

## 6. 39 SPRINGFIELD ROAD – PROPOSED ROAD STOPPING

<b>General Manager responsible:</b>	General Manager, City Environment
<b>Officer responsible:</b>	Transport and City Streets Manager
<b>Author:</b>	Deborah Harris, Property Consultant, DDI 941-8940

### PURPOSE OF REPORT

1. This report is submitted to the Community Board for information and to add its views as appropriate, for consideration by the Council with the balance of the report.
2. To discuss and obtain the Council's authority to commence the road stopping procedure as set out in the Public Works Act 1981, for the portion of road shown as Section 1 on Scheme Plan SM1522-01.

### EXECUTIVE SUMMARY

3. The area of road proposed to be stopped comprises 93 square metres and adjoins 39 Springfield Road. A property location map (**Attachment 1**) is appended to this report.
4. The area of road is incorporated, by way of a fence, into the property at 39 Springfield Road, and the eastern side of the existing house is located on the property boundary. Scheme Plan SM1522-01 (**Attachment 2**) delineates the area of road that is the subject of this report.
5. The property at 39 Springfield Road was sold in mid 2004 and one of the conditions of sale was that the vendor would pursue the purchase from the Council of the area of road.
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 and therefore it supports the road stopping application.
7. It is proposed to facilitate the road stopping pursuant to the Public Works Act 1981. However the Council's consent to commence this process should be conditional on the applicant agreeing to:
  - (a) pay the market value for the land as determined by an independent valuer; and
  - (b) pay the costs associated with the road stopping process including survey fees, LINZ and gazettal disbursements and the Council's reasonable legal fees; and
  - (c) the stopped road being amalgamated with the property title for 39 Springfield 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 Agreement for Sale and Purchase has been finalised.

### FINANCIAL AND LEGAL CONSIDERATIONS

#### Financial

9. Simes Limited assessed a current market value for the area of road of \$65,000 including GST. This information was being conveyed to the applicants at the time of preparing this report.
10. The applicants were advised at the outset that they would be responsible for payment of the road stopping costs. These costs include survey fees, LINZ and gazettal disbursements and the Council's reasonable legal fees, expected to range between \$5,000-\$7,000.

#### 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.
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) the owner of 39 Springfield Road is the only logical purchaser of the subject area; and
  - (ii) the area of road has been incorporated within the property and occupied by the landowners both prior and subsequent to the road upgrade in 1992.
  - (iii) there will not be any change to the physical situation as for all intended purposes the area is part of the property at 39 Springfield Road.
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**

It is recommended:

That the Council commence the road stopping procedures in respect of the parcel of road marked Section 1 on Scheme Plan SM 1522-01 situated at 39 Springfield Road subject to the applicant agreeing to:

- (i) pay the market value for the land as determined by Simes Limited; and
- (ii) pay the costs associated with the road stopping process including survey fees, LINZ and gazettal disbursements and the Council's reasonable legal fees; and
- (iii) the stopped road being amalgamated with the property title for 39 Springfield Road.

#### **CHAIRMAN'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 M ori 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
Corporate Support	Supports recommendations.
Transport and City Streets	Supports recommendations.