

1. ROAD LEGALISATION - HEMPLEMAN DRIVE

General Manager responsible:	General Manager, Jane Parfitt
Officer responsible:	Transport & Greenspace Manager, Michael Aitken
Author:	Weng-Kei Chen

PURPOSE OF REPORT

1. This report seeks approval for the existing road reserve defined as Lot 69, DP34982, as shown on attachment 1, to be dedicated as road pursuant to section 111 of the Reserves Act 1977.

EXECUTIVE SUMMARY

2. In 1990 the Council granted Mr Shackleton of 15 Hempleman Drive, Lot 6, DP34983 permission to construct his driveway on road reserve. This property is a rear site served by a ROW to Hempleman Drive. The lesser earthworks required for the driveway construction was the main reason for the Council's approval.
3. In August 2003 the surveyor acting on Mr Shackleton's behalf applied to the Council for a ROW easement over the road reserve. This was required as the property has no rights of access to land vested in the Council as "Road Reserve".
4. The request for easement rights was reviewed and staff considered that it would be more appropriate to dedicate this road reserve as road. The existing access to the cemetery has always been maintained by the Council and vesting the entire Lot 69, DP34982 as road allows existing users automatic access rights.

FINANCIAL IMPLICATIONS

5. The cost for dedication of road process is approximately \$1,500 and this will be funded by the Transport and Greenspace subdivision works budget.

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

6. Covered by existing unit budgets.

LEGAL CONSIDERATIONS

7. The section as defined in Lot 69, DP34982 is road reserve and will require the Council's approval pursuant to Section 111 of the Reserves Act 1977 to dedicate it as a road.

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

8. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

9. LTCCP page 152 "Streets and Transport objective" – 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?

10. As above.

ALIGNMENT WITH STRATEGIES

11. This action is consistent with the objectives of the city plan.

Do the recommendations align with the Council's strategies?

12. As above.

CONSULTATION FULFILMENT

13. Not applicable.

STAFF RECOMMENDATION

That the Council dedicate the existing road reserve defined as Lot 69, DP34982 as road, pursuant to section 111 of the Reserve Act 1977.

BOARD RECOMMENDATION

That the staff recommendation be adopted.

BACKGROUND

14. The Council approved a subdivision at Hempleman Drive in 1974 with Lots 1 to 5, DP34982, having vehicle access to the road using the driveway constructed to serve the cemetery Res 56. The driveway to the cemetery is vested in the Council as road reserve Lot 6, DP34982. The attachment shows the location of these properties.
15. In 1990 the Council granted consent for the construction of a driveway on road reserve Lot 69, DP34982 to the owner of 15 Hempleman Drive. Owing to an oversight the driveway construction proceeded without easement rights of access being granted to the property as required by the Reserves Act 1977.
16. The issue of easement rights was raised in 2003 but not resolved. A property has no common law rights of access to "road reserve" as it has if the land is vested as road.
17. The existing driveway to the cemetery is maintained by the Council and dedication of the land as road will resolve all the easement rights requirement issues.