Road–stopping – the purchase of unformed legal road

A guide for potential buyers

What is road–stopping?

Road–stopping is the process undertaken to change unformed legal road (commonly known as road reserve) into fee simple land so that it can be sold. Often, but not always, unformed legal road is the strip of land between a property owner’s front boundary and an existing formed road or footpath. It is public land legally designated for roading but not formed into actual roadway.

Wellington City Council will consider applications from people wanting to buy areas of unformed legal road. All applications are assessed on a case–by–case basis. This process can be undertaken under the Local Government Act 1974, or the Public Works Act 1981.

The process of buying unformed legal road can be lengthy and expensive, taking anywhere from one to three years.

The length of time involved is partly due to the specific legislation that dictates how the Council must go about stopping the road before it can be sold. The Council has added a few additional steps, such as consulting affected neighbours. These steps have been included as they help to avoid problems that might lead to your application being sent to the Environment Court (at your expense) for a decision. The steps for stopping unformed legal road can be found on the enclosed road–stopping application timetable.

When we receive an application, the details of the proposed purchase are passed to the relevant parts of the Council for their comments and formal approval. The Council considers such things as:

- whether the land is required for roading purposes, such as road widening, footpaths, future services etc
- whether sale of the land is going to adversely affect other property owners in the area or the public at large
- possible streetscape changes if the land was to pass into private ownership (eg development potential)
- any significant trees or vegetation in the area and possible covenants to protect them
- any heritage or cultural sites in the area that need protection.

Costs

All costs as they occur during the process will be met by the applicant. The Council may share some of the costs of the process if the application is successful. Those costs include, but are not limited to:

- valuation
- survey plans
- legal work–yours and the Council’s
- public notification
- consultants
- Council staff time
- any Council hearing costs

A proportion of these costs may be deducted from the land valuation in order to establish a final settlement price. The deduction will be the lesser of: actual costs; or an amount calculated as 15 percent of the land value plus $500; up to a maximum deduction of $12,500.

For transactions below $15,000 of land value, deductions, if any, will be by agreement between the Council and property owners, but will not exceed the deductions applicable using the formula above.

Please note that the cost of purchasing the land is on top of the cost for the road–stopping process. Costs associated with any Environment Court hearing are also additional.

Valuing the land

An independent registered valuer will assess the value of the land. If the land adjoins your property, the valuation will be on the basis of added value to your property. If the unformed legal road you want to purchase is a stand–alone section, the assessment will be current market value.

This valuation is completed at step 3 of the process (see the road–stopping process timetable). A second valuation may be required later in the process if the sale occurs more than 18 months after the first valuation was completed. This is to reflect any change in property values that has occurred during the time the road–stopping process has taken.

Public notification

Depending on which legal process is appropriate to use in your circumstances, we may need to publicly notify the road–stopping proposal. This involves erecting signs on the unformed legal road, sending letters to surrounding property owners, and at least two public notices, a week apart, in local newspapers. Members of the public have 40 days in which to object.

If objections are received we may arrange a pre–hearing meeting with the objectors. If the objections cannot be resolved then we will arrange a hearing in front of a Council committee. At the hearing, the committee will decide whether or not to uphold the objections. If the objections are upheld, then the road–stopping cannot proceed and the process stops. If they are not upheld and you want to continue with the road–stopping, then the objections have to be heard by the Environment Court.
Withdrawal from the process

Potential applicants can withdraw from the purchase process at any time before the conditional sale and purchase agreement is signed (see step 6 on the road-stopping process timetable). It is important to note that the applicant will be liable to pay all of the Council’s costs up until the date of withdrawal.

Making an application

If you would like to make an application to purchase unformed legal road, contact the Property Projects team to arrange a preliminary meeting to identify any issues. Once the Property Projects team advise to proceed, please send us the following items:

- a completed application form
- an aerial photo or plan clearly indicating the area you want to purchase
- a current certificate of title for your adjoining property
- an application fee of $517.50 (including GST)
- service authority consents (see application form)
- current photos of the proposed road-stopping area.

Please send your application to:

Property Projects
Property Services
Wellington City Council
101 Wakefield Street
PO Box 2199
Wellington

email: roadstopping@wcc.govt.nz