

PROPOSED ROAD STOPPING - LAND ADJOINING 400 MIDDLETON ROAD, GLENSIDE

Purpose

1. To recommend that the Council stops and sells approximately 1,650m² (subject to survey) of unformed legal road adjoining 400 Middleton Road, Glenside (shown outlined in red in Attachment 1 (the Land)).

Summary

2. The owner of 400 Middleton Road, Glenside, has applied to purchase the Land.
3. The Land contains formed carriageway being located at the end of Rowells Road, which is a 'no exit' street.
4. Utility providers and relevant Council internal business units have been consulted. All support the proposal subject to standard conditions (where applicable).
5. Initial consultation letters have been sent to five adjacent neighbours of the road stopping, with none opposing the proposal.
6. If the Council approves officers' recommendation then public notification will commence. Neighbours and any other member of the public will then have the opportunity to make a submission.

Recommendations

That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to the Council that it:
 - a) Declares that approximately 1,650m² (subject to survey) of unformed legal road land in Rowells Road, Glenside, shown outlined red on Attachment 1 (the Land), and adjoining 400 Middleton Road (Part Section 29 – 30 Porirua District CFR WN526/164) is not required for a public work and is surplus to Council's requirements.
 - b) Agrees to stop the legal road and dispose of the Land.
 - c) Delegates to the Chief Executive Officer the power to conclude all matters in relation to the road stopping and disposal of the Land, including all legislative matters, issuing relevant public notices, declaring the road stopped, negotiating the terms of sale or exchange, impose any reasonable covenants, and anything else necessary.
3. Notes that if objections are received to the road stopping, and the applicant wishes to continue, a further report will be presented to the Regulatory Processes Committee for consideration.

Background

7. The Land is basically 'L' shaped, being occupied by formed carriageway, vegetation and trees (Refer to Attachment 2 for views of the Land at street level).

8. 400 Middleton Road is located at the end of Rowells Road, the only vehicle access to this property is from Rowells Road.
9. The applicants also own the neighbouring property at 110 Rowells Road. The Land could be amalgamated with either of the applicants properties, but unless it was amalgamated with 400 Middleton Road a right of way easement in favour of that property would be required.
10. The applicant is interested in purchasing the Land as currently often traffic goes to the end of Rowells Road, and then due to the topography and narrowness of the carriageway they cannot turn around. They then have to reverse back some distance including around corners to reach the section of the road where they can turn around.
11. The remote location also means that the area is often used for unsociable or illegal activities.
12. This section of Rowells Road is very close to railway lines and officers understand there have been near misses with motorists nearly been hit by trains.
13. Securing ownership of the Land increases the applicant's options to control the situation.

Discussion

14. Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) of the Local Government Act 1074 (LGA).
15. The Council, under section 40 of the Public Works Act 1981 (PWA), 'shall endeavour' to dispose of any land not required for the public work for which it was taken, and which is not required for any other public work.
16. Advisors from Council's Transport Team have confirmed the land is not required for future road widening or public access purposes. They supported the proposal subject to retaining sufficient legal road to improve the turnaround area at what would become the end of Rowells Road. This has been allowed for in the proposal.
17. Relevant Council business units have been consulted with and none wish to retain the Land. Public Drainage/Wellington Water highlighted there is a public stormwater drain located in the vicinity of the proposed road stopping area, and that this should remain in road land. This has also been allowed for in the proposal.
18. As is normal practise in the early stages of the road stopping process officers have written to the owners of the five adjacent or nearby properties, including KiwiRail, notifying them that Council had received this road stopping application. At the time of writing this report only KiwiRail responded, having no issue with the proposal. These five owners will be consulted again when the formal public consultation is carried out later in the road stopping process.
19. If Council approves the above, officers will establish whether any offerback obligations under section 40 of the Public Works Act 1981 exist.

Options

20. The alternative to undertaking the road stopping is to retain the Land as legal road. In the long term this will incur maintenance and retention costs on land that Council no longer requires.

Next Actions

- 21. Conclude an investigation in accordance with s40 PWA.
- 22. Initiate the public notification process.
- 23. Prepare a survey plan and Sale and Purchase contract.

Attachments

- Attachment 1. Aerial Page 20
- Attachment 2. Views of the Land at street level Page 21

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SUPPORTING INFORMATION

Consultation and Engagement

Community

In October 2016 letters were sent to the owners of five properties nearby or adjacent to the land proposed to be stopped. At the time of writing this report only one reply had been received with that party having no issue with the proposal.

Utility Provider and Council Business Units

The applicant is obliged to obtain comments from utility providers prior to submission of the application. None have objected to the road stopping.

Wellington Electricity Lines Limited advised that there are overhead electricity lines in the vicinity of the road stopping area. The positioning of these lines and any power poles relative to the road stopping area and proposed new legal boundaries will be confirmed by survey and easement(s) registered on the title if necessary.

Several relevant Council business units were consulted in addition to Transport Planning: None objected to the road stopping.

City Planning and Design approved the proposal on the basis the stopped road land was amalgamated with either 400 Middleton Road, or 110 Rowells Road.

The District Plan team noted: 'the road stopping parcel will take on the zoning from either side, being Rural to the east and Open Space B to the west, with the zone boundary running down the centre of the former road. This is unlikely to be helpful or suitable for the future owner as the Open Space B zoning could have an effect on the future use of the amalgamated lot. It would therefore make sense for the rural zoning to apply to the whole 'road stopping parcel'; This could be covered by one of the plan changes we do from time to time to deal with minor zoning changes'.

Treaty of Waitangi considerations

Iwi groups have not been consulted. The land is not located in a Māori Precinct, or other area identified as significant to Māori. The land is not being disposed on the open market, and will not become a standalone allotment (amalgamation is proposed).

Financial implications

There are no significant financial considerations related to this recommendation. Any costs associated with the disposal of the Land are borne by the applicant or subtracted from sale proceeds per the 2011 cost sharing initiative.

In August 2011 a new cost sharing incentives for road stoppings were approved by Council. The rebate amount is determined at the end of the road stopping process when all of the costs are known.

Policy and legislative implications

The recommendations of this report are consistent with policies of the Council; the road stopping is also being undertaken in accordance with legislative requirements.

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

This proposed road stopping has no significant impact on the Long Term Plan.

Risks / legal

The road stopping process is consistent with legislative, and the Council's requirements. Any legal agreement, or action in the Environment Court, will be overseen by the Council's lawyers.

Climate Change impact and considerations

There are no climate change implications for this road stopping.

Communications Plan

Public consultation in accordance with the Tenth Schedule of the LGA will be carried out later in the road stopping process.

Health and Safety Impact considered

If this road stopping proposal is successful, the owners of 400 Middleton Road plan to install a gate at their new legal boundary in Rowells Road. This would prevent unauthorised access and current dangerous traffic manoeuvres.



Attachment 2



