

6. PROPOSED ROAD STOPPING - 62 RICHMOND HILL ROAD

General Manager responsible:	General Manager of City Environment
Officer responsible:	Manager Transport and City Streets Unit
Author:	Deborah Harris, Property Consultant, DDI 941-8940

PURPOSE OF REPORT

1. This report is submitted to the Community Board for recommendation to Council to authorise commencement of the road stopping procedure as set out in the Public Works Act 1981, for the portion of road adjoining 62 Richmond Hill Road shown as Section 1 on Scheme Plan SM1436-02.

EXECUTIVE SUMMARY

2. The Council owns an accessway next to the property at 62 Richmond Hill Road as shown on the attached property location map. An area of the accessway comprising 43 square metres encroaches onto the Richmond Hill Road property - the level of the encroachment is shown as Section 2 on the attached Scheme Plan SM1436-02.
3. The owner of 62 Richmond Hill Road owns a single garage and appurtenances that are located on Richmond Hill Road itself shown as Section 1 on the Scheme Plan. The area of Section 1 comprises 68 square metres.
4. Council Officers have discussed with the owner of 62 Richmond Hill Road the option of exchanging the area of accessway (Section 2) for the area of legal road (Section 1) to which the owner has agreed.
5. In order to facilitate the proposed land exchange, the Council is required to go through a road stopping process in respect of Section 1.
6. The Transport and City Streets Unit is of the opinion that the subject portion of road is not required by the Council for road purposes. It therefore considers the proposed land exchange mutually beneficial in that it would legalise the physical situation of the two anomalies that currently exist.
7. It is proposed to facilitate the road stopping pursuant to the Public Works Act 1981 and amalgamate that part with the property at 62 Richmond Hill Road.
8. A final report will be submitted to the Council seeking its formal consent to stop the road once all survey requirements have been met and the a Land Exchange Agreement finalised with the property owner.

FINANCIAL AND LEGAL CONSIDERATIONS

Financial

9. It is proposed that there will be no exchange of monies on the basis that there is a significant benefit to Council to acquire ownership of the area of land on which the accessway is constructed.
10. Costs associated with the road stopping process will be funded from the subdivisions account controlled by the Transport and City Streets Unit.

Legal

11. The Community Board does not have authority to resolve to commence a road stopping, nor to declare road stopped - such decisions need to be made by the full Council. The Board does however have recommendatory powers.
12. The Council has the ability to stop roads pursuant to the Public Works Act 1981 and 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.

13. If the proposed road stopping is potentially contentious then the Council should process the road stopping application pursuant to the Local Government Act. If not, the Public Works Act process can be followed.
14. It is proposed to process this application pursuant to the Public Works Act 1981 because:
 - (i) as the adjoining landowner, the owner of 62 Richmond Hill Road is the only logical purchaser of the subject area; and
 - (ii) the area of road is occupied by a garage and structures owned and occupied by 62 Richmond Hill Road; and
 - (iii) there will not be any change to the physical situation.
15. 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 in writing to the stopping, then the road can be declared formally stopped by notice in the Gazette.
16. 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.
17. 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 RECOMMENDATIONS

That the Board recommend to the Council that it commence the road stopping procedures in respect of the parcel of road marked Section 1 on Scheme Plan SM1436-02 situated at 62 Richmond Hill Road.

CHAIRPERSON'S RECOMMENDATIONS

That the staff recommendations be adopted.