

5. PROPOSED ROAD STOPPING – 365 CASHMERE ROAD (HAPPY HOME ROAD BOUNDARY)

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

1. The purpose of this report is to seek the Community Board’s recommendation to Council to authorise commencement of the road stopping procedure as set out in the Public Works Act 1981, for the portion of Happy Home Road adjoining the property at 365 Cashmere Road, more particularly shown as Section 1 on Scheme Plan SM1547-05.

EXECUTIVE SUMMARY

2. The subject road, shown as Section 1 on Scheme Plan SM1547-05 (attached), comprises an area of 109 square metres, and is situated along the southern boundary of an existing property known as 365 Cashmere Road.
3. The owners of 365 Cashmere Road have applied to the Council to purchase Section 1 for amalgamation with their adjoining property, and they have agreed to pay the market value of the area of road as well as the road stopping costs.
4. The Transport and City Streets Unit is 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 it supports the road stopping proposal.
5. It is proposed to facilitate the stopping pursuant to the Public Works Act 1981, and amalgamate that part with the property at 365 Cashmere Road.
6. 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 an Agreement for Sale and Purchase with the applicants has been finalised.

FINANCIAL AND LEGAL CONSIDERATIONS

Financial

7. The applicants were advised from the outset that they would be under obligation to pay:
 - (a) the market value of the 109m² area as assessed by an independent registered valuer; and
 - (b) the costs associated with the road stopping including, but not limited to, survey fees, LINZ and gazettal disbursements and the Council’s reasonable legal fees. These costs could be anywhere between \$3,000 and \$7,000.
8. This was accepted by the applicants.
9. Simes Limited assessed a current market value of \$7,000 including GST.
10. In conclusion the proposed road stopping and disposal would result in a net gain for the Council of \$7,000 inclusive of GST.

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:
 - (a) the Transport and City Streets Unit is confident that the subject area of road will not be required by the Council in the future for road purposes; and
 - (b) as the adjoining landowner, the owners of 365 Cashmere Road are the only logical purchasers of the subject area.
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 RECOMMENDATION

That the Board recommend to Council that, pursuant to the Public Works Act 1981, the Council commence the road stopping procedure in respect of the area of road marked Section 1 on Scheme Plan SM1547-05 comprising the Happy Home Road boundary of the property at 365 Cashmere Road.

CHAIRPERSON'S RECOMMENDATION

That the staff recommendation be supported.