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**REPORT 5**  
*(1215/53/IM)*

## **ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 217 EVANS BAY PARADE, EVANS BAY**

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

The purpose of this report is to obtain agreement to authorise officers to proceed with the road stopping and sale of an area of Council owned unformed legal road adjoining 217 Evans Bay Parade, Evans Bay (shown highlighted green on Appendix 1), which is no longer required for Council's operational requirements.

As Council officers now wish to advance the road stopping, the further recommendations contained in this report are necessary.

### **2. Executive Summary**

An application to stop this area of road was submitted by the owners of 217 Evans Bay Parade, Evans Bay. This application was the subject of an earlier report to the Regulatory Processes Committee and Council.

Resolutions previously approved have been completed, and a section 40 report has been obtained. The section 40 PWA report, recommends that the unformed legal road, once stopped is exempt from any offer back obligations.

If the Chief Executive Officer (CEO) agrees with the recommendations of the section 40 report, and the additional resolutions contained in this report are approved, then officers will proceed with the road stopping and sale.

### **3. Recommendations**

It is recommended that the Committee:

1. *Receives the information.*
2. *Recommends to Council that it:*
  - (a) *Approves the disposal of the Road Land described as approximately 210m<sup>2</sup> (subject to survey) of unformed legal road adjoining 217 Evans Bay Parade, Evans Bay.*

- (b) *Delegates to the Chief Executive Officer the power to either offer the Road Land back to its former owner or their successor, or to approve the exercise of an exemption from offer back under section 40(2), 40(3) or 40(4) (if appropriate).*
  - (c) *Authorises 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.*
  - (d) *Delegates 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.*
  - (e) *Delegates 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 Road Land, either with the former owner or their successor, or the owner of the Adjoining Land, provided any such agreement is conditional upon the road being stopped.*
3. *Notes that if objections are received and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*

#### **4. Background**

The application to stop this area of road was submitted by the adjoining land owner at 217 Evans Bay Parade, Evans Bay (Lot 2 DP 48270, being Computer Freehold Register WN 18D/245).

Under the LGA local authorities are permitted to sell portions of legal road which they no longer require for roading purposes or another public work.

This road stopping was the subject of an earlier report to Regulatory Processes Committee and Council (refer to the minutes in appendices 2 and 3). Council officers now wish to advance the road stopping of the unformed road adjoining 217 Evans Bay Parade, Evans Bay to the eventual disposal of the land to the adjoining owners.

A section 40 report has been obtained, recommending that the unformed legal road, once stopped, is exempt from any offer back obligations.

If the CEO agrees with the recommendations of the section 40 investigation report, officers will proceed with the road stopping and sale process prescribed under section 342 and section 345, and the Tenth Schedule of the LGA.

## **5. Discussion**

The next steps in the road stopping and sale process are as follows:

- Obtain a valuation and prepare a sale and purchase agreement
- Undertake a survey and carry out public notification of the intent to stop the road
- Receive objections (if any) and attend to the Environment Court hearing (if required)
- Undertake public notification that road is stopped
- Attend to settlement and transfer of the stopped road

## **6. Conclusion**

The unformed legal road adjoining 217 Evans Bay Parade, Evans Bay is no longer required for a public work by Council. Completion of the road stopping process and sale of the unformed road to the adjoining owner should be progressed.

It is therefore requested that the Regulatory Process Committee recommends to the Council that officers proceed with the road stopping and sale process under the Local Government Act 1974.

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**

*Provision for undertaking this work is contained within the overall organisational budget.*

*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 to the applicant has not been quantified as valuations are carried out at a later stage in the road stopping process. Many applicants decide not to proceed further with the purchase of the legal road once they have received a valuation from the Council.*

*There are no adverse financial implications imposed on the Council arising from this road stopping proposal. All of the costs associated with this proposal will be met by the applicant including all survey, administration and legal costs. This proposal will benefit 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 2004 Road Encroachment and Sale Policy.*

### **5) Consultation**

#### **a) General Consultation**

*Consultation with the relevant Internal Business Units, the Wellington Tenth and Ngati Toa has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping.*

*Neighbours and Service Authorities have been consulted and a number of conditions have been noted.*

*The applicants have agreed in writing to these conditions.*

### **6) Legal Implications**

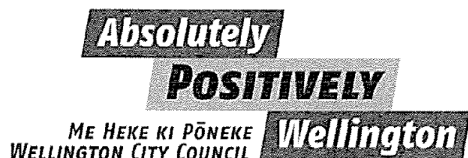
*Any legal implications were addressed in the previous report to Regulatory Process Committee meeting of 13 February 2008.*

**APPENDIX 1**  
Aerial photograph



## APPENDIX 2

Minutes – Regulatory Processes Committee meeting – 13 February 2008



## REGULATORY PROCESSES COMMITTEE

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### MINUTES

WEDNESDAY 13 FEBRUARY 2008

1.33PM

Committee Room 1  
Ground Floor, Council Offices  
101 Wakefield Street  
Wellington

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**PRESENT:**

Councillor Gill (Chair)  
Councillor Best  
Councillor Cook (1.35 – 1.54pm)  
Councillor Goulden (Deputy Chair)  
Councillor Pannett  
Councillor Wain

**APOLOGIES:**

Mayor Prendergast

001/08RP **APOLOGIES**  
(1215/53/IM)

**RESOLVED:**

*THAT the Regulatory Processes Committee:*

- 1. Accept apologies for absence from Mayor Prendergast.*

002/08RP **CONFLICT OF INTEREST DECLARATIONS**  
(1215/53/IM)

**NOTED:**

There were no conflicts of interest declared.

003/08RP **PUBLIC PARTICIPATION**  
(1215/53/IM)

**NOTED:**

There was no public participation.

004/08RP **ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT  
1974: LEGAL ROAD ADJOURNING 217 EVANS BAY PARADE,  
HATAITAI**

Report of Paul Davidson, Property Advisor, Business Development,  
Property Services.  
(1215/53/IM)

(REPORT 1)

(Councillor Cook joined the meeting at 1.35pm.)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Recommend that the Council, pursuant to Section 40 of the Public Works Act 1981 (PWA):*
  - a) *Agree that approximately 210m<sup>2</sup> (subject to survey) of unformed legal road (Kio Road) adjoining 217 Evans Bay Parade, Hataitai is not required for a Public Work (refer to Appendix 3 of the officer's report).*

*Note: 217 Evans Bay Parade, Hataitai is described as Lot 2 DP 48270, being Computer Freehold Register WN18D/245.*

- b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.*

3. *Note that once the Section 40 report has been received, a report will be presented to the Chief Executive Officer for approval under delegated authority to either offer the land back to its former owner or their successor, or to approve the exemption from offer back.*
4. *Authorise Council officers to initiate the road stopping process in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
5. *Subject to all statutory and Council requirements being met with no objections to the road stopping being received, Council delegates to the Chief Executive Officer the power to formally approve the road stopping and issue the public notice to declare the road stopped.*
6. *Note that if objections are received and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*
7. *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement provided any such agreement is conditional upon the road being stopped.*

005/08RP **ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJACENT TO 13 TANNADYCE STREET, STRATHMORE**

Report of Lynne Michael – Property Advisor, Property Advisor, Business Development, Property Services.

(1215/53/IM)

(REPORT 2)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Recommend that the Council, pursuant to Section 40 of the Public Works Act 1981 (PWA):*
  - (a) *Agree that approximately 160m<sup>2</sup> (subject to survey) of unformed legal road adjoining 13 Tannadyce Street, Strathmore is not required for a Public Work (refer Appendix 3 of the officer's report).*

*Note: 13 Tannadyce Street, Strathmore is described as Lot 136 DP 15452, being Computer Freehold Register WN15B/657.*



## APPENDIX 3

Minutes – Council meeting – 28 February 2008



COUNCIL

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### MINUTES

THURSDAY 28 FEBRUARY 2008

5.34PM

Council Chamber  
First Floor, Town Hall  
Wakefield Street  
Wellington

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**PRESENT:**

Mayor Prendergast  
Councillor Ahipene-Mercer  
Councillor Best  
Councillor Cook  
Councillor Coughlan  
Councillor Foster  
Councillor Gill  
Councillor Goulden (5.50 – 6.34pm)  
Councillor McKinnon  
Councillor Morrison  
Councillor Pannett  
Councillor Pepperell  
Councillor Ritchie  
Councillor Wade-Brown  
Councillor Wain

**APOLOGIES:**

Councillor Goulden (for lateness)

001/08C **APOLOGIES**  
(1215/11/IM)

**Moved Mayor Prendergast, seconded McKinnon, the motion that apologies for lateness be received from Councillor Goulden.**

**The motion was put and declared CARRIED on voices.**

**RESOLVED:**

*THAT Council:*

1. *Accept apologies for lateness from Councillor Goulden*

002/08C **CONFIRMATION OF MINUTES**  
(1215/11/IM)

**Moved Mayor Prendergast, seconded Councillor Best, the motion that Council approve the minutes of the extraordinary meetings held on Tuesday 6 November and Thursday 8 November 2007 and the ordinary meetings of Wednesday 21 November and Wednesday 19 December 2007 having been circulated, be taken as read and confirmed as an accurate record of that meetings.**

**The motion was put and declared CARRIED.**

**RESOLVED:**

*THAT Council*

1. *Approve the minutes of the extraordinary meetings held on Tuesday 6 November and Thursday 8 November 2007 and the ordinary meetings of Wednesday 21 November and Wednesday 19 December 2007 having been circulated, be taken as read and confirmed as an accurate record of that meetings.*

003/08C **PUBLIC PARTICIPATION**  
(1215/11/IM)

**NOTED:**

1. Bernie Harris representing the Vogelhorn Kingston Residents Association addressed the meeting in relation to Item 1 Election System for future Local Authority Elections of the report of the Strategy and Policy Committee meeting of Thursday 21 February 2008.

**The substantive motion clauses 1 and 2 were put.**

Voting for: Mayor Prendergast, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Foster, Gill, Goulden, McKinnon, Morrison, Pannett, Pepperell, Ritchie, Wade-Brown and Wain.

Voting against: Nil.

Majority Vote: 15:0

**The substantive motion clauses 1 and 2 were declared CARRIED.**

**RESOLVED:**

1. **ITEM 004/08RP ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOURNING 217 EVANS BAY PARADE, HATAITAI (1215/53/IM) (REPORT 1)**

*THAT Council:*

1. Pursuant to Section 40 of the Public Works Act 1981:
  - (a) Agree that approximately 210m<sup>2</sup> (subject to survey) of unformed legal road (Kio Road) adjoining 217 Evans Bay Parade, Hataitai is not required for a Public Work.

*Note: 217 Evans Bay Parade, Hataitai is described as Lot 2 DP 48270, being Computer Freehold Register WN18D/245.*

- (b) Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.

2. **ITEM 005/08RP ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJACENT TO 13 TANNADYCE STREET, STRATHMORE (1215/53/IM) (REPORT 2)**

*THAT Council:*

1. Pursuant to Section 40 of the Public Works Act 1981 (PWA):
  - (a) Agree that approximately 160m<sup>2</sup> (subject to survey) of unformed legal road adjoining 13 Tannadyce Street, Strathmore is not required for a Public Work.

*Note: 13 Tannadyce Street, Strathmore is described as Lot 136 DP 15452, being Computer Freehold Register WN15B/657.*