

20. 10. 2005

**SPREYDON/HEATHCOTE COMMUNITY BOARD
20 SEPTEMBER 2005**

**A meeting of the Spreydon/Heathcote Community Board
was held on Tuesday 20 September 2005 at 5.00pm**

PRESENT: Phil Clearwater (Chairperson), Oscar Alpers, Barry Corbett,
Paul de Spa and Megan Woods.

APOLOGIES: Apologies for absence were received and accepted from Chris Mene
and Sue Wells.

The Board reports that:

PART A – MATTERS REQUIRING COUNCIL DECISION

1. PROPOSED ROAD STOPPING – 23 MACMILLAN AVENUE

General Manager responsible:	General Manager City Environment
Officer responsible:	Transport and City Streets Manager
Author:	Deborah Harris, Property Consultant, DDI 941-8940

PURPOSE OF REPORT

1. This report is submitted to the Council to authorise, pursuant to the Public Works Act 1981 and the Local Government Act 1974:
 - (a) Consent to the stopping of Section 1 on Scheme Plan SM1442-01.
 - (b) Disposal of the stopped road to the adjoining landowner of 23 MacMillan Avenue.
 - (c) Amalgamating the stopped road with the adjoining land at 23 MacMillan Avenue.

EXECUTIVE SUMMARY

2. The area of road proposed to be stopped comprises 108 square metres and adjoins the property at 23 MacMillan Avenue. A property location map is attached to this report.
3. The area of road is partly occupied by a carport constructed on timber pole foundations. The land falls moderately steeply from the end of the driveway, with the north boundary containing a substantial concrete retaining wall about 2 metres in height, nearly vertical. Above this the land is planted with mature trees and shrubs. Scheme Plan SM1442-01 (attached) delineates the area of road that is the subject of this report. The plan shows a garage at the western end, which has been removed and this part of the site is now part of the retained embankment.
4. The owners of 23 MacMillan Avenue approached the Council about an opportunity to purchase the area of MacMillan Avenue adjoining the property. On the advice of Transport and City Streets Unit staff, at its meeting on 28 January 2003, the Board recommended to the Council that the road stopping procedure be commenced. This recommendation was subsequently ratified by the Council at its meeting on 27 February 2003.
5. Negotiations between Council officers and the owners of 23 MacMillan Avenue have been satisfactorily concluded at the price assessed by a Council appointed registered valuer, subject to the completion of the road stopping procedure.
6. The Council is now in a position to consent to the road being formally stopped, and the subsequent disposal of the stopped road to the proprietors of 23 MacMillan Avenue.

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FINANCIAL AND LEGAL CONSIDERATIONS

Financial

7. Simes Limited assessed a current market value of \$10,000 including GST for the 108m² area of road. The applicants have agreed to pay the market value as assessed.
8. In addition to the current market value, the applicants were advised at the outset that they would be required to pay all road stopping costs including survey fees, Land Information New Zealand and gazettal disbursements and the Council's reasonable legal fees. The rough order estimate of these costs is \$5,200 plus GST.
9. Subsequent to our agreement for costs, the owners of 21 MacMillan Avenue approached the Council in regard to stopping part of MacMillan Avenue adjoining their property. Council officers have facilitated a 50/50 cost sharing deal between the owners of the two properties because both stoppings can be dealt with on one survey office plan, and there are inherent economies of scale as a result.

Legal

10. The Community Board does not have authority to consent to roads being formally stopped – such a decision needs to be made by the full Council. The Board does, however, have recommendatory powers to the Council.
11. 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, the road can be declared formally stopped by notice in the Gazette.
12. Section 345(1)(i)(a) Local Government Act 1974 – Disposal of land not required for road:

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

This Section goes on further to say that the price for the stopped road can be fixed by a competent valuer appointed by the Council to value that part or if the owner(s) is not prepared to pay the fixed price, the Council may sell the land by public auction or private tender.
13. 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.

STAFF RECOMMENDATIONS

- (a) That pursuant to Section 116 of the Public Works Act 1981, the Christchurch City Council consents to the portion of road shown as Section 1 on Scheme Plan SM 1442-01 to be stopped.
- (b) That pursuant to Section 345(1)(a)(i) of the Local Government Act 1974, Section 1 on Scheme Plan SM 1442-01 be disposed of to the adjoining landowner and amalgamated with Certificate of Title 471/52 pursuant to Section 345(2) of the Local Government Act 1974.

BOARD RECOMMENDATION

That the staff recommendations be adopted.

2. PROPOSED ROAD STOPPING – 21 MACMILLAN AVENUE

General Manager responsible:	General Manager City Environment
Officer responsible:	Transport and City Streets Manager
Author:	Deborah Harris, Property Consultant, DDI 941-8940

PURPOSE OF REPORT

1. This report is submitted to the Council to authorise commencement of the road stopping procedure for the portion of road shown as Section 1 on Scheme Plan SM1538-01 (attached).

EXECUTIVE SUMMARY

2. The area of road proposed to be stopped comprises 4 square metres and is occupied by a single garage owned in conjunction with the adjoining property at 21 MacMillan Avenue. A property location map and a copy of Scheme Plan SM1538-01 that delineates the area of road proposed to be stopped, are attached to this report for information.
3. The owners of 21 MacMillan Avenue approached the Council about an opportunity to purchase the area of MacMillan Avenue occupied by their garage, being aware that their neighbours at 23 MacMillan Avenue had made a similar application to the Council in 2003, which was agreed to in principle by the Board and the Council.
4. The Transport and City Streets Unit supports the road stopping application on the basis that the area of road involved is minimal, and that in any event the physical road widening in this area of MacMillan Avenue would be unlikely given the difficult hill terrain of the road. Further, the proposed road stopping will legalise the encroachment of the garage on legal road.
5. The applicants have agreed to pay the market value for the 4 square metre area and half of the road stopping costs. The other half of the costs are being met by the owners of 23 MacMillan Avenue in conjunction with their road stopping application.
6. Given the small area of road being stopped, it is proposed to facilitate the stopping pursuant to the Public Works Act 1981, and amalgamate that part with the property at 21 MacMillan Avenue.
7. A final report will be submitted to the Council seeking its formal consent to stop the road once all survey requirements have been met and the agreement for sale and purchase has been finalised.

FINANCIAL AND LEGAL CONSIDERATIONS**Financial**

8. The applicants have agreed to pay \$370.36 (inclusive of GST) for the 4 square metre area of road, being the amount calculated using the same square metre rate that Simes Limited assessed for the road stopping at 23 MacMillan Avenue.
9. The applicants have also agreed to meet half of the road stopping costs incurred as a result of this application and that of 23 MacMillan Avenue because both stoppings can be dealt with on one survey office plan, and there are inherent economies of scales as a result.

Legal

10. The Community Board does not have authority to resolve to commence a road stopping - such a decision needs to be made by the full Council. The Board has, however, recommendatory powers to the Council.
11. The Council has the ability to stop roads pursuant to the Public Works Act 1981 and the Local Government Act 1974. The latter Act requires the Council to publicly notify the proposed road stopping and to call for objections or submissions. Conversely, the Public Works Act process does not require public submission; however the Council and the adjoining landowner(s) must consent in writing to the proposal.

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12. If the proposed road stopping is potentially contentious then the Council should process the road stopping application pursuant to the Local Government Act. If not, the Public Works Act process can be followed.
13. It is proposed to process this application pursuant to the Public Works Act 1981 because:
 - (a) The owner of 21 MacMillan Avenue is the only logical purchaser of the subject area.
 - (b) The road is occupied by an existing garage owned in conjunction with 21 MacMillan Avenue.
 - (c) Given the small area of road to be stopped, there will be no practical effect on MacMillan Avenue – the road stopping is merely a process to formalise the existing physical situation.
14. 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, the road can be declared formally stopped by notice in the Gazette.
15. Section 345(1)(i)(a) Local Government Act 1974 – Disposal of land not required for road:

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

This Section goes on further to say that the price for the stopped road can be fixed by a competent valuer appointed by the Council to value that part, or if the owner(s) is not prepared to pay the fixed price, the Council may sell the land by public auction or private tender.
16. Section 345(2) Local Government Act 1974 – Amalgamation of stopped road with adjoining land:

This Section enables the Council to require the amalgamation of stopped road with adjoining land.
17. Subject to the road stopping process being successfully completed, the 4 square metre area will be amalgamated with the property at 21 MacMillan Avenue, more particularly described as Part Lot 19 and Part Lot 20, DP 3860 contained in Certificate of Title CB325/242, pursuant to Section 345(2) of the Local Government Act 1974.

STAFF RECOMMENDATION

It is recommended that the Council commence the road stopping process in respect of the parcel of road marked Section 1 on Scheme Plan SM 1538-01 situated at 21 MacMillan Avenue.

BOARD RECOMMENDATION

That the staff recommendation be adopted.

PART B – REPORTS FOR INFORMATION

3. UPDATE OF BOARD FUNDS

The Board **received** an update regarding its 2005/06 Project, Discretionary, SCAP and Youth Development Funds, together with a copy of the report of the SCAP Committee's meeting held on 29 August 2005.

4. UPDATE FROM COMMUNITY BOARD PRINCIPAL ADVISER

The Board **received** an update on current issues.

5. BOARD MEMBERS' INFORMATION EXCHANGE

Members were provided with an opportunity to give a brief update on community activities/Council issues, in line with the Board's Objective No. 2 - "To ensure local people's needs are being represented".

PART C – REPORT ON DELEGATED DECISIONS TAKEN BY THE BOARD

6. CONFIRMATION OF REPORT TO COUNCIL: 6 SEPTEMBER 2005

It was **resolved** that the report of the Board's meeting of 6 September 2005 be confirmed as a true and accurate record of that meeting.

7. BOWENVALE AVENUE TRAFFIC CALMING PROJECT

The Board's approval was sought to do nothing at this time in relation to traffic calming measures along Bowenvale Avenue.

The Board **resolved** that no further traffic speed reduction work be undertaken at this time along Bowenvale Avenue.

8. LYTTELTON STREET (SPARKS ROAD TO WYCHBURY STREET) KERB AND CHANNEL RENEWAL PROJECT

The Board's approval was sought to proceed to final design, tender and construction of the kerb and channel renewal along Lyttelton Street between Wychbury Street and Sparks Road.

The Board **resolved** that:

- (a) The Lyttelton Street (Wychbury Street to Sparks Road) kerb and channel renewal project, as illustrated in the attachment to the agenda, proceed to final design, tender and construction.
- (b) The stopping of vehicles be prohibited at any time in the following locations:
 - (i) On the eastern side of Lyttelton Street commencing at its intersection with Wychbury Street and extending in a southerly direction for a distance of 22 metres.
 - (ii) On the eastern side of Lyttelton Street commencing at a point 86 metres south of its intersection with Wychbury Street and extending in a southerly direction for a distance of 19 metres.
 - (iii) On the eastern side of Lyttelton Street commencing at a point 166 metres south of its intersection with Wychbury Street and extending in a southerly direction for a distance of 23 metres.
 - (iv) On the western side of Lyttelton Street commencing at its intersection with Wychbury Street and extending in a southerly direction for a distance of 26 metres.
 - (v) On the western side of Lyttelton Street commencing at a point 85 metres south of its intersection with Wychbury Street and extending in a southerly direction for a distance of 18 metres.

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- (vi) On the western side of Lyttelton Street commencing at a point 168 metres south of its intersection with Wychbury Street and extending in a southerly direction for a distance of 28 metres.
- (vii) On the eastern side of Lyttelton Street commencing at its intersection with Stourbridge Street and extending in a northerly direction for a distance of 12 metres.
- (viii) On the eastern side of Lyttelton Street commencing at its intersection with Stourbridge Street and extending in a southerly direction for a distance of 24 metres.
- (ix) On the western side of Lyttelton Street commencing at a point 14 metres north of the intersection with Stourbridge Street and extending in a southerly direction for a distance of 23 metres.
- (x) On both sides of Stourbridge Street commencing at the intersection with Lyttelton Street and extending in an easterly direction for a distance of 17 metres.
- (xi) On the eastern side of Lyttelton Street commencing at its intersection with Mountfort Street and extending in a northerly direction for a distance of 16 metres.
- (xii) On the eastern side of Lyttelton Street commencing at its intersection with Mountfort Street and extending in a southerly direction for a distance of 18 metres.
- (xiii) On the western side of Lyttelton Street commencing at a point 15 metres south of the intersection with Mountfort Street and extending in a southerly direction for a distance of 13.5 metres.
- (xiv) On both sides of Mountfort Street intersection commencing at its intersection with Lyttelton Street and extending in an easterly direction for a distance of 13 metres.
- (xv) On the eastern side of Lyttelton Street commencing at its intersection with Sparks Road and extending in a northerly direction for a distance of 49 metres.
- (xvi) On the western side of Lyttelton Street commencing at its intersection with Sparks Road and extending in a northerly direction for a distance of 48 metres.
- (c) The continuation of cycle lanes be provided for along Lyttelton Street connecting the existing cycle network to Sparks Road, Frankleigh Street and the Lyttelton Street cycle pathway from Rose Street.
- (d) As West Spreydon School is on a list of schools to have a 40 kph speed zone implemented, staff investigate preliminary work required towards its installation in conjunction with this project, as it would be more cost effective for that work to be undertaken at this time.

9. **BENGAL DRIVE/CASHMERE ROAD – GIVE WAY CONTROL**

The Board's approval was sought for the installation of a "give way" control against Bengal Drive at the Cashmere Road intersection.

The Board **resolved** that a "give way" control be placed against Bengal Drive at the Cashmere Road intersection.

The meeting concluded at 6.15 pm

CONSIDERED THIS 4TH DAY OF OCTOBER 2005

**PHIL CLEARWATER
CHAIRPERSON**