

4. 51 CORNWALL STREET - PROPOSED ROAD STOPPING

General Manager responsible:	General Manager City Environment
Officer responsible:	Manager Transport and City Streets Unit
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PURPOSE OF REPORT

1. The purpose of this report is to seek the Board's recommendation to the Council to approve the stopping of an area of legal road pursuant to Section 116 of the Public Works Act 1981, adjoining the property at 51 Cornwall Street more particularly shown as Section 1 on Scheme Plan SM 1266-02 and when stopped to sell the land to the adjoining private land owner.

EXECUTIVE SUMMARY

2. The legal road, shown as Section 1 on Scheme Plan SM 1266-02 (**attached**), comprises an area of 104 m² and is situated on the southern boundary of 51 Cornwall Street close to Cranford Street.
3. The owners of 51 Cornwall Street, Maranatha Homes Association Inc, have applied to the Council to purchase Section 1 for amalgamation with their adjoining property as they propose to construct additional elderly persons units on this and other adjoining land. They have agreed to pay the assessed market value of the area of road as well as the road stopping costs.
4. Staff are satisfied that the area of road involved will not be required by the Council for road widening purposes at any point in the future and therefore support the road stopping proposal.
5. The area of road land to be stopped is effectively a wide berm laid off in grass. It also accommodates some illegal off street car parking. Situated on the boundary between the Maranatha Homes Association site and the legal road is an Orion substation. The association have concluded negotiations with Orion to purchase this small area of land and the substation is to be removed and replaced with a new multi box.
6. It is proposed to facilitate the stopping pursuant to the Public Works Act 1981 and amalgamate that part with the property at 51 Cornwall Street. Interestingly this area of road was vested in the Council back in 1992 as a condition of subdivision.

FINANCIAL AND LEGAL CONSIDERATIONS

Financial

7. The applicants were advised from the outset that they would be required to pay:
 - (a) the market value of the 104m² area as assessed by an independent registered valuer; and
 - (b) associated costs, these costs in this instance have been assessed as \$1250.

This has been accepted by the applicants.

8. George Anderson & Co assessed a current market value of the road to be stopped at \$16,000 including GST.

Legal

9. The Community Board does not have authority to resolve to declare road stopped nor to approve the sale of stopped road, such decisions need to be made by the full Council. The Board does however have recommendatory powers to the Council.
10. The Council has the ability to stop roads pursuant to the Public Works Act 1981 and also the Local Government Act 1974. The latter Act requires the Council to publicly notify the proposed road stopping and to call for objections or submissions. Conversely, the Public Works Act process does not require public submission, however the Council and adjoining landowner(s) must consent in writing to the proposal.

11. It is proposed to process this application pursuant to the Public Works Act 1981 because:
- (i) the staff are confident that the subject area of road will not be required by the Council in the future for road purposes; and
 - (ii) the adjoining landowner, the owners of 51 Cornwall Street are the only logical purchasers of the subject area.

12. For clarity:

Section 116 Public Works Act 1981 – Stopping Roads-

This Section says that, subject to the consent of the territorial authority and the owner(s) of the land adjoining the road to the stopping, then the road can be declared formally stopped by notice in the Gazette.

13. **Section 345(1)(i)(a) Local Government Act 1974 – Disposal of land not required for road-**

In relation to stopped road that is no longer required by the local authority, this Section says that the Council may sell that part of the stopped road to the owner(s) of any adjoining land.

This Section goes on further to say that the price for the stopped road can be fixed by a competent valuer appointed by the Council to value that part or if the owner(s) is not prepared to pay the fixed price, the Council may sell the land by public auction or private tender.

14. **Section 345(2) – Amalgamation of stopped road with adjoining land-**

This Section enables the Council to require the amalgamation of stopped road with adjoining land.

STAFF RECOMMENDATION

It is recommended that the Council resolve:

That the area of legal road adjoining 51 Cornwall Street and described as Section 1 on Scheme Plan SM 1266-02 comprising 104m² be declared stopped pursuant to Section 116 of the Public Works Act 1981 and when stopped be sold to the adjoining private land owner for a total sum of \$17,250 including GST.

CHAIRPERSON'S RECOMMENDATION

That the staff recommendation be adopted.

SIGNIFICANCE

Significance:		High/ Medium/ Low
Impact on social, economic, environmental or cultural wellbeing.		L
Impact on Council's capacity		L
Alignment with the LTCCP or Annual Plan		L
Expenditure Required and magnitude of the decision in terms of its net cost to the Council.		L
Potential Effects radically different		L
Degree of controversy		L
Reversibility of the decision.		L
Certainty of information.		H
Impact on Strategic Assets		L
Change to mode of delivery of a Group of Activities.		L
Change to level of service of a Group of Activities.		L
If this is a <u>significant decision in relation to land or a body of water</u> , how does it take account of the relationship of Māori to ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga?		-
Should the proposal be decided through LTCCP (or amendment)?		No

CONSISTENCY WITH COUNCIL GOALS AND POLICY:

Links to, and Consistency With:		
	Description of link and the consistency or inconsistency	Reference
Community Outcomes	-	
LTCCP/Annual Plan	-	
Key Council Strategies	-	
Statutory Requirements	-	
City Plan	-	
Other Council Strategies/Policies	-	
Funding Policies	-	
Asset Management Plans	-	
Board Statements	-	
Other legal obligations	-	

VIEWS OF AFFECTED AND INTERESTED PARTIES:

What research, communication or consultation has been undertaken? (including considering information already held by the Council)	Not Applicable.
What was done to encourage interested or affected persons to present their views?	Not Applicable.
What consideration has been given to community views on this matter?	The Community Board will have an opportunity to comment on the proposal for Council's consideration.
What opportunities were Maori given to contribute to the proposed decision?	Not Applicable
Is there a legal requirement to consult? What?	Yes – Public Works Act 1981 requires the local territorial authority and any adjoining landowners to the road proposed to be stopped, to consent to the stopping in writing.
Is a Special Consultative Procedure Required Prior to Decision? Why	No
Must the decision be made through an LTCCP? Why?	No

UNIT CONSULTATION:

Units Consulted	Comments on Proposal
Transport and City Streets	Supports recommendations.
Corporate Support	Supports recommendations.