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## **PROPOSED ROAD STOPPING AND LAND EXCHANGE - LAND ADJOINING 64 MAIDA VALE ROAD, ROSENEATH**

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### **Purpose**

1. This report asks the Regulatory Processes Committee to recommend that the Council:
  - a. Stops and sells approximately 67m<sup>2</sup> of Council-owned unformed legal road in Maida Vale Road, adjoining 64 Maida Vale Road, Roseneath, Wellington (the Land); and
  - b. Acquires approximately 2m<sup>2</sup> of the applicants' land for the purposes of road.

### **Summary**

2. The owners of 64 Maida Vale Road have applied to purchase part of the unformed legal road adjoining their property. Refer Attachment 1 for location plan.
3. Council's transport planners have taken this opportunity to acquire approximately 2m<sup>2</sup> of the owners' property (the Applicants' Land) in partial exchange for the above to increase future road improvement options.
4. The Land is outlined red on the aerial in Attachment 2, with the Applicants' Land outlined green.
5. Utility providers and relevant Council business units have been consulted. All support the proposal, subject to conditions (where relevant).
6. Initial consultation letters were sent to four adjoining or adjacent neighbours. At the time of writing this report no responses have been received. Note the owners of the adjoining 56 Maida Vale Road are currently progressing their own road stopping application.
7. If the Council agrees with the recommendations of the Regulatory Processes Committee the road stopping will then be publically notified. At that time any neighbours, organisations, or any other members of the public will have the opportunity to make a submission.

### **Recommendation/s**

That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to the Council that it:
  - a) Agrees that approximately 67m<sup>2</sup> (subject to survey) of unformed legal road on Maida Vale Road, Roseneath, (the Land) adjoining 64 Maida Vale Road (being Lot 6 DP 5344, ROT WN291/69), is not required for a public work and is surplus to requirements.
  - b) Agrees to dispose of the Land by sale or partial exchange for approximately 2m<sup>2</sup> of the owners adjoining land currently part of 64 Maida Vale Road (being Lot 6 DP 5344, ROT WN291/69), (the Applicant's Land).
  - c) Agrees to dispose of the Land.
  - d) Agrees to acquire the Applicant's Land.

- e) 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 of relevant public notices, declaring the road stopped, negotiating the terms of sale or exchange, imposing any reasonable covenants and anything else necessary.
3. Notes that if objections are received to the road stopping, and the applicant wishes to continue with the process, a further report will be presented to the Regulatory Processes Committee for consideration.

## **Discussion**

8. The Land proposed to be stopped extends along the entire front boundary of 64 Maida Vale Road, being used for garden (lawn, vegetation and low trees) and access.
9. The applicants have an encroachment licence to use 14m<sup>2</sup> legal road land for their access steps.
10. Should the road stopping proposal be successful the Land would be amalgamated with 64 Maida Vale Road, with its current use is not proposed to change.
11. 64 Maida Vale Road is situated approximately 6 – 7 metres above the formed carriageway. Refer to Attachment 3 for views from street level.
12. Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) and the Tenth Schedule of the Local Government Act 1974 (LGA).
13. 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. Section 345(1)(a)(i) of the Local Government Act 1974 provides council with the statutory power to dispose of stopped road.
14. Advisors from Council's Transport and Infrastructure unit (Transport) have confirmed the Land is not required for future road widening or public access purposes.
15. As part of considering this road stopping proposal Council's transport planners have taken the opportunity to acquire a small area of the applicant's existing property. Widening the legal road width on this corner of the street increases options for future road improvements.
16. Transport required an isolation strip on the extension of the 56/64 Maida Vale Road legal side boundary, shown blue on Attachment 2. If the road stopping proposals by 56 and 64 Maida Vale Road are both successfully completed then it will not be needed.
17. Given the topography Transport also require a batter easement to be registered on the applicant's title. Purpose of this is to reduce risk to Council from having to provide support to the applicant's property. The private property owner is responsible for the stability of the embankment, even though the embankment lies within road reserve land.
18. Relevant other Council business units have been consulted and none wish to retain the Land.
19. As is normal practise in the early stages of the road stopping process officers have written to the four adjoining or adjacent neighbours notifying them that Council had received this road stopping application. All of these owners will be consulted again when the formal public consultation is carried out later in the road stopping process.

20. The owners of 56 Maida Vale Road are pursuing their own road stopping application, that proposal does not conflict with the one from the owners of 64 Maida Vale Road.
21. Officers recently commenced given the Walking Access Commission opportunity to comment on roads stopping proposals early in the process. The Commission supports the proposal by 64 Maida Vale Road, without condition.
22. If Council approves the above, officers will establish whether any offer back obligations under section 40 of the Public Works Act 1981 exist.

## **Options**

23. The alternative to undertaking the road stopping is to retain the Land in Council ownership as unformed legal road. In the long term this will incur maintenance and retaining costs on land that Council no longer requires or intends to use.
24. An encroachment licence could be issued for the Land if it is not stopped. This would provide less certainty of tenure for the adjacent landowner, limiting the scope for better utilisation of the land.

## **Next Actions**

25. Conclude a section 40 PWA acquisition history investigation.
26. Prepare a survey legalisation plan and agreement for the Land.
27. Initiate the public notification process.

## **Attachments**

- Attachment 1. Location plan  
Attachment 2. Aerial  
Attachment 3. Views at street level

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## **SUPPORTING INFORMATION**

### **Engagement and Consultation**

In December 2019 letters were sent to four adjoining or adjacent neighbours of the land proposed to be stopped. At the time of writing this report no responses have been received.

All of these owners will be consulted again when the formal public consultation is carried out later in the road stopping process.

### **Treaty of Waitangi considerations**

Iwi groups have not been consulted. The proposal does not conflict with the principles of the Treaty of Waitangi nor is the land located within a Māori Precinct or an area identified as significant to Māori.

As sale to, and amalgamation with, the adjacent parcel is a condition of the stopping the Land is unlikely to be made available for purchase by iwi or the public in general.

### **Financial implications**

Costs associated with the disposal of the Land will be recovered from the applicant, and the proceeds of the sale are directed towards the general fund.

As of August 2011 a new cost sharing initiative for road stoppings was approved by the Council. The rebate amount is a percentage of the sale price, so is determined at the end of the process when these costs are known.

### **Policy and legislative implications**

The recommendations of this report are consistent with the policies of the Council. The road stopping is also undertaken in accordance with relevant legislation.

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

### **Risks / legal**

The road stopping process will be undertaken in accordance with legislative and Council, 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 arising from this road stopping.

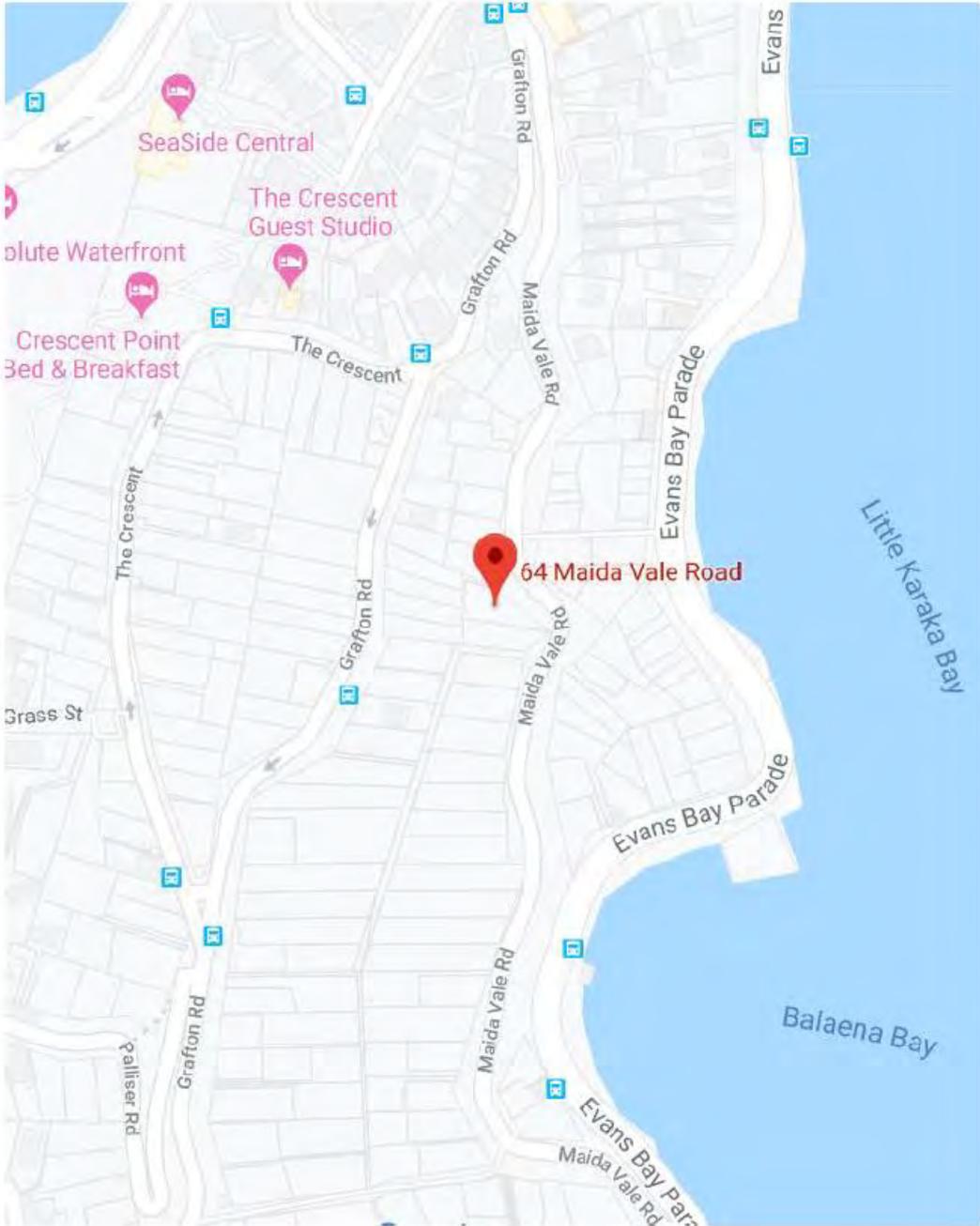
### **Communications Plan**

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**

The road stopping is a minimal risk to health and safety. The work is almost entirely administrative and a normal operational function of Council Officers.

Location Plan



Aerial



Views at street level

