ROAD STOPPING AND EXCHANGE - LEGAL ROAD ADJOINING 45 MANA STREET, VOGELTOWN

Purpose

1. The purpose of this report is to obtain Council resolution that approximately 93m² (subject to survey) of unformed legal road (Road Land) adjoining 45 Mana Street, Vogeltown, Wellington, is no longer required for Council’s operational requirements.

2. In addition, Council resolution is sought to enable the acquisition of 625m² (subject to survey) vacant land from the applicant for amalgamation with adjoining Council-owned scenic reserve. Note that this is conditional on the Road Land being vested in the adjoining owner and is proposed to be effected by way of exchange (both parcels of equal value, therefore no money payable to either party).

3. Finally, officers request that Council delegates to the CEO authorisation to conclude all matters relating to this transaction. Note that if any objections are received during the Road Land public consultation process, these will be referred back to Committee for consideration.

Summary

4. The key question for Council is whether the Road Land is surplus to requirements for a public work, and if so, whether it will support commencement of the road stopping procedures under the Local Government Act 1974 (LGA).

5. The owners of 45 Mana Street, Vogeltown have applied to acquire the Road Land adjoining their property in exchange for part of the rear portion of their land. The applicants intend to subdivide and securing additional (flat) land with easy road access would increase their options.

6. The aerial plan in Attachment 1 shows the Road Land (shaded red) along with the proposed exchange area (shaded yellow).

7. Both parcels have been independently valued and assessed as equivalent – hence the nil value ($0) transaction proposed.

8. Internal business units and external service authorities have been consulted and all support the disposal with standard conditions.

9. Immediate neighbours have been notified of the proposed road stopping by letter. At the time of preparing this report none had expressed concerns.

10. In the event that Council approves the recommendations in this paper, the neighbours (along with the wider public) will have an opportunity to comment on the proposal when the full public consultation is carried out later in the process.
Recommendations
That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to Council that it:
   a) Agrees that the approximate 93m² unfarmed legal road land in Mana Street (Road Land) adjoining 45 Mana Street, Vogeltown, is not required for a Public Work.
   b) Approves the disposal of the Road Land to either the former owner or their successor, or by amalgamation with 45 Mana Street, Vogeltown, either by sale or exchange for approximately 625m² of 45 Mana Street.
   c) Authorises Council officers to undertake a section 40 Public Works Act 1981 (PWA) report to identify whether the Road Land must be offered back to its former owner or their successor, or whether exemptions from offer back applies.
   d) Delegates to the Chief Executive Officer the power to either; offer the Road Land 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).
   e) Authorises Council officers to initiate the road stopping process for the Road Land in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.
   f) Delegates to the Chief Executive Officer the power to; formally approve the road stopping, issue all relevant public notices, declare the Road Land stopped, negotiate the terms of sale or exchange, impose any reasonable covenants, enter into an agreement in respect of the Road Land, and conclude all matters in relation to this transaction.

3. Notes that if objections are received to the road stopping and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.

Background
11. Council has received a road stopping application from 45 Mana Street, Vogeltown. The legal description of 45 Mana Street is Part Lot 336 and Part Lot 340 DP 52 being held on Computer Freehold Register WN422/263.

12. The total area of the Road Land proposed to be stopped is approximately 93m² (subject to survey). It is not currently used by the applicant under an encroachment licence. It is unfenced, containing grass and trees and has a rough unsealed driveway leading to an old single garage belonging to the applicants.

13. The applicants are planning to subdivide and wish to secure the Road Land in order to increase their options.

14. In exchange for the Road Land, the applicants have proposed to vest approximately 625m² of its land in Council. This consists of a strip to the rear of 45 Mana Street, adjoining Council’s scenic reserve.
Discussion
15. Subsequent to receiving the application, officers from relevant business units were consulted with to determine whether Council is likely to have a need for the Road Land. None expressed any desire to retain it for operational purposes.

16. If the road stopping proposal is successful then it is further proposed that some of the applicant’s existing land be exchanged for the Road Land so as to increase the size of Council’s adjoining reserve.

17. The proposed vesting area, a small strip of land along the rear (southern) boundary of 45 Mana Street, is a vacant sloping area covered in vegetation. It adjoins Council’s scenic reserve, measuring approximately 4,670m², located between Hoggard and Mana Streets.

18. Council’s Parks team is keen to add the proposed vesting area to the reserve, but lack the funds to purchase it outright. Therefore an exchange for the Road Land provides the opportunity to acquire the area, without the need to sacrifice spending elsewhere.

19. Long term maintenance costs of the proposed vesting area are expected to be minimal.

Conclusion
20. Officers recommend that the Regulatory Processes Committee recommends to Council that the approximately 93m² of Road Land adjoining 45 Mana Street be declared surplus, and instruct officers to initiate the road stopping procedure, sale/exchange and transfer.

Attachments
Attachment 1. Aerial

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<tr>
<th>Author</th>
<th>Paul Davidson, Property Advisor</th>
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<td>Authoriser</td>
<td>Greg Orchard, Chief Operating Officer</td>
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SUPPORTING INFORMATION
Consultation and Engagement
As part of the road stopping process service authorities, internal business units, and immediate neighbours are given an opportunity to provide comments.

All relevant service authorities have given their consent with just standard conditions applying.

All relevant internal business units gave their approval without any conditions except for Public Drainage. There is a public wastewater drain located in the area of the proposed road stopping. Building over or near this drain would be subject to prior approval of the Public Drainage Engineer, Drainage Team, Infrastructure. Alternatively this pipe may be able to be relocated subject to Public Drainage approval at the applicants cost.

Treaty of Waitangi considerations
There are no Treaty of Waitangi implications.

As the subject legal road land proposed to be stopped could not be issued with its own title as a standalone lot, Iwi have not been consulted with.

Financial implications
There are no significant financial considerations to be considered in the decision to approve this road stopping proposal.

While Council introduced cost sharing incentives for road stopping proposals in August 2011, these do not apply due to the proposal given the land exchange.

As the land exchange concerns Council’s reserve land being increased, Parks, Sport and Recreation has agreed to share legal and survey costs related to the road stopping / land exchange, provided that they did not include anything related to the applicant’s subdivision.

Policy and legislative implications
The recommendations of this report are consistent with WCC policy.

This is not a significant decision. This report sets out the Council’s options under the relevant legislation and under the Council’s 2011 Road Encroachment and Sale Policy.

This proposed road stopping has no significant impact on the LTP.

Risks / legal
There are no significant legal implications arising from this matter. Compliance with the LGA and Section 40 PWA considerations will address relevant issues.

Climate Change impact and considerations
There are no climate change impacts.

Communications Plan
Public consultation in accordance with the Tenth Schedule Local Government Act 1974 will be carried out later in the road stopping process.
Legal road land proposed to be stopped

Applicant's land proposed to be exchanged