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**REPORT 2**  
*(1215/53/IM)*

## **ROAD STOPPING AND DISPOSAL: LEGAL ROAD BETWEEN 9 AND 25 VOLTAIRE STREET, KARORI**

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### **1. Purpose of Report**

The purpose of this report is to obtain agreement that approximately 1,141m<sup>2</sup> of unformed legal road land (the Land) situated between 9 and 25 Voltaire Street, Karori, 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 One for an aerial plan with the Land shown coloured red and green.

### **2. Executive Summary**

Council officers have identified an area of Land that could be suitable to be stopped and sold for residential development at the end of the Voltaire Street. 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 and all support the disposal. However there is a condition from Parks and Gardens that a vegetation protection covenant be registered against any new property title. WCC Treaty Relations have requested that the Port Nicholson Block Settlement Trust (PNBST) and Ngati Toa be given the opportunity to buy the Land.

The Land is located near an existing bus route, is in close proximity to all schools, and has some views of the surrounding part of Karori. A geotechnical inspection will be undertaken once the sale process is commenced to ascertain if there are any considerations needed as a result of fill on the site.

### 3. Recommendations

Officers recommend that the Committee:

1. *Receive the information.*
2. *Recommend that the Council, pursuant to section 40 of the Public Works Act 1981:*
  - (a) *Agree that approximately 1,141m<sup>2</sup> (subject to survey) of unformed road (Road Land) situated between 9 and 25 Voltaire Street, Karori is not required for a public work.*
  - (b) *Authorise 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) *Delegate 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 Road Land situated between 9 and 25 Voltaire Street, Karori, either with the former owner, or their successor, or the Port Nicholson Block Settlement Trust, or Ngati Toa, or the successful purchaser following the Road Land being marketed for sale.*
4. *Note 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 Karori where the subject land is situated was subdivided and developed in the 1960s for Manchester Unity. The Land provided a handy location to place fill obtained from cutting earthworks during the formation of Voltaire Street but nothing other than that.

The Land is approximately 1,141m<sup>2</sup> slopes moderately down towards Wrights Hill Road and is currently covered in mature native trees, shrubbery and grass. WCC Parks and Gardens consider the regenerating bush to be significant and have required protection of the vegetation, shown green on the aerial plan in Appendix One.

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 is therefore investigating its possible disposal.

## **5. Discussion**

### ***5.1 Fill present on the site***

There is fill present on the Land but appears to be minor. The depth of the fill and any stability issues would have to be confirmed by a geotechnical report. However, from visual inspection of the site, it would appear that the fill is generally less than one metre. Given this and the uncertain nature of the road stopping process, officers consider it prudent to wait until the road stopping and sale process is more certain before arranging a geotechnical investigation.

In the event of sale, Council would disclose that there is fill on the site and at the very least obtain a visual inspection and report from a geotechnical engineer.

### ***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 Land's 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.

Depending on the outcome of section 40 PWA investigations Council may have to offer the land to the former owner or their successor (in probate).

If the former owner or their successor were not interested, then officers would offer the Land to PNBST and Ngati Toa or market the Land for sale on the open market.

As with the sale of any Council land, all costs 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 and Ngati Toa would like to be given the opportunity to buy the Land.

Neighbouring property owners have been sent letters advising of the road stopping proposal, keeping them updated on progress. None of the property owners responded. 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. Any issues that are raised at this stage will be considered and addressed as part of that process.

If the road stopping proposal is successful front yard rule requirements will be triggered, in respect of two properties on the opposite side of Voltaire Street. These affects are minimal given the positioning of the existing dwellings and officers will ensure that the owners of these properties fully understand the impact on them.

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

Conditional consent has been obtained from:

<b><i>Service Provider / Business Unit</i></b>	<b><i>Condition</i></b>
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 and Ngati Toa would like a first right of refusal.
WCC Public Drainage / Capacity	There are main water pipes running through the Wrights Hill accessway next to the subject land. Council's Public Drainage Engineer has requested a one metre clearance to the new boundary.
WCC Road and Traffic Maintenance	Require the remaining legal road width to be no less than 15 metres.

Parks and Gardens	Require that approximately 658 m <sup>2</sup> of the Land have a covenant protecting all the native bush and trees upon it.
Development Planning and Compliance	Recommend that the residual part of the Land, being 483 m <sup>2</sup> , be restricted to one household unit (in keeping with the rest of the street) and that its footprint be restricted to 180m <sup>2</sup> .
WCC Street Lighting	Recommend that the new boundary adjoining the Wrights Hill Rd pedestrian access pathway be re-aligned to clear lamp posts by 3.2 – 3.8 metres.

Unconditional consent has been obtained from:

- Nova Gas
- Downer EDI (Telstra Clear & Telecom)

Officers are satisfied that the above Service Authority, and Council requirements can be met and that the Land between 9 and 25 Voltaire Street, Karori can be stopped and sold.

#### ***5.5 Significance Policy/ Strategic Assets***

Under Council's Significance Policy, the sale of the 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 an Environment Court hearing (if required)
- Commission a PWA section 40 report from a suitably qualified consultant
- Obtain the Chief Executive Officer's approval of PWA 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 offer to iwi, attend to settlement and transfer with either,
  - the former owner their or successor (in probate); or
  - PNBST or Ngati Toa; 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 approximately 1,141m<sup>2</sup> of unformed legal road land that is situated between 9 and 25 Voltaire Street, Karori, 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: *John Vriens, Senior 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 and Ngati Toa to be given the opportunity to acquire the Land (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 has 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 and Ngati Toa 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 solicitor certificate issued.*