

6. **REPORT BY THE CHAIRPERSON OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD
- 4 NOVEMBER 2009**

1. **POUND ROAD – ROAD STOPPING AND LAND SWAP**

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Asset and Network Planning Manager
Authors:	Weng-Kei Chen, Asset Engineer (Policy) Bill Morgan, Property Consultant

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval as follows:
 - (a)
 - (i) To approve the acquisition by agreement under Section 17 of the Public Works Act 1981 of those parcels of land shown as Sections 1, 3 to 9 inclusive and Section 12 on Survey Office Plan 424971 for road from Christchurch International Airport Limited, Environment Canterbury and the private landowners affected;
 - (ii) To set apart those parcels of land owned by the Council and shown as Sections 10 and 11 on Survey Office Plan 424971 as road pursuant to Section 114 of the Public Works Act 1981;
 - (iii) To approve the disposal of that parcel of land owned by the Council shown as Section 15 on Survey Office Plan 424971 in exchange for that land depicted as Sections 13 and 14 on Survey Office Plan 424971 owned by Christchurch International Airport Limited, which Sections 13 and 14 are intended to be held by the Council as an addition to the Council's existing adjoining ecological park as scenic reserve subject to the Reserves Act 1977;
 - (iv) To grant delegated authority to the Unit Manager Corporate Support to negotiate and conclude such agreements with Christchurch International Airport Limited, the Crown, Environment Canterbury and the affected private landowners to give effect to the above arrangements on such terms and conditions as he/she shall consider appropriate;
 - (v) That, should any objection(s) be received under the Tenth Schedule of the Local Government Act 1974 to the proposed road stopping of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971, the Council Secretary be delegated the power to appoint an Independent Commissioner to hear those objections and to report his or her recommendations in respect of those objections to the Council.
 - (b) To note that the Board, under delegated authority, has resolved:
 - (i) Pursuant to sections 319(h), 342(1)(a) and the Tenth Schedule of the Local Government Act 1974, to commence road stopping procedures in respect of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971;
 - (ii) Subject to such road stopping procedures being successfully completed, pursuant to Clause 32(3) of Schedule 7 of the Local Government Act 2002 to sub-delegate to the Corporate Support Manager the power under section 345 of the Local Government Act 1974 to dispose of those parcels of land created by such road stopping to Christchurch International Airport Limited ("CIAL") and Environment Canterbury ("ECan") to such parties and on such terms and conditions as he/she shall consider appropriate (including any requirement under section 345(2) and (2A) that they be amalgamated with such land parcels as he/she shall consider appropriate).

EXECUTIVE SUMMARY

2. The Board at its 14 September 2009 meeting approved in principle, a proposal to proceed with the stopping of parts of Pound Road and Savills Road between Jessons Road and Savills Road. This was prompted by a request from CIAL to realign the location of the existing Pound Road from Savills Road to McLeans Island Road as shown on Survey Office Plan 424971. The deviation is required to facilitate the extension of the east-west airport runway which is scheduled to be completed by 2011.
3. In order to commence the process a number of Board resolutions are required as detailed in paragraph 1(a) above, together with a number of Board recommendations to the Council as detailed in paragraph 1(b) above. The road stopping is necessary to accommodate the runway extension and to protect the flight path.
4. At the date of the writing of this report Survey Office Plan 424971 was not available in final form. However, to assist the Board, a draft of that plan, shown as Plan RPS 141-17 (**Attachment 1**) and Plan RPS 141-16 (**Attachment 2**) and Plan RPS 141-19 (**Attachment 3**), are **attached** to this report. The formal Survey Office Plan will be available to the Board at the date of the Board's meeting to consider this report.
5. To facilitate the construction of the new road to replace the road to be stopped there are a number of land acquisitions and exchanges required to take place. It has been agreed with CIAL that the transaction is to be cost neutral to the Council and that CIAL is to be responsible to obtain all of the required purchase agreements from the various existing landowners on the Council's behalf. The new road alignment traverses land owned by ECan (Section 1), CIAL (Sections 3,4,5 and 6), the Crown (Sections 7 and 8), the Isaac Construction Company Ltd (Section 9), the Council (Sections 10 and 11) and Harewood Gravels Ltd (Section 12). All of the parcels of land (including the road to be stopped) have been valued by Simes Limited on behalf of the Council, the result of which is that there is expected to be a net cost to CIAL of \$12,000 plus GST following the acquisition and exchange of all the various land parcels required.
6. The new road alignment is to be constructed to the Council's specifications at CIAL's cost.
7. Currently Pound Road acts as a bypass from the Main South Road to McLeans Island Road and diverts some industrial and general traffic away from the city. The new link will still provide this connection although it will be slightly longer than the current route. Pound Road is also used regularly by plane spotters and as such it is proposed to follow the procedures of the Tenth Schedule of the Local Government Act 1974 to stop the road to ensure that a public objection process is available. To satisfy any concerns that the plane spotters may have CIAL has indicated that continuing public access to Pound Road, which serves the various aviation businesses from Jessons Road end, will remain open for these activities during business hours.
8. Clearly the runway extensions are critical for the continued operation of the international airport and are to be supported given its importance to the city and region. The proposal represents the best outcome that can be achieved under the circumstances and has a minimum impact on the surrounding properties. It will have some additional benefits to the City by increasing the size of its Ecological Grassland Park through the acquisition of surplus Crown Land and will also create a long road frontage to the reserve which currently has limited access from McLeans Island Road.
9. It is recommended that the proposal should be supported given the strategic importance of the airport to the City and surrounding regions.
10. The transactions proposed by this report are summarized in the Schedules are included as part of this report.

FINANCIAL IMPLICATIONS

11. There will be no financial implications to the Council as the land acquisition, road construction, survey, legal and staff costs are all to be met by CIAL (including the Council's costs if the road stopping application is referred to the Environment Court).

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

12. Not applicable.

LEGAL CONSIDERATIONS

13. There are a number of property transactions involved within this project, including land acquisition, land exchanges, road stopping and resulting land disposals. The Council's Legal Services Unit has advised on the negotiations with CIAL to date and has prepared the draft contractual documentation proposed to be entered into by the Council, CIAL and the other affected parties to give effect to this proposal. Appropriate delegated authority to staff is required to enable this documentation to be concluded and signed.
14. At this stage, it appears that appropriate agreements are likely to be concluded by agreement under 17 of the Public Works Act 1981 with ECan, the Crown and the private landowners affected by the proposal to construct the new road alignment. As it is therefore unlikely that recourse will be required to the compulsory acquisition provisions of the Public Works Act 1981, the Council is not at this stage being asked to authorise the use of those provisions.
15. Under the Council's Road Stopping Policy the delegation to stop the road lies with the Board.
16. Given that this project is likely to be of public interest it is recommended that the road stopping process provided for in the Tenth Schedule of the Local Government Act 1974 is employed. The relevant sections of that Act are as follows:

Section 319 (h) - General powers of councils in respect of roads:

This Section gives local authorities the general power to stop any road or part thereof in accordance with the Act.

Section 342 (1) (a) - Stopping of roads:

Confers on the Council the ability to declare a road to be formally stopped.

Section 345 - Disposal of land not required for road:

In relation to stopped road that is no longer required by the local authority, this section provides that the Council may sell or lease that part of the stopped road to the owner(s) of any adjoining land.

This Section goes on further to provide that the price or rent for the stopped road is to be fixed by a competent valuer appointed by the Council. If the owner(s) is not prepared to pay the fixed price or rent, the Council may sell the land by public auction or private tender.

Section 345 (2) - Amalgamation of stopped road with adjoining land:

This Section enables the Council to require the amalgamation of stopped road with adjoining land if deemed appropriate.

Tenth Schedule – Conditions as to Stopping of Roads:

Outlines the procedure to be undertaken in order to stop a road. The following table summarises the various steps:

1.	The Council prepares: (a) a survey plan of the road proposed to be stopped; and (b) an explanation as to why the road is to be stopped and the purpose or purposes to which the stopped road will be put. And lodges the plan at LINZ for approval.
2.	Once LINZ has approved the plan, the plan is made available to the public with a view to receiving objections to the proposal(s). The Council must: (a) at least twice, at intervals of not less than 7 days, give public notice of the proposal(s); (b) serve the same notice on the occupiers of all land adjoining the road; The Plan is open for public objection for a minimum period of 40 days from the date of the first publication of the public notice.
3.	A notice of the proposed stopping is fixed in a conspicuous place at the end of the road proposed to be stopped for the duration of the public notification period.
4.	If no objections are received, the Council may by public notice declare that the road is stopped.
5.	If objections are received, the Council shall, unless it decides to allow the objections, send the objections together with the plans and a full description of the proposed alterations to the Environment Court.

17. The above detailed processes will be initiated as soon as the necessary Board resolutions are available and an appropriate agreement with CIAL and other parties concluded.

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

18. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

19. Not applicable.

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

20. Not applicable.

ALIGNMENT WITH STRATEGIES

21. Not applicable.

Do the recommendations align with the Council's strategies?

22. Not applicable.

CONSULTATION FULFILMENT

23. The road stopping procedure under the Local Government Act 1974 provides for a statutory process of public consultation in respect of the proposed road stopping. That process includes:
- (a) The service of notice on each owner of land adjoining the road
 - (b) Notice to the public generally; the ability of adjoining landowners and the public generally to object

- (c) The hearing of objections by the Council or an independent commissioner and a formal hearing in the Environment Court in the event that any objection is not allowed.
24. CIAL has delivered a preliminary presentation to the residents of Jessons Road from which there was a positive outcome.

GENERAL

25. As previously indicated, in order to provide the new road deviation CIAL will be required to purchase all of the land from the respective parties on the Council's behalf and at its cost. With respect to Section 9 on the plan it will be noted that this passes through an existing quarry owned by The Isaac Construction Company Limited. This will effectively compromise that company's mining operation and it is looking to offset this loss through the acquisition of Section 15 on Survey Office Plan 424971. Section 15 is part of the land contained in Certificate of Title 33K/1024 containing 4.0473 ha and is currently owned by the Council in fee simple. It is not held for any particular purpose and following agreement with CIAL it is proposed to exchange this land with CIAL for Sections 13 and 14 which CIAL is to acquire from the Crown. These sections contain some rare plants and will be amalgamated with the Council's adjoining reserve once the exchange is completed. Following the transfer of Section 15 into CIAL's ownership, CIAL will then be able to complete its transaction with The Isaac Construction Company Limited.
26. Section 10 is also part of the above land held by the Council in Certificate of Title 33K/1024 and is to be set apart as road together with Section 11, which is held by the Council for road diversion purposes.
27. Section 1 is to be acquired for road from ECan. The property is presently held in trust for the improvement and protection of the Waimakariri River and the sale to the Council will require the Minister of Conservation's consent.
28. None of the above transactions can be completed until the road stopping has been approved and the new road constructed and open to traffic. The road to be stopped is to be amalgamated with the adjoining titles once the final notice has been gazetted.

Site plans are **attached** (attachment 4).

STAFF RECOMMENDATION

That the Council resolve:

- (a) To approve the acquisition by agreement under Section 17 of the Public Works Act 1981 of those parcels of land shown as Sections 1, 3 to 9 inclusive and Section 12 on Survey Office Plan 424971 for road from Christchurch International Airport Limited, Environment Canterbury and the private landowners affected and once acquired, to set apart the above sections, as described in the Second Schedule below as road pursuant to Section 114 of the Public Works Act 1981:

SECOND SCHEDULE		
LAND TO BE LEGALISED AS ROAD		
Section Number	Area	Plan
1	11873 m ²	SO 424971
3	7657 m ²	SO 424971
4	1913 m ²	SO 424971
5	3989 m ²	SO 424971
6	2759 m ²	SO 424971
7	8078 m ²	SO 424971
8	1018 m ²	SO 424971
9	7371m ²	SO 424971
10	3902m ²	SO 424971
11	131m ²	SO 424971
12	824m ²	SO 424971

- (b) To set apart those parcels of land owned by the Council and shown as Sections 10 and 11 on Survey Office Plan 424971 as road pursuant to Section 114 of the Public Works Act 1981;
- (c) To approve the disposal of that parcel of land owned by the Council shown as Section 15 on Survey Office Plan 424971 as described in the Third Schedule below, in exchange for that land depicted as Sections 13 and 14 on Survey Office Plan 424971 as described in the Fourth Schedule below, which Sections 13 and 14 are intended to be held by the Council as an addition to the Council's existing adjoining ecological park as scenic reserve subject to the Reserves Act 1977;

THIRD SCHEDULE		
LAND TO BE DISPOSED OF		
Section Number	Area	Plan
15	21603 m ²	SO 424971

FOURTH SCHEDULE		
LAND TO BE ACQUIRED		
Section Number	Area	Plan
13	124384m ²	SO 424971
14	12093 m ²	SO 424971

- (d) To grant delegated authority to the Unit Manager Corporate Support to negotiate and conclude such agreements with Christchurch International Airport Limited, the Crown, Environment Canterbury and the affected private landowners to give effect to the above arrangements on such terms and conditions as he/she shall consider appropriate;
- (e) That, should any objection(s) be received under the Tenth Schedule of the Local Government Act 1974 to the proposed road stopping of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971, the Council Secretary be delegated the power to appoint an Independent Commissioner to hear those objections and to report his or her recommendations in respect of those objections to the Council.
- (f) Subject to the land shown as Sections 13 and 14 on Survey Office Plan 424971 being acquired by the Council, that Sections 13 and 14 on Survey Office Plan 424971 be classified pursuant to Section 16(2)(a) of the Reserves Act 1977 as a scenic reserve within the meaning of Section 19(1)(a) of the Reserves Act 1977.

BOARD CONSIDERATION

The initial consideration of this matter was undertaken by the Board's Works Traffic and Environment Committee on 27 October 2009. The Board subsequently agreed to recommend to the Council that the recommendations presented by the Committee as set out in the form of the staff recommendations above should be adopted.

BOARD RECOMMENDATION

That the staff recommendation be adopted.

(Note: Cheryl Colley declared an interest and retired from the discussion and voting thereon, when Andrew Yoon temporarily assumed the chair.)

The Board also made decisions under delegated authority relating to this item.