



20. 12. 2002
(RECONVENED FROM 12.12.2002)

**SUPPLEMENTARY REPORT BY THE
CHAIRMAN OF THE PROPERTY AND MAJOR PROJECTS COMMITTEE**

PART A - MATTERS REQUIRING A COUNCIL DECISION

2. LAND FORMERLY PART OF BARKERS ROAD

Officer responsible Legal Services Manager	Author Karilyn Shutt, DDI 941-8577
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The purpose of this report is to seek the Council's approval to transfer part of stopped road to an adjoining land owner and obtain a right of way easement in favour of the Council over that land.

BACKGROUND

In June 2000, the Council resolved to stop portions of Barkers Road and complete the actions shown on the attached plan S3249/1c.

Sections 1-6 (inclusive) have now been stopped. The Council is therefore in a position to complete the actions shown on the attached plan S3249/1c, but is being delayed over an issue which has arisen relating to the proposed right of way over Section 2 on plan S3249/1c ("Section 2"). This issue is also delaying the construction of Kate Sheppard Gardens Limited's proposed hospital.

The Council resolved to grant a right of way over Section 2 to Kate Sheppard Gardens Limited. However, in preparing that easement transfer, it was found that Land Information New Zealand has lost the body corporate rules for a large portion of the Kate Sheppard Retirement Village. As a consequence, the easement transfer would need to be signed by approximately 86 unit owners rather than just by Kate Sheppard Gardens Limited.

PROPOSED TRANSFER AND EASEMENT BACK

The Council's valuer has advised that, except perhaps in relation to residual value which can be protected by an option in favour of the Council, there is no difference in value between:

- (a) The Council owning Section 2 and Kate Sheppard Gardens Limited having a right of way over the whole of that Section 2; and
- (b) Kate Sheppard Gardens Limited owning Section 2 and the Council having a right of way over the whole of that Section 2.

Accordingly, to avoid the need to get signatures from the large number of unit owners and to avoid significant delay, officers recommend that the Council transfer Section 2 to Kate Sheppard Gardens Limited for a dollar on the conditions that Kate Sheppard Gardens Limited:

- (a) Grants the Council, at the cost of a dollar, a right of way in gross over Section 2; and
- (b) Agrees that the Council will be able to call for Section 2 to be transferred back to it for a dollar if the owners of sections 3 and 4 on plan S3249/1c, Lot 1 DP 80360, Lot 1 DP 76805, Lot 1 DP 72122, Lot 1 DP 71267 and Lots 1 and 2 DP 81858 on plan S3249/1c no longer require Section 2 for the purposes of access to their land.

The solicitors for Kate Sheppard Gardens Limited has advised that they are happy with this proposal.

The Council will be able to register a caveat to protect its option in regard to Section 2.

There will be no formation costs in relation to the right of way as Section 2 is already formed to right of way standard. The Council's maintenance costs for the right of way will be the same whether the Council or Kate Sheppard Gardens Limited owns Section 2.

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2 Cont'd

There may be some minor adjustment to the boundary of sections 1 and 2 on plan S3249/1c to more accurately define the alignment of the formed access.

Chairman's

Recommendation: That pursuant to s345 of the Local Government Act 1974 the Council resolve to transfer the land shown approximately as Section 2 on plan S3249/1c on the conditions outlined in this report.

CONSIDERED THIS 20TH DAY OF DECEMBER 2002

MAYOR