

### 13. PROPOSED ROAD STOPPING: 21 MACMILLAN AVENUE

<b>General Manager responsible:</b>	General Manager City Environment
<b>Officer responsible:</b>	Transport and City Streets Manager
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#### PURPOSE OF REPORT

1. The purpose of this report is to discuss and obtain the Council's authority pursuant to the Public Works Act 1981 to:
  - (a) consent to the stopping of Section 2 on Survey Office Plan 358811; and
  - (b) dispose of the stopped road to the owner of the adjoining land at 21 MacMillan Avenue; and
  - (c) amalgamate the stopped road with the land held in Certificate of Title 325/242 at 21 MacMillan Avenue.

#### EXECUTIVE SUMMARY

2. The area of road proposed to be stopped comprises 3 square metres and is occupied by a single garage owned in conjunction with the adjoining property at 21 MacMillan Avenue. Attached is Survey Office Plan 258811, together with an aerial photograph of the site.
3. Under the current arrangement the garage is encroaching onto MacMillan Avenue at the goodwill of the Council in its capacity as owner of the road.
4. There was an opportunity for the subject area of road to be stopped in conjunction with the road stopping application at 23 MacMillan Avenue thus reducing the cost of surveying by way of a cost sharing arrangement between the two neighbours.
5. At its meeting on 20 September 2005 the Spreydon/Heathcote Community Board recommended to the Council that the road stopping procedure be commenced. This recommendation was subsequently ratified by the Council at its meeting on 20 October 2005.
6. A conditional Agreement for Sale and Purchase has now been negotiated and is dependent on all statutory obligations being fulfilled in respect of the road stopping process.
7. The Council is now in a position to consent to the road being formally stopped. At the conclusion of the stopping process the 3m<sup>2</sup> will be contemporaneously transferred to the owners of 21 MacMillan Avenue and amalgamated with the property title.

#### FINANCIAL AND LEGAL CONSIDERATIONS

##### Financial

8. Owing to the small area of road being stopped the cost of a professional valuation could not be justified. The purchase price of \$370.36 was established by applying the square metre rate of \$92.59 that was calculated by Simes Limited for the road stopping application at 23 MacMillan Avenue.
9. In addition to the current market value, the applicants have agreed to a 50/50 cost sharing deal with the owners of 23 MacMillan Avenue because both stoppings can be dealt with on one survey office plan, and there are inherent economies of scale as a result.

## **Legal**

### 10. 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, then the road can be declared formally stopped by notice in the Gazette.

### 11. Section 120 Public Works Act 1981 - Registration

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.

## **STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the area of legal road adjoining 21 MacMillan Avenue and described as Section 2 on Survey Office Plan 358811 comprising 3m<sup>2</sup> be declared stopped pursuant to Section 116 of the Public Works Act 1981.
- (b) That pursuant to Section 120(3) of the Public Works Act 1981, Section 2 on Survey Office Plan 358811 be amalgamated with Certificate of Title 325/242 and vested in the names of the current landowners.