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**REPORT 7**  
*(1215/53/IM)*

**ROAD STOPPING AND DISPOSAL THE LOCAL  
GOVERNMENT ACT 1974: LEGAL ROAD ADJOINING 109  
FEATHERSTON STREET, WELLINGTON**

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**1. Purpose of Report**

This report seeks the Committee to recommend to Council to declare surplus an area of approximately 4m<sup>2</sup> of legal road on the corner of Featherston and Waring Taylor streets adjoining 109 Featherston Street, Wellington, and to authorise officers to proceed to commence the road stopping procedures and eventual sale.

The report also seeks the Committee to recommend to Council to approve the road stopping of an area of approximately 4m<sup>2</sup> of legal road on the corner of Featherston and Balance streets which also adjoins 109 Featherston Street, Wellington, and to authorise officers to proceed to commence the road stopping procedures.

(The attached aerial in Appendix 1 shows the two areas of land in red on the corners of the Featherston Street frontage)

**2. Executive Summary**

An application has been made to Wellington City Council (WCC) by AMP Capital Property Portfolio Limited (AMP) to stop two portions of legal road that are currently used as footpath adjoining their property at 109 Featherston Street, Wellington.

The building at 109 Featherston Street part occupies land that AMP owns on the Waring Taylor Street corner, and part occupies land that WCC owns on the Ballance Street corner. AMP has a ground lease over the land that belongs to WCC.

The stopping of both of these areas of road, selling one area to the applicant and amalgamating the other into AMP's ground lease, would facilitate AMP's redevelopment of the site.

The key question for Council is whether the land on the corner of Featherston and Waring Taylor Streets is surplus to requirements for a public work, and if

so, whether it will support commencement of the road stopping procedures under the Public Works Act 1981 (PWA)

Internal consultation has resulted in all Business Units of Council supporting the disposal. External utility providers have no objection to the proposed road stopping.

The land proposed to be stopped and sold to AMP has not been valued at the time of the preparation of this report.

### **3. Recommendations**

It is recommended that the Committee:

1. *Receives the information.*
2. *Recommends that the Council, pursuant to section 40 of the Public Works Act 1981:*
  - (a) *Agrees that the approximately 4 m<sup>2</sup> area of unformed road (Road Land) on the corner of Featherston and Waring Taylor Streets, that adjoins 109 Featherston Street, Wellington is not required for a public work, can be stopped and amalgamated with the applicants land that is contained on CFR WN20D/669.*
  - (b) *Agrees that the approximately 4 m<sup>2</sup> area of unformed road (Road Land) on the corner of Featherston and Ballance Streets, that adjoins 109 Featherston Street, Wellington is not required for road, and can be stopped and amalgamated with Wellington City Council land that is contained on CFR WN20D/265.*
  - (c) *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 under section 40(2), 40(3) or 40(4).*
3. *Recommends that the Council:*
  - (a) *Approves the disposal of the Road Land on the corner of Featherston and Waring Taylor Streets, Wellington.*
  - (b) *Approves the stopping of the Road Land on the corner of Featherston and Balance Streets, Wellington.*
  - (c) *Authorises Council officers to initiate the road stopping process for the Road Land in accordance with the Public Works Act 1981.*

- (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, with the owner of the Adjoining Land, provided any such agreement is conditional upon the road being stopped.*

## **4. Background**

The road stopping application concerns two areas of road land. One area is on the corner of Featherston and Waring Taylor Streets, and one is on the corner of Featherston and Ballance Streets. These areas of road are currently used as footpath. The application has been submitted by AMP. While AMP owns the building that adjoins both of these areas of land, part of the site is owned by them, and part of it is owned by WCC. Therefore only the small area that is proposed to be road stopped on the corner of Featherston and Waring Taylor Streets is also proposed to be sold to AMP. The small area on the corner of Featherston and Ballance Streets would be retained by WCC, amalgamated into its existing land, and incorporated into AMP's ground lease.

The proposed road stopping is being carried out under the Public Works Act 1981 (PWA). Use of this process followed a request by AMP as they believed they had already carried out significant public consultation in the resource consent process, with that including details of the proposed road stopping. If LINZ reject this proposal at the time of transferring the land, then AMP have agreed that any additional costs and time delays incurred by having to go through the process again, but using the Local Government Act 1974 (PGA) process, would be their responsibility.

If this road stopping application is successful, AMP intend to demolish the existing buildings, and redevelop the site by building a new building. While a resource consent has recently been approved for this, AMP have indicated that they are uncertain when any work will start. The resource consent expires April 2016. Under the terms of the agreement for sale and purchase for the road stopping, AMP can give notice that they want the road stopping to re-commence at any time within the period of the current approved resource consent.

## **5. Discussion**

### **5.1 The road stopping process**

The applicant (i.e. the party who has applied to the Council to buy the legal road) is responsible for all of the costs involved in processing their request to

change the designation of the legal road and then purchase the freehold land to amalgamate with their adjoining property title.

The applicant is provided with as much information as possible at the start of the road stopping process. This ensures they are fully aware of the road stopping and sale requirements, timeframes and costs that may be incurred as part of this process. The applicant has agreed in writing to meet all of these requirements and costs.

### **5.2 This application**

The areas of legal road proposed to be stopped are two triangular shaped parcels of land, each being approximately 4m<sup>2</sup> in size (subject to survey), refer to aerial view in appendix 1), adjoining the western boundary of the applicant's property at 109 Featherston Street.

If the road stoppings and sale are successful, one area of the stopped road land will be amalgamated with this adjoining property, and one area will be amalgamated with WCC's adjoining property.

### **5.3 Consultation**

As part of the road stopping process, service authorities and internal business units, are given an opportunity to provide comments concerning the road stopping application. Consultation with neighbouring property owners/occupiers took place as part of the resource consent process. Internal business units have no requirement for this land.

Summary of the consultation with the relevant service authorities and internal business units as below.

Conditional consent has been obtained from:

<b>Service Provider / Business Unit</b>	<b>Condition</b>
WCC Development Planning and Compliance	No conditions but commented that the proposed areas of road to be stopped are prominent corners along ground floor retail frontages within the central city. Any design and construction of new buildings or structures would be required to comply with the permitted standards for ground floor frontages and verandahs under the District Plan or approved resource consent.
TelstraClear (Telecommunications)	Services in the vicinity of the road stopping on the corner of Featherston and Balance St, AMP would be responsible for all costs associated with any relocation.

Unconditional consent has been obtained from:

- WCC Treaty Relationships
- WCC Parks and Gardens
- WCC Road and Traffic Maintenance
- WCC Public Drainage
- WCC Street Lighting.
- Wellington Electricity Lines Limited
- Power Co Ltd.
- Capacity
- Nova Gas Ltd
- Wellington Cable Car Ltd.

Officers are satisfied that if the above service authority statutory and Council requirements are met the proposed portions of road land on the corners of Featherston and Waring Taylor Streets, Wellington can be stopped and sold, and on the corner of Featherston and Balance Streets stopped.

#### **5.4 Significance Policy/ Strategic Assets**

Under Council's Significance Policy, the sale of this Road Land would not be deemed significant.

The proposal is to stop and sell two small areas of road land currently used for footpath. That is neither significant nor strategic in itself, therefore the sale could proceed subject only to the decision that it is no longer required for a public work, and compliance with the provisions of the Public Works Act 1981.

#### **5.5 Next Steps**

Should resolution be passed declaring that the land is surplus to Council's requirements, the next steps in the road stopping and sale process are as follows:

- Commission a section 40 report
- Obtain the Chief Executive Officer's approval of section 40 report
- Receive applicant's confirmation that they want to re-commence the road stopping process
- Gazette notice declaring the two areas stopped
- Settlement and transfer of the stopped road

## **6. Conclusion**

In considering our obligations under the PWA, Council officers believe that –

The approximately 4m<sup>2</sup> area of Council owned legal road on the corner of Featherston and Waring Taylor Streets adjoining 109 Featherston Street, Wellington is no longer required for the Council's operational requirements and could be declared surplus and sold.

and,

That the approximately 4m<sup>2</sup> area of Council owned legal road on the corner of Featherston and Ballance Streets, that adjoins 109 Featherston Street, Wellington is not required for road, and could be amalgamated with Council's existing freehold land.

The stopping and sale of the road land to the adjoining owner will facilitate the redevelopment of the site. Such development will assist in the growth and renewal of the city.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land on the corner of Featherston and Waring Taylor Streets is declared surplus, and that officers can proceed to initiate the road stopping procedure and sale to the adjoining land owner, and the land on the corner of Featherston and Balance Street be stopped.

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**

*This report is a step towards the possible sale of the legal road.*

*The costs associated with this proposal will be met by the applicant including all survey, administration and legal costs. 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 report concerns the road stopping proposal only. The applicant has a resource consent for its proposed development of the site, being a separate issue..*

### **5) Consultation**

*Consultation with the relevant internal business units has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping.*

*Service Authorities have been consulted and any conditions have been 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.*

# APPENDIX 1

## AERIAL PHOTOGRAPH

