

9. STRUCTURE ON STREET APPLICATION FOR 40 KINSEY TERRACE

General Manager responsible:	General Manager City Environment, DDI 941 8656
Officer responsible:	Transport & Greenspace Manager
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PURPOSE OF REPORT

1. The purpose of this report is to seek the:
 - (a) Board's approval to erect a timber ramp partially on legal road. The timber ramp is to serve the double garage proposed on the property at 40 Kinsey Terrace. The proposed structure is as shown on **Attachment 1**.
 - (b) Board's recommendation to the Council to declare the area of road where the structure will occupy, surplus to road requirements, and approve in principle the commencement of road stopping procedures.

EXECUTIVE SUMMARY

2. A Structure on Street application for a new double garage which is sited within the property boundary with a drive on access partially sited on legal road has been made by the owners of 40 Kinsey Terrace. Currently the owners have a deed of licence with the Council for a dedicated single garage located entirely on legal road.
3. Previous to this application the Board has declined the application to build a double garage entirely on legal road.
4. A contract has been let for the street renewal project on Kinsey Terrace.
5. There is no impact of the proposed structure on the design of Kinsey Terrace upgrading project. The design was carried out to accommodate the existing garage on legal road. This proposal is for its removal and using the road space for access onto the site.
6. Staff have assessed that the public walkway is not affected and that the proposed structure will not compromise any existing parking.
7. The owners of 44 Kinsey Terrace and 38 Kinsey Terrace, who are the most affected parties, are supportive of the proposed structure.
8. Approval of the structure on street will render road space the structure occupies surplus to road requirement, hence the recommendation for road stopping procedures to commence.

FINANCIAL IMPLICATIONS

9. There will be revenue to the Council for surplus road disposal.

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

10. N/A.

LEGAL CONSIDERATIONS

11. Community Boards have delegated authority to approve Structure on Street applications for garages and parking platforms.

12. This application is for road access onto the site and Local Government Act 1974 Sec 335(i) states "Where vehicles are being taken or, in the opinion of the council, are likely to be taken, on to or from any land across any footpath on any road or any water channel on or adjoining any road otherwise than by means of a crossing properly constructed under the provisions of any bylaw made by the council, the principal administrative officer or other officer authorised by the council may, by notice in writing, require the occupier or, in any case where there is no occupier, the owner of the land to pay to the council such sum of money as the council from time to time fixes as payment for the cost of the construction of a crossing by the council.
13. "CCC Public Places and Signs Bylaw 2003" requires the owner to apply to the Council for vehicle access to road as stated in Clause 52 Vehicle Crossings:
 - "1. No person shall construct any crossing across the footpath or water channel without obtaining a crossing permit from the Council.
 2. (a) The owner or occupier of any land who may require vehicular access across any footpath and water channel adjoining that land shall apply in writing to the Council to construct at the owner's or occupier's cost.
 - (b) Together with every application there shall be submitted a plan showing the location and design of the crossing and description of the construction materials."
14. And Clause 54 Access On Hillside Sites:
 - "1. Where a new vehicular access is to be created and where there is a difference in level between the edge of the kerb or road seal on a formed road and the property boundary the cost of forming a suitable access way for the vehicles shall be the responsibility of the owner requiring the access and the standard of any works carried out on the road shall be the standard that would be appropriate for a right-of-way to a new subdivision.
 2. Where the access way is a structure a formal licence agreement between the owner and the Council will be required. Surfacing of the access way and the installation of any culvert required will be carried out in accordance with vehicle crossing procedures set out in clause 52 of this Bylaw."

Have you considered the legal implications of the issue under consideration?

15. Yes as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. Yes, LTCCP page 152 "To provide public street frontages to properties.

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

17. Yes.

ALIGNMENT WITH STRATEGIES

18. This recommendation is in alignment with the parking strategies of City Plan.

Do the recommendations align with the Council's strategies?

19. Yes.

CONSULTATION FULFILMENT

20. Affected neighbours have been consulted and are supportive of the proposal.

STAFF RECOMMENDATIONS

It is recommended that the:

1. Board approves this application subject to:
 - (a) A deed of licence being entered into with the Council.
 - (b) Resource and building consents being obtained.
 - (c) The engineering plan for construction being approved by the Asset Planning & Network Unit prior to the application for a building consent.
 - (d) The owner being responsible for the stability, safety and future maintenance of the bank, driveway and formation work associated with the structure.
 - (e) The site being kept in safe and tidy condition at all times during the course of construction.
 - (f) Clear access to neighbouring properties and pedestrians being maintained at all times.
2. Board recommends that the Council declare the area of road to be occupied by the ramp surplus to the Council's requirements and that it commence road stopping procedures accordingly.

CHAIRPERSON'S RECOMMENDATION

For discussion.

BACKGROUND (THE ISSUES)

21. Initially, the owners of 40 Kinsey Terrace approached the Council earlier with plans for the construction of a double garage sited partly on legal road(3m over the boundary). A report was submitted to the Board in April 2006 and the Board resolved to decline the application.
22. However, the owners have now made another application for a new double garage to be incorporated within the property with a drive on access partially on legal road. The existing single garage is proposed to be removed. Plans for the proposal are shown on **Attachment 1**.
23. When considering the application for approval the following assessments have been considered by staff:
 - (a) Safety of all road users is not compromised.
 - (b) Legal right of access is maintained for individual property owners.
 - (c) The applicant is unable to construct the structure on his or her land because of the nature of terrain.
 - (d) The proposal is consistent with the City Plan objectives on the property access and parking requirements.
 - (e) The road environment is not unduly compromised with the presence of the structure.
 - (f) The visual intrusion to the streetscape will have minimal effect to road users.
 - (g) Road users include pedestrians, cyclists, and other commuters.
24. The owners of 44 Kinsey Terrace and 38 Kinsey Terrace have been consulted and are supportive of the application.
25. The Kinsey Terrace renewal project has commenced. This proposal will not have any impact on the number of on street parking spaces available to the road upgrade project. See **Attachment 2**.
26. The owners have an existing deed of licence for the existing garage and this will be revoked by Transport and Greenspace Manager.
27. This proposed structure is below the road level and impact on road environment will be minimal.
28. The proposed structure will have a minimum life of 50 years and approving the road space for this structure renders the land surplus to road requirement.
29. The declaration of the road space as being surplus to the Council's requirements and disposal of the road land occupied by the structure is recommended. This action is the preferred option for managing redundant road space and will have financial benefit to the Council.

THE OBJECTIVES

30. The approval of the structure will enable a motor vehicle to be garaged instead of occupying road space. The approval will lead to compliance to City Plan's rules for property access and car parking on the Living Hills Zone.