

8. BLENHEIM ROAD MANDEVILLE STREET ROAD STOPPING

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| General Manager responsible: | General Manager City Environment, DDI 941 7305 |
| Officer responsible: | Unit Manager Asset & Network Planning |
| Author: | Stuart McLeod, Property Consultant |

PURPOSE OF REPORT

1. The purpose of this report is to seek the Board's recommendation to Council to commence a road stopping procedure under the Public Works Act 1981 for the portions of land described as Sections 1 on the **attached** scheme plan.
2. To seek the Boards recommendation to Council to dispose of that portion of land described as Section 3 on the **attached** scheme plan.

EXECUTIVE SUMMARY

3. As a result of the Blenheim Road deviation being completed Sections 1 and 3 on the **attached** scheme plan are no longer required for their original purpose, i.e. road and segregation strip.
4. No access to Blenheim Road from the adjoining properties will be permitted as a new segregation strip will be put in place during the road stopping process. The adjoining properties currently have no access to Blenheim Road so the status quo is maintained.
5. It is no longer practical to hold and maintain these portions of unused road. The proceeds from asset sales go toward funding of the approved capital works programme.

FINANCIAL IMPLICATIONS

6. See Public Excluded Section for details

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

7. The 2009-19 LTCCP budgets include allowance for the sale of surplus land.

LEGAL CONSIDERATIONS

8. The stopping of road by consent is authorised by Section 116 Public Works Act 1981.

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

9. Yes. These have been discussed with the Legal Services Unit and there are no issues of concern with the proposal. An agreement for Sale and Purchase drawn up by Legal Services has been entered into with the adjoining owner.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. The road is not required for the roading network.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

11. Yes.

ALIGNMENT WITH STRATEGIES

12. Yes – as part of the rationalisation of road assets. Currently the road is an open grassed area bounded fronting to the north a small shopping centre and associated car park. The public footpath forms the southern boundary to the site.

Do the recommendations align with the Council's strategies?

13. Yes.

CONSULTATION FULFILMENT

14. Not required as public rights are not affected; This matter was canvassed during the Notice of Requirement process for the Blenheim Road Deviation in 2002 which was the subject of full public consultation. Extensive consultation was also undertaken with all of the businesses operating in the area as well as the Residents Association. No objections were raised to the proposed road stopping of this and the other surplus areas lying between Mandeville Street and Deans Avenue formally occupied by the old bridge. No conditions were imposed on the Council under the Notice of Requirement preventing its sale which the Court noted was to be sold to partially recover the roading costs of the deviation incurred by the Council.

STAFF RECOMMENDATION

It is recommended that the Board:

- (a) Recommend to the Minister of Lands that part of Mandeville Street shown as Sections 1 and 2 on the attached scheme plan, containing approximately 504m² (subject to survey) be declared to be stopped by consent pursuant to Section 116(2)(b) (i) and (ii) of the Public Works Act 1981.
- (b) That pursuant to Section 345 (1) (a) (i) of the Local Government Act 1974 the land be sold to the adjoining owner of Unit 7A being Colin Lester Rhodes, Glennis Patricia Rhodes and David Leonard Philpott.
- (c) Recommend to Council that Section 3 on the attached scheme plan be declared to be surplus and sold to the adjoining owner of Unit 7A being Colin Lester Rhodes, Glennis Patricia Rhodes and David Leonard Philpott.
- (d) That the sale be subject to the purchaser entering into an encumbrance in favour of the Christchurch City Council restricting the further sale and use of the land except in conjunction with Unit A DP 48501.
- (e) That all services running through the road to be stopped be protected by service easements.

BACKGROUND

15. In December 2000 the Council approved the construction of the Blenheim Road deviation subject to a Notice of Requirement being obtained and conditional upon the project not exceeding its budget. In arriving at the net cost of the deviation provision was made for recoveries through the sale of surplus land acquired for the road and through the sale of those parts of Blenheim Road no longer required. At the time it approved an Agreement for Sale and Purchase with Ngai Tahu Properties Ltd over part of the road to be stopped fronting the Placemaker site. The eventual stopping of those parts of the road no longer required and subsequent sale as recognised in the Notice of Requirement that was subsequently approved in 2004.
16. The consultation document identified some parts of roads would no longer be required and would be legally stopped once the Blenheim Road deviation was completed. Although the Local Government Act 1974 was referred to as the process given the wide consultation undertaken and that no objections were raised to the stopping as part of the Notice of Requirement process there is no reason why the road stopping procedure under the Public Works Act 1981 cannot be used. These reasons are:
 - (a) Adequate road access to the adjoining property is provided for from Mandeville Street.
 - (b) The owners of the adjoining land consent to the road stopping.
 - (c) Blenheim Road is under the control of the Christchurch City Council.
17. It is typical that in a road realignment project that portions of land formerly used for road are no longer required. The sale of such portions is a way that some costs can be recovered and held for future road projects.

18. The completion of the Blenheim Road deviation has resulted in some portions of road no longer being required. It is no longer practical to maintain these portions of road as they serve no useful purpose to Council and ongoing maintenance costs are incurred.
19. The adjoining property at present has no access to Blenheim Road as a segregation strip physically separates it from the road, a new segregation strip will be put in place so the status quo is maintained. This is essential for both traffic flow and safety reasons.
20. The Christchurch City Council Road Stopping Policy delegates to the Board the Council's power to accept or decline an application from either a Council business unit or from any other person to stop legal road which does not fall within the delegation given to the Corporate Support Unit Manager. The delegation to the Corporate Support Manager provides;
 - (a) The area of road to be stopped will not constitute a complying lot under the City Plan on its own account nor will its amalgamation with the adjoining lot create a new potential for the adjoining lot to be subdivided; and
 - (b) It will be necessary for the stopped road to be amalgamated with the certificate of title to an adjoining property; and
 - (c) The owner of an adjoining property is the logical purchaser of the stopped road; and
 - (d) That the proposed road stopping complies with the Council's Road Stopping Policy; and
 - (e) The area of road to be stopped is not adjoining a reserve or waterway.
21. As the area to be stopped will constitute a complying Lot the application is being referred to the Board for consideration.
22. With respect to the other compliance matters of the delegation it is confirmed that;
 - (a) If stopped the owner will enter into an encumbrance in favour of the Council restricting the further sale and use of the land except in conjunction with Unit A DP48501. This is necessary because the land cannot be compulsorily amalgamated with the adjoining title as required under Section 345 (2A) (a) of the Local Government Act 1974. The reason being is that the adjoining land is a Unit Title whereas the land being sold is held in fee simple. To amalgamate the land would require a redevelopment plan issuing new unit entitlements. Because of the considerable cost involved this is being left to the Body Corporate to attend to. The encumbrance will fully protect the Council's interests and prevent it being disposed off separately from the adjoining land.
 - (b) As there are no other adjoining owners and the land is landlocked there is no other logical buyer.
23. It is proposed to recommend to the Minister of Lands that the road be stopped by consent under the Public Works Act 1981 for the following reasons;
 - (a) The road is no longer required and there is only one logical buyer.
 - (b) Adequate road access will be available to all of the adjoining land via the current access point on Mandeville Street which will remain open.
 - (c) That the services be protected by easements.