

1. DECLARATION OF LAND FOR ROAD, RESERVE 47 - FERRY ROAD

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

PURPOSE OF REPORT

1. The purpose of this report is to request the Council to pass a formal resolution under the provisions of the Public Works Act 1981 to declare a portion of reserve as land for road.

EXECUTIVE SUMMARY

2. The land is required to enable the Council to construct roading improvements to the intersection at Ferry Road / Humphreys Drive.
3. Land required for the intersection improvements from the properties at 1026, 1030, 1060 and 1099 have been gazetted as road. It remains to declare as road the land required from Reserve 47. The severance from 1091 Ferry Road is subject to continuing negotiations.
4. The Department of Conservation has given its consent to declare the land (188 m²) being part Reserve 47 as road. Agreement is held with the Department, subject to formal resolution of Council, to pay compensation to the department of \$9,400 excluding GST – see paragraph 12.

FINANCIAL AND LEGAL CONSIDERATIONS

5. The Community Board does not have delegated authority to authorise use of the provisions of the Public Works Act for declaring a public work. Such a decision needs to be made by the full Council. The Board has, however, recommendatory powers to the Council.
6. Section 114 of the Public Works Act 1981 provides that any land with the consent of the owner(s) and any other parties who have a disclosed interest, may be declared road. On publication of a notice in the New Zealand Gazette the land vests in the Local Authority as road.
7. The compensation payment to the Crown (Department of Conservation) of \$9,400 excluding GST is to be a charge against 2006/07 Transport & City Streets Ferry / Humphreys project budget.
8. Part of the reserve land required, Section 2 Drawing 22044/1d is designated for road in the City Plan.
9. Greenspace Unit are the asset owning unit and have agreed to Sections 2 and 5 being taken for road. An inter unit transfer of capital will take place to account for the true cost of the roading project.

STAFF RECOMMENDATION

That the Council pass the following resolution

Resolution

Pursuant to Section 114 (1) of the Public Works Act 1981, the Christchurch City Council hereby resolves to declare as land for road, that land shown as Section 2 SO 362038, (**see Attachment 1**) comprising 188 m² being part Reserve 47 being part of the land comprised in CFR CB467/229.

BOARD RECOMMENDATION

That the staff recommendation be adopted.

[Note - Brenda Lowe-Johnson abstained from voting on this item and queried the process in respect to the above resolution in regard to consultation with Maori and the Ngai Tahu Claims Settlement Act and requested that this aspect be further investigated, (paragraph 13 of this report refers).]

BACKGROUND ON DECLARATION OF LAND FOR ROAD – RESERVE 47 – FERRY ROAD

9. Reserve 47 is a reserve subject to the Reserves Act 1977 some of which has been developed and used by the adjacent restaurant business as a carpark. The current business, the Sandbar and Restaurant Limited has a lease of Section 3 and part Section 4 on drawing 22044/1d for this purpose until July 2009 with a right of renewal for five years finally expiring in 2014. The lease is subject to termination on three months notice in respect to any area required for a public work or esplanade reserve.
10. Section 4 on this plan is shown as land for esplanade reserve (to be formalised as a separate action) while Sections 2 and 5 are shown as land for road and Section 2 is designed for roading purposes. Section 5 is also required for road following a review by City Transport and Streets to provide a uniform new road boundary but more importantly to allow for better design of the footpath and landscape treatment for linkage to the esplanade reserve. This will also achieve a better safety aspect with the relationship of the footpath to the carriageway through to the bridge.
11. Reserve 47 was originally set apart from the Crown's estate as a reserve for ferry purposes. This purpose was changed by gazette in 1931 to 'waterworks' as at that time it is understood the Heathcote County Council required the land for a well. With the amalgamation of the Heathcote County with the City this intended use was superseded and the reserve is no longer required for this purpose. As bridge reconstruction progresses and roading work is completed detail on the esplanade reserve landscape development can be firm'd up and a review carried out as to the balance of the reserve.
12. Compensation is payable to the Crown (DOC) for the land required for roading purposes. A valuation was carried out by Simes & Co Limited on behalf of Council and DOC. The compensation payment is 50% of the valuation in accordance with DOC policy of the land to be declared road.
13. To comply with the provisions of the Ngai Tahu Claims Settlement Act 1998 ("The Act") which provides for a 'first right of refusal' in certain disposals, Ngai Tahu Property were asked for a waiver to the proposed road declaration. In response we have been advised by letter dated 4 July 2006 that due to 118m² being designated for road in the District Plan since 1995, both parcels required for road have been accepted as an exception and therefore the provisions for disposal of relevant land under the Act do not apply.