
REPORT 2
(1215/53/IM)

ROAD STOPPING AND DISPOSAL: LEGAL ROAD BETWEEN 8 AND 28 JAUNPUR CRESCENT, BROADMEADOWS

1. Purpose of Report

The purpose of this report is to obtain agreement that approximately 3,690m² of unformed legal road land (the Land) situated between 8 and 28 Jaunpur Crescent, Broadmeadows Wellington is no longer required for Council's operational requirements, and to authorise officers to proceed with the road stopping, offer back investigations, and eventual sale.

Refer to Appendix 1 for an aerial plan with the Land shown coloured light green.

2. Executive Summary

Council officers have identified an area of land that could be suitable to be stopped and sold. It is proposed that the road stopping be carried out in accordance with the Local Government Act 1974 (LGA), and the disposal pursuant to Section 40 of the Public Works Act 1981 (PWA).

The key question for Council is whether the Land is surplus to requirements for a public work, and if so, whether it will authorise commencement of the road stopping procedures, with a view to eventual sale.

The Land does not serve any public purpose or provide public access.

Internal Council business units and external service authorities have been consulted. All support the disposal with no significant conditions. Treaty Relations have requested that the Port Nicholson Block Settlement Trust (PNBST) be given first right of refusal. The Land could be sold either as one large lot, or as five smaller lots, and this will depend on the outcome of 'offer back' and first right of refusal requirements.

While the topography of the Land is steeply sloping and there are some areas that have been filled, recent geotechnical investigations have confirmed that with design considerations the land is suitable for residential development.

The Land is located on an existing bus route, is in close proximity to all levels of schooling, and has panoramic harbour and city views.

3. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Recommend that the Council, pursuant to section 40 of the Public Works Act 1981:*
 - (a) *Agrees that the approximately 3,690m² (subject to survey) of unformed road (Road Land) situated between 8 and 28 Jaunpur Crescent, Broadmeadows is not required for a public work.*
 - (b) *Authorises Council officers to commission a section 40 report from suitably qualified consultants to identify whether the Road Land must be offered back to its former owner or their successor, or whether an exemption from offer back applies under section 40(2), 40(3) or 40(4).*
 - (c) *Delegates to the Chief Executive Officer the power to either offer the area of unformed legal 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).*
3. *Recommend that the Council:*
 - (a) *Authorise 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.*
 - (b) *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 Council requirements being met and no objections being received.*
 - (c) *Approve the disposal of the Road Land. (Subject to the proposed road stopping being successful)*
 - (d) *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land situated between 8 and 28 Jaunpur Crescent, Broadmeadows, either with the former owner, or their successor, or the Port Nicholson Block Settlement Trust, or the successful purchaser following the Land being marketed for sale.*
4. *Notes that if objections are received to the road stopping public notice, a further report will be presented to the Committee for consideration.*

4. Background

The area of Broadmeadows where the Land is situated was subdivided and developed in the late 1980's.

The developer originally proposed that the Land be vested as reserve. It was considered for use as a children's play area, or as a parking area for the large adjacent reserve on the other side of Jaunpur Crescent. However it was not believed suitable due to its steepness.

The Land was subsequently vested as legal road, and has not been used for anything since the original subdivision. The Land slopes moderately to steeply down toward Kanpur Road below, and is currently covered in small trees, low level shrubbery and gorse. WCC Parks and Gardens have not considered any of these trees to be significant.

To confirm why the Land was vested as legal road, officers have obtained the original subdivision file from WCC Archives, and consulted with a past Council surveyor who is still employed by Council, who was involved in the original subdivision application.

The Council surveyor recalled that minor filling on the Land provided support for the road (Jaunpur Crescent), but nothing other than that. Plans in the subdivision file confirm the existence of fill. The depth of the fill and any stability issues have been confirmed in the geotechnical report described in section 5.1 below.

The subdivision file does not have any information on why the subject land was vested as legal road, neither the officer's report for the Town Planning Delegation subcommittee, or the subsequent decision on the original subdivision proposal makes any reference to it.

The land is not on Greater Wellington Regional Council's selected land use register, which records sites used for storing or disposing of hazardous substances.

Officers believe the Land is not required for a public work so are therefore investigating its possible disposal.

5. Discussion

5.1 *Geotechnical Investigations*

Officers have engaged Abuild Consulting Engineers Limited to carry out geotechnical investigations.

The investigations confirmed that the depth of the fill that supports the road is a maximum depth of 2 metres at the south end, tapering down to 1.2 metres at the north end. The conclusions of the geotechnical report would be highlighted in the sale process, and will be provided to Council's BCLS and LIM teams for future reference.

As the conclusions of the geotechnical investigations are favourable, officers view is that given this outcome residential development is feasible.

Refer to Appendix 2 for the conclusions taken from the Abuild Consulting Engineers Limited geotechnical report.

5.2 Offer back investigations

Should the recommendations of this report be approved, then officers would commission a section 40 PWA report from suitably qualified consultants. This would identify whether the land has to be offered back to its former owner or their successor (in probate), or whether an exemption applies.

5.3 Options

Due to the Lands size, shape and location officers consider that it is appropriate that Council pursue stopping and selling it rather than it being offered to an adjoining neighbour and amalgamated with an existing property.

Council could either sell the Land as one large lot, or as five smaller lots. Which option is pursued depends on whether an exemption to having to offer the Land back to the former owner or their successor (in probate) applies or not. If the Land does have to be offered back, and the former owner or successor were interested in purchasing it then negotiations would be based on just one large lot.

If the former owner or their successor were not interested, then officers propose that a better sale price would be achieved for Council if the Land was divided into five smaller lots, before being offered to PNBST, or marketed for sale on the open market. This option has been considered by the Development Planning and Compliance team, and is considered to be compliant with the District Plan. In this circumstance each lot would need to be surveyed and fully serviced (sewer, stormwater, and water supply). It is estimated that this work would cost approximately \$80,000.

As with the sale of any Council land, costs for work to services required to facilitate a disposal would be met by the proceeds of sale.

5.4 Consultation

As part of the road stopping process, service authorities and all internal business units have been consulted, and none object to the proposal.

City Housing confirmed that the land was not suitable for their requirements, and Treaty Relations gave their consent noting that PNBST would like to be given a first right of refusal.

Neighbouring property owners have been sent letters advising of the road stopping proposal, keeping them updated on progress. Several property owners

responded advising that they have concerns. They are concerned about the sites stability, drainage, and losing views and privacy. All property owners, and any tenants where a property is rented, will have the opportunity to comment when the full public consultation is carried out later in the process. The issues that have already been raised by neighbours will be considered and addressed as part of that process.

If the road stopping proposal is successful, there are four properties on the opposite side of Jaunpur Street who would have front yard rule requirements triggered. These affects are minimal given the positioning of the existing dwellings, and officers will ensure that the owners of these properties fully understand what they mean.

Summary of the consultation with the relevant service authorities and internal business units is below.

Conditional consent has been obtained from:

<i>Service Provider / Business Unit</i>	<i>Condition</i>
Wellington Electricity Lines Limited	There are overhead electricity lines in the vicinity, approval given subject to standard provisions being complied with.
WCC Treaty Relations	Should the road stopping proposal be successful, and there being no Section 40 PWA offer back requirement, PNBST would like a first right of refusal.
WCC Public Drainage / Capacity	There are stormwater and sewer pipes running through the subject land. Building over or near these drains would be subject to prior approval of the Council's Public Drainage Engineer.
WCC Road and Traffic Maintenance	Require the remaining legal road width to be no less than 14 metres.

Unconditional consent has been obtained from:

- Parks and Gardens
- Development Planning & Compliance
- WCC Street Lighting
- Nova Gas
- Downer EDI (Telstra Clear & Telecom)

Officers are satisfied that the above Service Authority, and Council requirements can be met, that the area of unformed legal road in Jaunpur Crescent, Broadmeadows can be stopped and sold.

5.5 Significance Policy/ Strategic Assets

Under Council's Significance Policy, the sale of this Road Land would not be deemed significant.

5.6 Climate Change Impacts and Considerations

Officers believe that there are no significant climate change impacts.

5.7 Long-Term Council Community Plan Considerations

This proposed road stopping has no overall impact on the LTCCP.

5.8 Next Steps

Should the recommendations of this report be approved, the next steps in the road stopping and sale process are as follows:

- Undertake a survey to define the total area of unformed legal road land that is proposed to be stopped
- Public notification of the intention to stop the road land
- Receive objections (if any), negotiate and refer back to the Regulatory Processes Committee / full Council, and to the Environment Court hearing (if required)
- Commission a section 40 report from a suitably qualified consultant
- Obtain the Chief Executive Officer's approval of section 40 report recommendations

If the road stopping proposal is still in effect, then -

- Undertake public notification that the road is stopped
- Obtain a current market valuation
- Depending on the outcome of offer back, and first rights of refusal requirements, attend to settlement and transfer with either,
 - the former owner their or successor (in probate); or
 - PNBST; or
 - a private party after marketing the land for sale by tender on the open market.

6. Conclusion

Following internal and external consultation, Council officers believe that the approximately 3,690m² unformed legal road land that is situated between 8 and 28 Jaunpur Crescent, Broadmeadows, is no longer required for the Council's operational requirements and should be declared surplus.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land be declared surplus, and to authorise officers to initiate the road stopping procedure and sale.

Contact Officer: *Paul Davidson, Property Advisor, Property Services*

Supporting Information

1) Strategic Fit / Strategic Outcome

In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold.

2) LTCCP/Annual Plan reference and long term financial impact

This report is a step towards the possible sale of the legal road. At this stage, the expected income from the sale of the road has not been quantified as obtaining a valuation will be carried out later in the road stopping process.

The costs associated with this proposal will be met by the proceeds of sale. This proposal will benefit the Council in financial terms as once the road land is stopped and sold Council will receive the revenue from the sale, and the new private owners will pay rates.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications.

The PNBST to be given first right of refusal (subject to the outcome of Section 40 Public Works Act 1981 investigations).

4) Decision-Making

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.

5) Consultation

Consultation with the relevant internal business units have been carried out. They have all advised that they have no objection to the proposed road stopping. The consent from Treaty Relations requested that the PNBST be given first right of refusal.

Service Authorities have been consulted with their standard general conditions noted.

6) Legal Implications

All legal implications relevant to this road stopping such as public consultation requirements and offer back investigations have been considered and are contained in this report.

Any Agreement for Sale and Purchase will be prepared by Council's lawyers, and a solicitors certificate issued.

APPENDIX 1

AERIAL PHOTOGRAPH



APPENDIX 2

CONCLUSIONS OF THE ABUILD CONSULTING ENGINEERS LIMITED OCTOBER 2011 GEOTECHNICAL REPORT

The investigation has shown that:

- The site is perceived to have an acceptable low risk with respect to deep seated instability under static ground conditions. There is a risk of surface instability under seismic loads and this will have to be addressed by specific retaining as part of any development. In this context the site(s) are considered suitable for development.
- The land is favourable with respect to subsoil/rock conditions in that the soil which is potentially susceptible to instability is limited to the surface soils at the points explored.
- All development must recognise the potential for shallow seated instability during construction and that any steep cutting is likely to initiate slope instability that must be mitigated by temporary works as required.
- Temporary support is required to all cuts but depending on the heights of the cuts. All temporary support must be specifically designed by an experienced engineer.
- Foundations to support any dwelling must be taken down to and socket completely within the inferred weathered greywacke rock. The bearing capacity of the weathered rock is relatively high and lateral forces on the piles may govern the geometry of the pile foundations.