

## 6. PROPOSED ROAD STOPPING – 23 MACMILLAN AVENUE

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

### PURPOSE OF REPORT

1. This report is submitted to the Board for recommendation to Council to authorise, pursuant to the Public Works Act 1981 and the Local Government Act 1974:
  - (a) Consent to the stopping of Section 1 on Scheme Plan SM1442-01.
  - (b) Disposal of the stopped road to the adjoining landowner of 23 MacMillan Avenue.
  - (c) Amalgamating the stopped road with the adjoining land at 23 MacMillan Avenue.

### EXECUTIVE SUMMARY

2. The area of road proposed to be stopped comprises 108 square metres and adjoins the property at 23 MacMillan Avenue. A property location map is appended to this report.
3. The area of road is partly occupied by a carport constructed on timber pole foundations. The land falls moderately steeply from the end of the driveway, with the north boundary containing a substantial concrete retaining wall about 2 metres in height, nearly vertical. Above this the land is planted with mature trees and shrubs. Scheme Plan SM1442-01 (attached) delineates the area of road that is the subject of this report. The plan shows a garage at the western end, which has been removed and this part of the site is now part of the retained embankment.
4. The owners of 23 MacMillan Avenue approached the Council about an opportunity to purchase the area of MacMillan Avenue adjoining the property. On the advice of Transport and City Streets Unit staff, at its meeting on 28 January 2003, the Board recommended to the Council that the road stopping procedure be commenced. This recommendation was subsequently ratified by the Council at its meeting on 27 February 2003.
5. Negotiations between Council officers and the owners of 23 MacMillan Avenue have been satisfactorily concluded at the price assessed by a Council appointed registered valuer, subject to a successful road stopping procedure.
6. The Council is now in a position to consent to the road being formally stopped, and the subsequent disposal of the stopped road to the proprietors of 23 MacMillan Avenue.

### FINANCIAL AND LEGAL CONSIDERATIONS

#### Financial

7. Simes Limited assessed a current market value of \$10,000 including GST for the 108m<sup>2</sup> area of road. The applicants have agreed to pay the market value as assessed.
8. In addition to the current market value, the applicants were advised at the outset that they would be required to pay all road stopping costs including survey fees, Land Information New Zealand and gazettal disbursements and the Council's reasonable legal fees. The rough order estimate of these costs is \$5,200 plus GST.
9. Subsequent to our agreement for costs, the owners of 21 MacMillan Avenue approached the Council in regard to stopping part of MacMillan Avenue adjoining their property. Council officers have facilitated a 50/50 cost sharing deal between the owners of the two properties because both stoppings can be dealt with on one survey office plan, and there are inherent economies of scales as a result.

#### Legal

10. The Community Board does not have authority to consent to road being formally stopped – such a decision needs to be made by the full Council. The Board does, however, have recommendatory powers to the Council.

11. Section 116 Public Works Act 1981 – Stopping Roads:

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

12. 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.

13. 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**

It is recommended:

- (a) That pursuant to Section 116 of the Public Works Act 1981, the Christchurch City Council consents to the portion of road shown as Section 1 on Scheme Plan SM 1442-01 to be stopped.
- (b) That pursuant to Section 345(1)(a)(i) of the Local Government Act 1974, Section 1 on Scheme Plan SM 1442-01 be disposed of to the adjoining landowner and amalgamated with Certificate of Title 471/52 pursuant to Section 345(2) of the Local Government Act 1974.

**CHAIRPERSON'S RECOMMENDATION**

That the staff recommendations be supported.