

REPORT 3

PROPOSED ROAD STOPPING / LAND EXCHANGE – 47 MANNERS STREET

1. Purpose of Report

The purpose of this report is to seek approval from the Council for the stopping of a section of unformed legal road in Victoria Street, and in exchange acquiring two parcels of land to facilitate the 'Lombard Lane Upgrade' project.

2. Executive Summary

Cook Strait Holdings Ltd (CSHL) has approached the Council with a proposal to develop the buildings and surrounding area situated on the corner of Victoria Street and Manners Street and bordered by Denton Park.

As a result of this proposal, Urban Design identified an opportunity to develop Lombard Street and Denton Park (known as the Lombard Lane Upgrade). Funding was agreed by Council in the 2013/14 Annual Plan to undertake a project feasibility study and design brief.

In order to progress its proposed development CSHL has requested that Council agrees to a road stopping and land exchange on Victoria Street, at the intersection of Bond Street and Lombard Street (Denton Park) in Central Wellington. The road stopping and land exchange are critical to the proposed CSHL redevelopment which will include a commercial building with food court, 'high street' and 'boutique' retail tenancies.

The triangular area of land on Victoria Street proposed for road stopping (88m² area coloured 'mustard' on plan in Appendix 1) is currently occupied by a small open space, comprising park benches, low planters with trees, vines and small shrubs. A covered walkway defines the outer edge of the park while the two other sides are walls of adjacent buildings.

There are two areas of land for acquisition; one is located at the Victoria Street/Manners Street intersection (16m² area coloured 'dark blue' on plan in Appendix 1) while the second is adjacent to Bond Street (53m² area coloured 'light blue' on plan in Appendix 1). The dark blue area is currently occupied by a single storey commercial building (Barkers clothing store) while the light blue area is a sealed car parking and storage area.

The light blue land backs onto Denton Park, and the Urban Development proposal is to undertake a redevelopment of Denton Park to incorporate the light blue area. The proposal seeks to turn part of Lombard Street into pedestrian only with shops fronting directly onto the new lane. The redevelopment of the two areas of legal road will form the 'Lombard Lane Upgrade' project to be proposed within the 2014/15 draft annual plan.

Due to the differential in land area and value, the Council will likely receive net proceeds from the proposed land exchange. Officers are recommending that these proceeds be applied to the Lombard Lane Upgrade. At this stage, only high level estimates have been set for the project cost at around \$1.5 million dollars.

3. Recommendations

Officers recommend that the Committee:

1. *Receive the information.*
2. *Recommend to the Council that it agrees, pursuant to Sections 319(1)(h) and 342(1)(a) of the Local Government Act (LGA) 1974 to declare surplus and stop the section of the unformed part of Victoria Street (Road Land), Te Aro (being approximately 88m² of land coloured 'mustard' as shown on plan in Appendix 1) and adjoining 47 Manners Street, Te Aro.*
 - (a) *Note that the area of stopped road will be amalgamated with the same adjoining land, 47 Manners Street, Te Aro (being Section 1 on Survey Office Plan 35946 comprising 1068m² under Computer Freehold Register WN35D/194).*
 - (b) *Note that all costs associated with the relocation of any services currently existing within the unformed road will be borne by Cook Strait Holdings Ltd.*
3. *Recommend to the Council that it approve the disposal of the Road Land to the owners of 47 Manners Street, Te Aro.*
4. *Recommend to the Council that it authorise Council officers to commission a section 40 Public Works Act 1981 (PWA) report from suitably qualified consultants to identify whether the area of unformed legal road land must be offered back to its former owner or their successor, or whether exemptions from offer back applies.*
5. *Delegate to the Chief Executive Officer the power to either offer the Road Land back to its former owner(s) or their successor(s), or to approve the exercise of exemptions from offer back under section 40(2), 40(3), or 40(4) PWA (if appropriate).*
6. *Authorise Council officers to initiate the road stopping process for the Road Land in accordance section 342 and the Tenth Schedule of the Local Government Act 1974.*

7. *Authorise Council Officers to undertake Consultation in accordance with section 138 of the Local Government Act 2002.*
8. *Delegate to the Chief Executive Officer the power to formally approve the road stopping, and issue the public notice to declare the Road Land stopped as road, subject to all statutory and requirements of the Council being met with no objections being received.*
9. *Recommend that the Council agree to acquire approximately 16m² of 47 Manners Street, Te Aro, being the land coloured 'dark blue' on the plan in Appendix 1 (being a part of Section 1 on Survey Office Plan 35946 comprising 1068m² under Computer Freehold Register WN35D/194).*
 - (a) *Note that the costs associated with the carrying out of the road vesting and land exchange will be met by Cook Strait Holdings Ltd ; these will include survey, valuation and the legal costs for this application.*
 - (b) *Note that the costs of acquiring the land for road to vest will be offset against the proceeds of the proposed road stopping.*
10. *Recommend that the Council agrees to acquire approximately 53m² of 47 Manners Street, Te Aro, being the land coloured 'light blue' on the plan in Appendix 1 (being a part of Section 1 on Survey Office Plan 35946 comprising 1068m² under Computer Freehold Register WN35D/194).*
 - (a) *Note that the costs associated with the carrying out of the road vesting and land exchange will be met by Cook Strait Holdings Ltd; these will include survey, valuation and the legal costs for this application.*
 - (b) *Note that the costs of acquiring the land for road to vest will be offset against the proceeds of the proposed road stopping.*
 - (c) *Recommend that the any surplus funds resulting from the road stopping and land acquisition sales process will be used to contribute towards the cost of the proposed 'Lombard Lane Upgrade' project.*
11. *Recommend that the Council authorises the Chief Executive Officer to carry out all further steps required to effect the land exchange.*
12. *Note that the land exchange will only proceed dependent on the successful outcome of the public consultation under section 138 of the Local Government Act 2002 and public notification under section 342 and the Tenth Schedule of the Local Government Act 1974.*

4. Background

4.1 History

The parcel of land to be stopped was, at the turn of last century, an allotment occupied by the Clarendon Hotel and fronting Farish Street; a narrow lane joining Manners and Wakefield Streets. In 1927 part of the site was taken for road widening (SO187547) with the residual of the site being occupied by Schneideman & Sons Tailors. In 1974 the residual of the land was taken for road purposes (NZ Gazette 1974 p.66) with Farish Street being renamed Victoria Street; the legalisation process was not completed until 2009.

The site containing the two portions of land to be acquired (Sec 1 SO 35946) was occupied by the Manners Street Post Office until its closure in 2011 and prior to that by the Allied Services Club; which hosted the infamous 'Battle of Manners Street' in 1942. Cook Strait Holdings Ltd (CSHL) is now the owner of the site.

CSHL has a proposal to redevelop the former post office building into a commercial building with food court, 'high street' and 'boutique' retail tenancies.

To undertake this development, however, legal road land on the Victoria Street frontage will need to be acquired by CSHL as well as the redevelopment of both Lombard Street and Denton Park. The rear of the CSHL building will be 'activated' by the introduction of multiple commercial tenancies; this in turn requires Denton Park and Lombard Street to respond differently to support the change in function.

In addition to the redevelopment of Denton Park it is proposed to pedestrianise a portion of Lombard Street. The exact extent of the pedestrian-only area, the ability to service adjacent sites, and vehicle circulation routes are issues under consideration as part of the overall CSHL development. The road stopping and land acquisitions are necessary to progress the redevelopment regardless of the final design details.

As part of the 2013/2014 Draft Annual Plan review CSHL sought funding for the redevelopment of the two areas; primarily under the auspices of the Wellington 2040 Laneways Project. Lombard Street was not identified under the original 2040 document as a priority route, but a separate investigation is being undertaken by the Urban Development Team.

The road stopping and land exchange is, therefore, a first step in facilitating the proposal promoted by CSHL and without which there may be little desire or need to proceed with any subsequent actions.

4.2 The Proposal

Three land transactions are proposed under this paper. These are shown on the Jasmax Architecture plan, sheet no. A1-07, revision C, revision date 7/10/2013; which can be found in Appendix 1 of this report.

Legal Road to be Stopped

1. The triangular portion of land fronting Victoria Street comprising some 88m² of land and coloured 'mustard' on the plan.

Fee Simple Land to Vest as Road

2. The elongated trapezoid portion of land at the intersection of Manners and Victoria Streets comprising some 16m² of land and coloured 'dark blue' on the plan.
3. The triangular portion of land fronting Bond Street comprising some 53m² of land and coloured 'light blue' on the plan.

If the land is successfully stopped the resulting parcel will be amalgamated with 47 Manners Street, Te Aro (being Section 1 on Survey Office Plan 35946 comprising 1068m² under Computer Freehold Register WN35D/194). It would be expected that the road stopping will be tied to a subdivision to vest as road the two parcels to be acquired.

It is noted that the approximately 21m² area of land coloured 'blue' on the plan, at the Lombard Street/Manners Street intersection, is not sought by the Council for roading purposes.

5. Discussion

5.1 Statutory Criteria

Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) of the Local Government Act (LGA) 1974. The acquisition of land, for whatever purpose, can be at the discretion of the Council.

5.2 Consultation

Consultation was undertaken with the relevant Service Authorities and the Council's Business Units, the following comments were received:

Service Provider/Business Unit	Condition
Wellington Electricity Lines Ltd	Has no objection, provided that: <ol style="list-style-type: none">1. All activities near the underground cables must be carried out in accordance with the NZ Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001)2. Northpower (0800 248 288) are contacted to obtain plans, and mark out, the underground cables.3. Any relocation of the underground cables will be at the applicant's expense; Northpower to be contacted to make arrangements.

	<p>4. If any Wellington Electricity Lines underground cables are to be located on private land, an easement must be granted to Wellington Electricity Lines.</p> <p>5. If, during construction any underground electricity cables are noticed or an electricity outage is caused, construction must be halted immediately and Northpower (0800 248 288) must be contacted.</p> <p>6.</p>
PowerCo Ltd (gas)	Has no objection; no assets located in the area.
Vodafone New Zealand Ltd (telecommunications)	Has no objection.
Downer c/- Telecom (telecommunications)	Has no objection.
Nova Energy (gas)	<p>Has no objection, provided that:</p> <ol style="list-style-type: none"> 1. No physical works proceed near the higher pressure gas main (Victoria Street) without a 'mark out'. 2. A 'third party works agreement form' must be completed, if physical works are proposed. 3.
Wellington Cable Car Ltd (trolley bus wires)	Have no objection. Note that under any development proposal trolley bus wires must remain energised.
WCC (Drainage)	Has no objection.
WCC c/- Capacity (water supply)	Has no objection; no future use for the site.
WCC (District Plan Policy)	No specific comment, neutral.
WCC (City Networks – Transport)	Has no objection.
WCC (Urban Development)	<p>Has advised that:</p> <ol style="list-style-type: none"> 1. The loading access of any adjacent sites to Lombard Lane should be assessed to check if Lombard Lane is the only loading access for these sites, including 47 Manners Street. 2. The area of land to be stopped should be amalgamated with the existing occupied parcel of land (47 Manners Street).

	<p>3. Any notable trees should be identified and a restriction (ie covenant) should be placed on the new Computer Freehold Register for 47 Manners Street protecting these trees. (Note that Parks has not identified any notable trees on the site.)</p> <p>4. Consultation should be carried out with the Council's Parks, Sport and Recreation Team to assist with the identification of this vegetation.</p> <p>5. The area of land that is proposed to be incorporated into Denton Park, or become a separate allotment, should be rezoned as Open Space A (under a Plan Change).</p>
WCC (Parks, Sport and Recreation)	<p>Has no objection, provided that:</p> <p>1. Any upgrade to Denton Park will need to be funded from alternative sources.</p>

5.4 Adjoining Landowners Consultation/ Public Notification

Section 138 of the LGA 2002 requires consultation before the disposal of legal road used or occupied as a park. For a 'typical' road stopping consultation would generally encompass immediately adjacent neighbours, neighbours immediately opposite the stopping, and those who may have their access affected. When the road stopping is eventually notified there is no restriction on who may make a submission.

The intent, therefore, would be to consult with the parties as identified above. Given the park has fairly transient use, with the commensurate difficulty in determining specific users, it is recommended that a consultation notice be placed on the site of the proposed road stopping. It would be made clear that this notice was for the purpose of initial consultation, under section 138 or the Act with the separate public notification process to follow. Legal opinion supports this approach.

5.5 Affected Parties Consultation

There are no parties considered to be specifically affected by this road stopping proposal (greater than the wider public in general). No adjacent landowners will have access to their property impeded by the road stopping.

However, in the event that the lane is made pedestrian only, there may be some impact on site servicing, this is a matter that would be addressed during the resource consent process.

5.6 Land Values

The Council has obtained a valuation from CBRE Ltd; this valuation report has determined the value of all three parcels of land. The applicant, as is their prerogative, has obtained an alternative valuation (Harcourts) with a similar but lesser valuation than that determined by CBRE. At time of writing negotiations to determine whether a common valuation could be agreed were still not concluded, except to note that the net outcome of the land exchange will be in the Council's favour.

This difference, when agreed, would then be paid to the Council. The applicant has requested that any proceeds from the sale and purchase of land be set aside for the upgrade of Denton Park. The Lombard Lane Upgrade is the proposal to which the proceeds can be directed.

5.7 Offer Back Pursuant to Section 40 PWA

Section 40 of the PWA requires any land taken for a Public Work to be firstly offered back to the original owner or their successor(s).

The Property Group (TPG) was commissioned to investigate the historical ownership of the land prior to taking. TPG determined that the last owner was a company (Farman Building Ltd) which no longer exists.

There may be some justification in seeking an exemption to the section 40 offer back provisions of the PWA, as not all land originally taken is being offered back and it is questionable whether the 89m² triangular section of land would be viable as a standalone allotment. This will be confirmed by a full section 40 investigation to be carried out by a suitably qualified consultant.

5.8 Next Steps

If the recommendations of this report are accepted and a resolution to dispose of the property is passed, then the next steps would be as follows –

- 1) Land valuation is agreed.
- 2) The consultation process will be initiated, including those in the immediately adjacent area with a consultation sign also being placed on the site.
- 3) Survey for the various parcels undertaken and a Sale and Purchase Agreement signed.
- 4) Proposal to be Publicly Notified.
- 5) Decision of a full Committee of the Council to stop road, with any objections of the notification process heard.
- 6) On the basis that there are no objections and/or there is a successful Environment Court resolution the land will be sold and amalgamated with the applicant's property.

6. Conclusion

The proposed road stopping will allow the applicant to further advance their proposal for the redevelopment of 47 Manners Street; which can then be jointly redeveloped with Council's proposed redevelopment of Denton Park and Lombard Street.

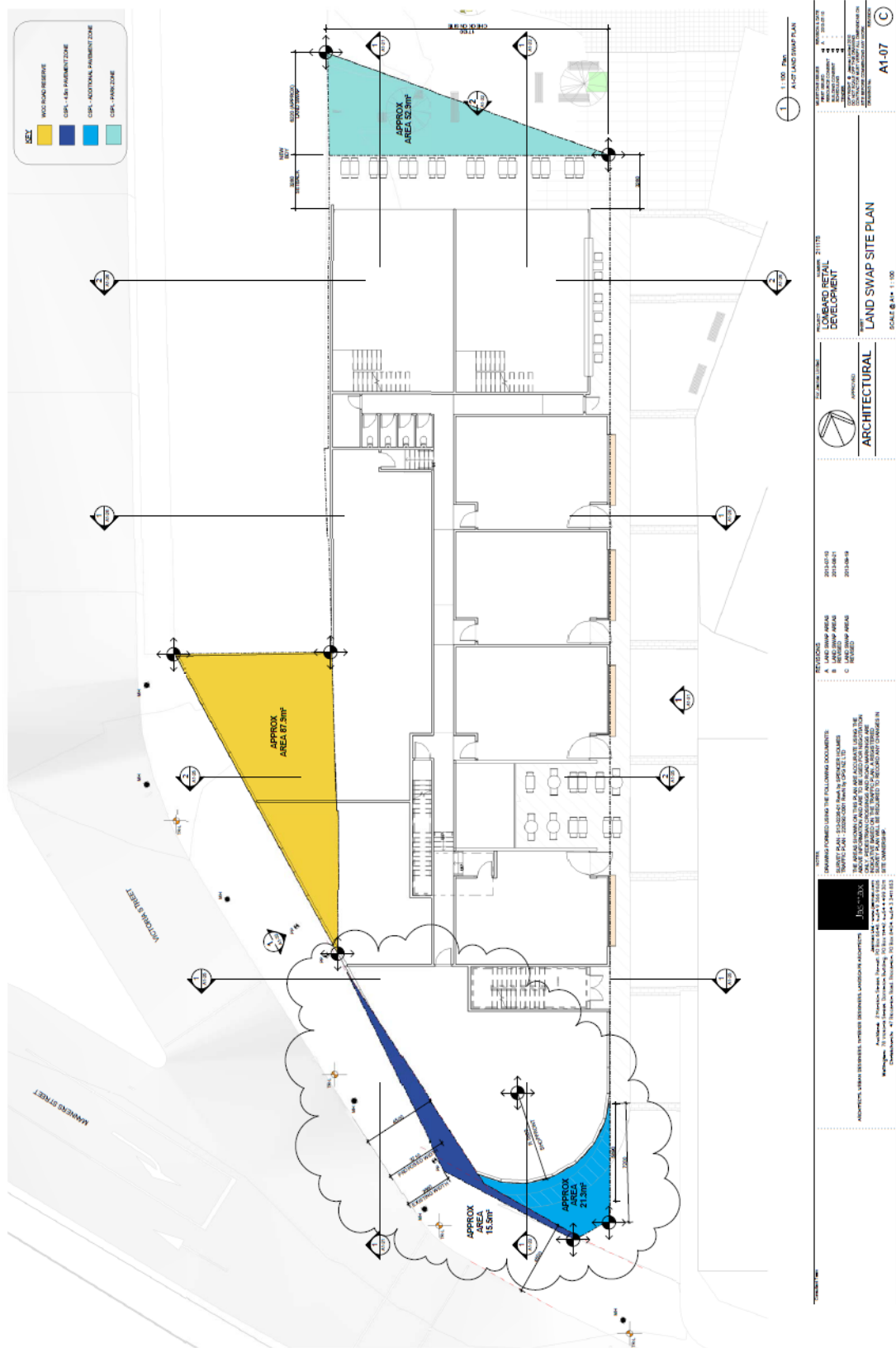
The Council will acquire land from CSHL, which will allow for a wider pedestrian footpath at the Victoria/Manners Street intersection and be added to an enlarged Denton Park.

The cost of acquiring the land required for road will be offset against the monies obtained from the proposed road stopping, with the difference in value in favour of the Council. It is proposed that any monies received from the sale of land (minus that for the land acquisition) will contribute towards the costs of the redevelopment of Denton Park via the Lombard Lane Upgrade.

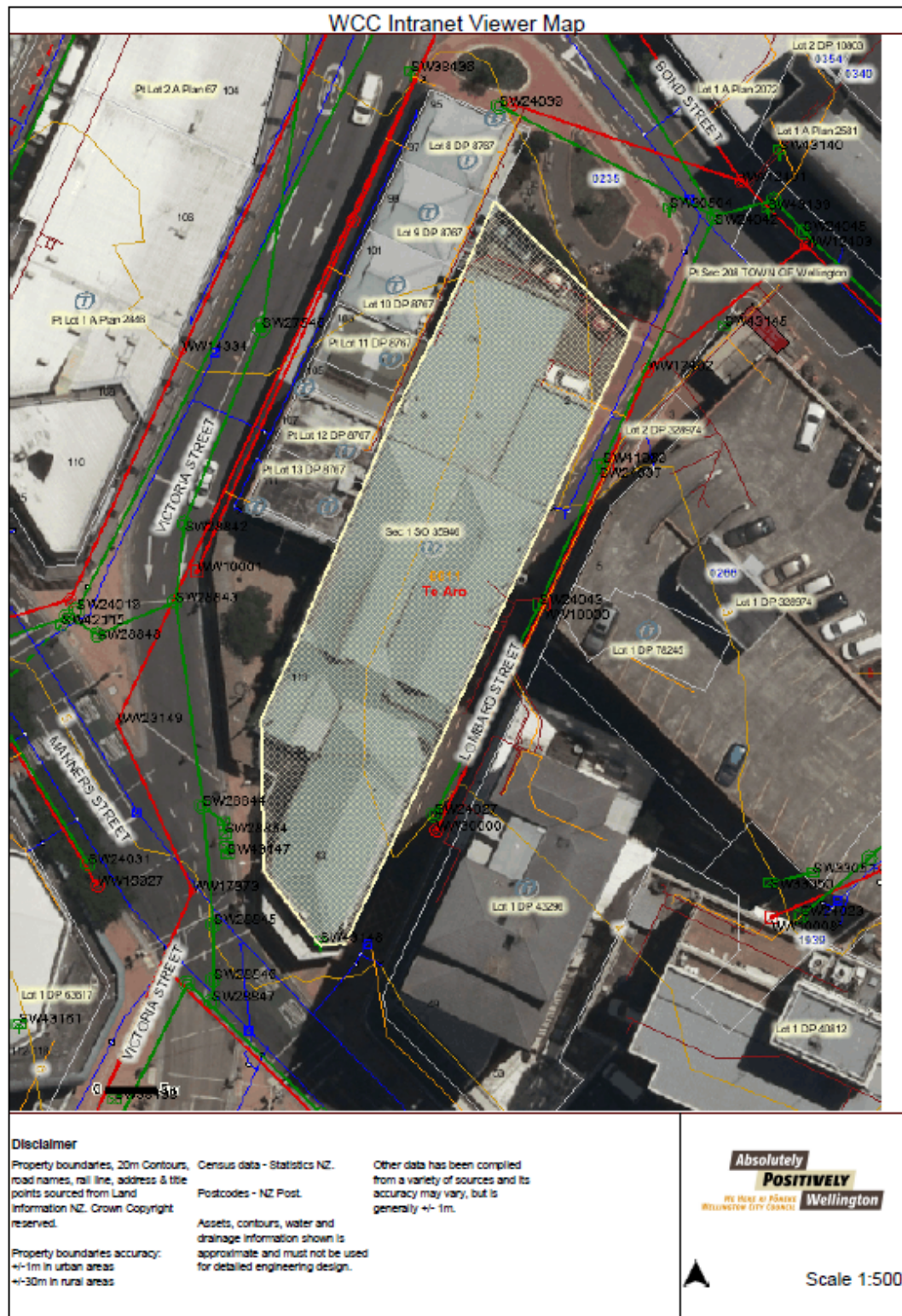
Contact Officer: *Brett Smith, Property Advisor, Property Services*

Supporting information
<p>a) Strategic fit <i>In line with the Council's financial principles, assets that are declared surplus to strategic or operation requirements are sold.</i></p> <p><i>The sale of legal road, where surplus to strategic requirements, is mandated under the Council's Road Encroachment and Sale Policy (June 2013).</i></p> <p><i>The paper will ultimately support the Council's strategic direction for a People Centred City, which seeks to improve pedestrian amenity, safety and ease of movement through the CBD.</i></p>
<p>b) Annual Plan Reference <i>Provisions for undertaking this work are contained within the overall organisational budget.</i></p>
<p>c) Annual Plan and Long Term Financial Strategy implications <i>The land is not required to be retained for roading purposes and if stopped and transferred will no longer need to be maintained by the Council. The purchase of the land to vest as road is not contained in the Council LTCCP but will be funded by the sale of the proposed stopped road.</i></p>
<p>d) Treaty of Waitangi implications <i>There are no Treaty of Waitangi implications.</i></p>
<p>e) Consultation <i>Consultation has been undertaken with several key Business Units of the Council, as identified in section 5.2 above. They have all advised that they have no objection to the proposed road stopping.</i></p> <p><i>Consultation with Iwi has not been carried out as the land is not in an identified Māori Precinct, subject to Treaty offer back requirements and, due to the size, is not subject to a first right of refusal.</i></p> <p><i>Consultation has been undertaken with the relevant Service Authorities, as identified in section 5.2 above. They have all advised that they have no objection to the proposed road stopping.</i></p> <p><i>Consultation will be undertaken with the public; firstly under section 138 of the LGA 2002, and then as per Scheduled 10 of the LGA 1974 (public notification)</i></p>
<p>f) Legal implications <i>The Road Stopping proposal complies with the relevant Council policies and is being processed in accordance with Section 319(1)(h) and 342(1)(a) of the Local Government Act (LGA) 1974</i></p>

APPENDIX 1 - PLAN A1-07



APPENDIX 2 - AERIAL PHOTOGRAPH



SITE PHOTOGRAPHS

Area of legal road to be stopped (looking east across Victoria Street).



Area of Legal road to be stopped (looking north down Victoria Street)



APPENDIX 3

Area of land to be acquired (intersection of Manners and Victoria Streets)



Area of land to be acquired (intersection of Bond and Lombard Streets)

