

10. BISHOPDALE COURT - ROAD STOPPING

General Manager responsible:	General Manager, City Environment Group, DDI 941-8608
Officer responsible:	Unit Manager, Asset and Network Planning
Author:	Weng-Kei Chen, Asset Policy Engineer

PURPOSE OF REPORT

1. To consider the application from Christchurch City Network Limited trading as Enable Network to stop a portion of road, Section 1, approximately 166 metres squared in Bishopdale Court as shown in the **attachments**.

EXECUTIVE SUMMARY

2. Enable Network has requested the Council's assistance in locating a suitable site for its communication Hub in the Bishopdale area. This Hub is vital for the city fibre network which the company has been contracted with Crown Fibre Network to deliver. The timeline to build the Hub is June 2012.
3. Several options were investigated and they were either unsuitable due to the presence of other underground infrastructures, interruption to business during installation or the Reserve status of land. The application to use Reserve Land for utility purposes will require the process to proceed in accordance with the Reserve Act and this lengthy process will not meet Enable Network timeframes.
4. The proposed site is adjacent to Orion's Electrical substation and is on an existing car park. The proposal will decrease the number of car parks available by 12 and will require the relocation of the footpath entry from the adjacent reserve, rearrangement of car parking spaces and construction of a new footpath along the reserve as shown on the attachments (**Attachments 1-4**).
5. Currently there are 611 marked car parks in Bishopdale Court and these are all on legal road. This is a unique situation in the city where all parking is provided on legal road for the Bishopdale Court businesses and Council facilities. The car parking requirements for all the existing activities in Bishopdale Court is estimated to be in the order of 510 car parks and the reduction of 12 car parks will not contravene the City Plan requirement.
6. The car parking on legal road does not contribute to the road network function and only serves as a destination to users of the city road network. There is also an opportunity to create an additional 4 car parks with the rearrangement of the parking spaces within the legal road as indicated on the plan.
7. The application is consistent with the Council's policy for Road Stopping and will not disadvantage the public's ability to pass and repass along the road network.

FINANCIAL IMPLICATIONS

8. If the road stopping proceeds as recommended, Enable Networks will be required to purchase the land from the Council at market value as determined by a registered valuer and including all the road asset changes as indicated on the plan.

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

9. Not applicable.

LEGAL CONSIDERATIONS

10. Both the Local Government Act 2002 and the Public Works Act 1981 allow for the stopping of legal roads. In addition to these statutory provisions, the process of stopping roads by the Council is governed by the Christchurch City Council Road Stopping Policy 2009 ("the Policy") and the related delegations adopted by the Council on 9 April 2009 ("Delegations").

11. Under the Delegations the Corporate Support Manager has the power to accept or decline a road stopping application where:
 - (a) The area of the road to be stopped will not constitute a complying lot under the City Plan in 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.
12. In all other circumstances the power to accept or decline a road stopping application, and which statutory procedure to use, sits with the Community Board of the ward in which the road in question is situated. Those powers must be exercised in accordance with the Policy.
13. There are two statutory processes available for road stopping and the Policy articulates the circumstances when each is to be used.
14. The Local Government Act 1974 road-stopping procedure must be adopted if one or more of the following circumstances shall apply:
 - (a) Where any public right of access to any public space could be removed or materially limited or extinguished as a result of the road being stopped; or
 - (b) The road stopping could injuriously affect or have a negative or adverse impact on any other property; or
 - (c) The road stopping is, in the judgment of the Council, likely to be controversial; or
 - (d) If there is any doubt or uncertainty as to which procedure should be used to stop the road.
15. The Public Works Act 1981 road stopping procedure may be adopted if all of the following circumstances shall apply:
 - (a) Where there is only one property adjoining the road proposed to be stopped; and
 - (b) Where the written consent to the proposed road stopping of all adjoining landowners by proposed road-stopping is obtained; and
 - (c) Where the use of the Public Works Act 1981 procedure is approved (where necessary) by the relevant Government department or Minister; and
 - (d) Where no other persons, including the public generally, are considered by the Council in its judgment to be adversely affected by the proposed road stopping; and
 - (e) Where the road is to be amalgamated with the adjoining property; and
 - (f) Where other reasonable access exists or will be provided to replace the access previously provided by the stopped road (i.e. by the construction of a new road).

PROVIDED THAT if any one of the above circumstances shall not apply, then the Local Government Act 1974 procedure shall be used.

16. The Public Works Act road stopping procedure is essentially an administrative process intended to be used in non-controversial circumstances involving trivial parcels of land where the consent of the neighbouring owners is available. For all other road stoppings, the Policy requires that the Local Government Act process is used.

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

17. The loss of existing car parking is relatively small and is more than compensated with the rearrangements of car park spaces which will result with 4 additional car parks, and therefore staff consider it is appropriate that the Public Works Act 1981 be used.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

18. The small parcel of 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?

19. Not applicable.

Do the recommendations align with the Council's strategies?

20. Yes, supporting the installation of hi-tech infrastructure in the city.

CONSULTATION FULFILMENT

21. Staff have received feedback on this proposal from a Bishopdale Business Group and:
- (a) the group cannot support any loss of car parks;
 - (b) concerns were raised on the uncertainty of the redevelopment of the City and the continued increasing demands on the centre;
 - (c) concerns were also raised on the cost of Community Service and venues for community groups after the earthquake; and
 - (d) the increasing activities at the YMCA centre with parking congestion experienced and vehicles parking on grass plots.

STAFF RECOMMENDATION

That the Board:

- (a) Approves the road stopping of the portion of Bishopdale Court identified on attached plan as Sec 1.
- (b) Recommends to the Minister of Land that part of Bishopdale Court as shown on the attached plan containing approximately 166 metres squared (subject to survey) be declared to be stopped by consent pursuant to Section 116 (2) (b) (i) and (ii) by the Public Works Act 1981.
- (c) That pursuant to Section 345 (1) (a) (i) of the Local Government Act 1974 the land be added to the Enable Network as determined by a registered valuer appointed by the Council.