

9. 1091 FERRY ROAD - BODY CORPORATE 74246

General Manager responsible:	General Manager City Environment, DDI 941-8656
Officer responsible:	Transport and Greenspace Manager
Author:	Lewis Burn, Property Consultant

PURPOSE OF REPORT

1. The purpose of this report is to seek the Board’s recommendation to the Council to stop legal unformed road (a strip of Humphreys Drive) for amalgamation to the adjoining title as part of an agreement with the owners to acquire land required for road for planned roading improvements to the intersection with Ferry Road. The Board is asked to recommend to Council that the road stopping be carried out under the provisions of Section 116 of the Public Works Act 1981.

EXECUTIVE SUMMARY

2. In July 2002 the Council authorised the acquisition of a number of parcels of land from adjoining properties required for the proposed scheme which is to modify the Ferry/Humphreys intersection to enable the provision of traffic signals. Section 10 (150m2) is required from 1091 Ferry Road-see SM 0850-19 attached.
3. In May 2006 considering the long period of time to negotiate a mutual agreement to acquire the land required for road without success, the Council authorised the use of the compulsory acquisition procedures under the Public Works Act 1981 should agreement not be reached within a specified timeframe. The property is held in unit title ownership which has complicated negotiations.
4. In March 2007 agreement was reached with the unit title owners avoiding the need to proceed with the compulsory acquisition process. To reach this agreement compensation for the land to be acquired is to be in the form of work to the car park to reinstate parking spaces lost in conjunction with the road construction work and the addition of Section 11 (137m2) on SM 0850-19 which is currently an unformed strip of Humphreys Drive. To fulfil this part of the agreement it is necessary to obtain a Council resolution to stop this parcel of legal road. All property agreements are now in place for the scheme to proceed to final design stage.
5. The Transport and Greenspace Unit has indicated that the legal road proposed to be stopped on the Humphreys Drive frontage of 1091 Ferry Road is not required for roading purposes. A minimum width of 1.8m from the proposed eastern kerb line to the proposed road boundary has been retained should a footpath need to be installed in the future and to accommodate services. This parcel of road is presently grass and shrubs. Within some of this strip is an Orion cable which is to be relocated within the new road boundary as part of roading project.
6. The agreement held to acquire Section 10 from 1091 Ferry Road provides for the road (Section 11) to be stopped under Section 116 of the Public Works Act 1981 and amalgamated with the titles to the development. Settlement of the contract will occur after the new titles have issued under the Unit Titles Act recording the incorporation of Section 11 and the subtraction of Section 10 from the development.

FINANCIAL IMPLICATIONS

7. For the purposes of the ‘exchange agreement’ Sections 10 and 11 are to be swapped at the same value notwithstanding the area for road (Section 10) is 13m² greater in area so this aspect of the agreement is cash neutral. The figure used for the exchange value has been adopted having regard to valuation advice. Any inequality in land value is compensated for in the car park work. The process costs including survey are to be met by Council.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

8. The costs associated with this transaction will be accommodated within the budget of \$4.16 million planned for the Ferrymead Bridge in the 2007/08 financial year.

LEGAL CONSIDERATIONS

Section 116 Public Works Act 1981 – Stopping Roads

9. 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 New Zealand Gazette.
10. For the purposes of this Section of the Act, the Council will have consented to the road stopping on resolving to adopt the report recommendations. The Community Board does not have delegated authority to make this decision – such decision needs to be made by the full Council. The Board has, however, recommendatory powers to the Council.
11. The owners have consented to the stopping by the Exchange Agreement.

Section 117 Public Works Act 1981 – Dealing with Stopped Roads

12. This section says that the Council may deal with stopped roads under the Public Works Act in the same manner as if the road has been stopped pursuant to the Local Government Act 1974. Subsection (3) provides that the stopped road may be vested in or otherwise disposed of to the owner of any adjoining land if the Council considers it equitable to do so.

Section 120 Public Works Act 1981 - Registration

13. This Section provides for the road to be amalgamated with the adjoining land and vesting of the same in the registered proprietor for the time being of the land in that certificate of title.
14. The amalgamation of the stopped road with the property title forms a condition of the Agreement to exchange land.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

15. This transaction is necessary to permit the upgrade of the Ferry Road / Humphreys Drive intersection as planned in the Capital Works Programme in the 2006-16 LTCCP.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

16. As above.

ALIGNMENT WITH STRATEGIES

17. Not applicable

CONSULTATION FULFILMENT

18. There are no public consultation requirements associated with stopping road by consent under the provisions of Section 116 of the Public Works Act 1981.

STAFF RECOMMENDATION

That the Board recommend to the Council that it adopt the following resolution:

That pursuant to Section 116 (1), 117(3) and 120 (3) of the Public Works Act 1981, the Christchurch City Council hereby resolves to stop that parcel of road shown on SM 0850-19 as described in the schedule below and to amalgamate that parcel with the adjoining property. The Christchurch City Council certifies that it considers it equitable to vest the road described in the schedule below when stopped, in the owners of Body Corporate 74246, being the adjoining owner.

SCHEDULE

Being	Adjoining	Title Reference		Area
Section 11	Lot 1 DP 75312	CB42D/775, CB/42D/776, CB42D/777, CB42D/778, CB42D/779	(subject to survey)	137 m ²

CHAIRPERSON'S RECOMMENDATION

For discussion.