

REPORT 2
(1215/53/IM)

**ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING
39 KHYBER ROAD, SEATOUN**

1. Purpose of report

The purpose of this report is to obtain agreement that approximately 70 m² of Council owned unformed legal road adjoining 39 Khyber Road, Seatoun, Wellington, is no longer required for Council's operational requirements and to authorise officers to proceed with the offer back investigations and eventual road stopping and sale.

Refer to Appendix 1 for an aerial plan showing the area shown shaded in red.

2. Executive summary

An application has been made to Council by the owners of 39 Khyber Road, Seatoun to stop a portion of unformed legal road adjoining their property. The owners currently have use of the land under an encroachment licence. They have made their road stopping application to give them more certainty for their future use.

The key question for Council is whether this area of 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).

Internal business units and external service authorities have been consulted. All support the stopping and disposal of the road land with minor conditions.

Immediate neighbours and the local residents association have also been advised of this proposal. They will have an opportunity to comment on the proposal when full public consultation is carried out later in the process.

The area of unformed legal road land proposed to be stopped will be sold at current market valuation.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

- 1. Receive the information.*
- 2. Recommend to Council that it:*

- (a) *Agree that approximately 70 m² (subject to survey) of unformed legal road land (Road Land) adjoining 39 Khyber Road, Seatoun, is not required for a Public Work.*
- (b) *Approve the disposal of the Road Land to the owners of 39 Khyber Road, Seatoun.*
- (c) *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.*
- (d) *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).*
- (e) *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.*
- (f) *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 with no objections being received.*
- (g) *Delegate to the Chief Executive Office the power to negotiate the terms of sale, impose any reasonable covenants, and enter into a sale and purchase agreement in respect of the Road Land, either with the former owner, or their successor, or the owner of 39 Khyber Road, Seatoun, provided any such agreement is conditional upon the road being stopped.*

4. Background

Council has received a road stopping application to 'stop' unformed legal road adjoining 39 Khyber Road, Seatoun, from the owners of the property. The legal description of 39 Khyber Road, Seatoun is Lot 2 DP 410073 being held on Computer Freehold Register 436781.

The total area of unformed legal road adjoining 39 Khyber Road, Seatoun proposed to be stopped is approximately 70 m² (subject to survey). The land is currently used under an encroachment licence. The vacant land contains grass and scrub vegetation.

5. Discussion

5.1 Consultation and Engagement

As part of the road stopping process service authorities, internal business units, the local residents association and immediate neighbours are given an opportunity to provide comments. All internal business units gave their unconditional approval although Road Transport require segregation strips at either end of the stopped road and vehicle access engineer requires a 300 mm setback from the existing retaining wall.

All relevant service authorities have given their consent.

The immediate neighbours have been advised of the proposal and no responses have been received to date. These neighbours will have the opportunity to comment when full public consultation is carried out later in the process.

5.2 Financial considerations

In August 2011 new cost sharing incentives for road stoppings were approved by Council. The cost sharing incentives mean that some costs paid by applicants in the past are now deducted. In this case the value of the land proposed to be sold will be more than \$15,000, so 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. The amount of the deduction will be determined at the end of the road stopping process when all of the costs are known.

5.3 Climate change impacts and considerations

There are no climate change impacts.

5.4 Long-term plan considerations

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

6. Conclusion

Officers believe that approximately 70 m² of unformed legal road adjoining 39 Khyber Road, Seatoun is no longer needed for Council's operational requirements and should be declared surplus, stopped and sold to the adjoining owners.

It is recommended that the Regulatory Processes Committee recommends to Council that approximately 70 m² of unformed legal road adjoining 39 Khyber Road, Seatoun is declared surplus, and that officers can proceed to initiate the road stopping procedure, and eventual 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.

The sale of legal road, where surplus to strategic requirements, is mandated under the Council's 2011 Road Encroachment and Sale Policy.

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

Provision for undertaking this work is contained within the overall organisational budget. There are no adverse financial implications imposed on the Council arising from this road stopping proposal. This proposal will benefit the Council in financial terms as the applicant will purchase the stopped road from the Council at market value, and will then pay rates on it in the future.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications.

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

a) General consultation

Consultation with the relevant internal business units has been carried out as part of this application. Parks and Gardens have given their consent subject to certain conditions. Service Authorities have been consulted.

b) Consultation with Maori

Local IWI do not require consultation where it is only appropriate to amalgamate stopped road land with an adjoining property – as in this case.

6) Legal implications

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

7) Consistency with existing policy

The recommendations of this report are consistent with WCC policy.

