreasonable and/or unfair to do so in terms of Section 40(2)(a) of the Public Works Act 1981;
    - (c) That the above land be offered back to Self Help Limited pursuant to Section 40 of the Public Works Act 1981 at the current market value as determined by valuation carried out by a registered valuer.

2. That if the offer is not taken up by the former owner, and the property is not required for a proven need of another Council business unit on suitable funding terms, the property be offered for sale by public tender at not less than the current market value in 1(c) above.
3. That if a satisfactory tender price is not obtained the property be marketed for sale and the Property Manager be authorised to sell the property at
  - (a) not less than the current market value as indicated in 1(c) above,or, if this price is unachievable because of market conditions,
  - (b) such lesser price to be authorised jointly by the Property Manager, the Chairman and Deputy Chairman of the Projects and Property Committee.