
REPORT 1
(1215/53/IM)

**ROAD STOPPING AND DISPOSAL - LEGAL ROAD
ADJOINING 86 BRACKEN ROAD AND NEWLANDS
COLLEGE, PAPARANGI**

1. Purpose of Report

The purpose of this report is to obtain agreement that two areas of Council owned unformed legal road adjoining 86 Bracken Road, and Newlands College, Paparangi, Wellington, are no longer required for Council's operational requirements. Also to authorise officers to proceed with the offer back investigation and eventual road stoppings and sales.

Refer Appendix 1 which shows the two areas of land adjoining 86 Bracken Road (Area 1), and Newlands College (Area 2).

2. Executive Summary

An application has been made to Wellington City Council (WCC) by the owners of 86 Bracken Road, to stop a portion of unformed legal road adjoining their property.

As a result of this application a second area of unformed legal road in front of the Newlands College has been identified as also being suitable to be stopped. Newlands College has indicated that it is not interested in purchasing this land, so officers now believe that Council should pursue the stopping and subsequent disposal itself.

The key question for Council is whether both areas of land are 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 (LGA)

Internal business unit consultation has taken place, and all relevant business units support the disposal. External service authorities also have no objection to the proposed stopping. Immediate neighbours have been consulted. While concerns have been expressed, officers believe that they have been addressed and there is now no reason why road stopping Area 1 and Area 2 should not proceed.

Neither areas of road proposed to be stopped have been valued at the time of preparing this report.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
 - (a) *Agree that the 793m² area of unformed legal road land adjoining 86 Bracken Road, Paparangi, and the approximately 650 m² (both subject to survey) of unformed legal road land on Bracken Road adjoining Newlands College, Paparangi, are not required for a Public Work.*
 - (b) *Approve the disposal of the approximately 793m² of unformed legal road land adjoining 86 Bracken Road, Paparangi, to the owner of that property.*
 - (c) *Approve the disposal of the approximately 650 m² of unformed legal road land on Bracken Road, adjoining Newlands College, Paparangi, to be marketed publicly*
 - (d) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether both areas of unformed legal road land must be offered back to their former owner(s) or their successor(s), or whether exemptions from offer back applies.*
 - (e) *Delegate to the Chief Executive Officer the power to either offer both areas of unformed legal road land back to their former owner(s) or their successor(s), or to approve the exercise exemptions from offer back under section 40(2), 40(3), or 40(4) (if appropriate)*
 - (f) *Authorise Council officers to initiate the road stopping process for both areas of unformed legal road in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
 - (g) *Delegate to the Chief Executive Officer the power to formally approve both road stoppings, and issue the public notice to declare both areas of unformed legal road land stopped as road, subject to all statutory and Council requirements being met with no objections being received.*
 - (h) *Delegate to the Chief Executive Office the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining 86 Bracken Road, either with the former owner(s) or their successor(s), or the owner of 86 Bracken Road, provided any such agreement is conditional upon the road being stopped.*

- (i) *Delegate to the Chief Executive Office the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining Newlands College, either with the former owner(s) or their successor(s), or the successful purchaser following the land being marketed for sale, 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 86 Bracken Road from the owner of that property. The legal description of 86 Bracken Road is Lot 1, DP 75369, being held on Computer Freehold Register WN42B/156.

While the application related to the stopping and purchase of unformed legal road in front of the applicants property, they also expressed interest in stopping and purchasing further unformed legal road that is in front of the neighbouring Newlands College.

The total area of unformed legal road in front of both properties is approximately 1,443 m² (subject to survey). The land is currently grassed, with some small trees. As land that size could be issued with its own title, officers considered whether it would be in Council's best interests to proceed with road stopping and disposal of this total area itself. If Council did that there would be frontage rights and access issues to resolve with the applicant. Officers believe that these issues outweigh any possible benefits, so it would be better to progress the application received from 86 Bracken Road for Area 1, and pursue the stopping and disposal of Area 2 itself, if Newlands College were not interested.

5. Discussion

5.1 Consultation and Engagement

As part of the road stopping process service authorities, internal business units, and immediate neighbours are given an opportunity to provide comments.

5.1.1. Service authorities and Internal business units

Conditional consent has been obtained from:

Service Authorities / Internal Business Units	
WCC Road and Traffic Maintenance	Both areas Wants to retain approx 24 metres road width at this point
WCC Urban Development and Transport	Area 1 The existing vehicle crossing does not comply with the District Plan requirements as it is too close to the intersection. However as the proposed road stopped area will be used for

	<p>landscaping rather than to construct a second household unit, the intensity of the crossing will not be increasing</p> <p>If the applicant wishes to construct further household units on the site and gain access from the existing crossing, then resource consent would be required for increasing the density of the existing non-complying vehicle crossing. Should the applicant wish to undertake further development on the site, then this would be subject to the rules of the District Plan</p> <p>Notice should be served on 105, 107 and 109 Beazley Ave as the road stopping will create a yard rule and sunlight access plane rule on these properties</p> <p>Area 2 Stopping may create access and legal frontage problems for 84 Bracken Road By stopping this area this would create sunlight access plane infringement on the school</p>
PowerCo Ltd.	<p>Both areas Records show a PowerCo gas pipe that supplies No 86 Bracken Road in the land to be purchased. The new boundary must leave Powerco gas pipes in road reserve. If applicable, relocation of any PowerCo gas pipes necessary to accommodate the land purchase. The costs associated with this will be the responsibility of the applicant in regards to Area 1, and Council in regards to Area 2.</p>
Capacity	<p>Area 1 There is an existing toby located at the existing boundary. It is a requirement that a new toby is located in road reserve at the proposed new boundary. WCC is responsible for the water service pipe up to and including the toby</p> <p>Area 2 A new toby needs to be located at the proposed new boundary of the land in front of Newlands College</p>

5.1.2 Service authorities and Internal business units

Unconditional consent for both areas has been obtained from:

- WCC Treaty Relationships
- WCC Parks and Gardens
- WCC Street Lighting
- WCC Public Drainage
- Telstra Clear
- Transfield (Telecom)
- United Networks Ltd
- Nova Gas

Officers are satisfied that if the above Service Authority requirements and all statutory and Council requirements are met the two areas of legal road in Bracken Road, Paparangi can be stopped and sold.

5.1.3. Immediate neighbours

Neighbours immediately next to the land proposed to be stopped were consulted. Included in that consultation were the owners of 101 – 109 Beazley Ave, that also being a condition imposed by WCC Urban Development and Transport. That specific condition was due to these five properties being cross leased, with three of them, numbers 105, 107 and 109, being affected by yard rule and sunlight access plane regulations if the stopping of Area 1 was successful.

The 'yard rule' concerns minimum width for access required to be retained to the rear of a lot. The 'sunlight access plane' concerns height of buildings relative to their distance from boundaries. These two regulations would be triggered if the application to stop Area 1 was successful, because one of the front boundaries shared by 105, 107 and 109 Beazley Ave would become a side boundary.

Three of the five properties at 101 – 109 Beazley Ave have the same owner which made consultation with them simpler. The owners of 103 Beazley Ave live overseas and had no concerns, however the owners of 101, 105-109 Beazley Ave do. Their concerns are not specifically related to the yard rule and sunlight access plane regulations, but concerned issues such as drainage and increased traffic.

These neighbours concerns were addressed by officers, and the applicant was also asked to prepare plans to show what they intended to do with Area 1. The applicant was requested to meet with these owners to go over their plans, for the purpose of obtaining their consent. Several meetings have taken place between these parties. The applicant modified their proposed plans for Area 1, to include

fewer dwellings than originally planned, covenanted areas where there would be no buildings over one storey high, and other areas where there would be no buildings at all. These plans would still be subject to resource consent application, and compliance with the District Plan. While consent from these owners has still not been obtained, and standard WCC neighbours comments / consent forms signed, officers believe the concerns have been addressed by WCC internal business units and the applicant. While the written consent has not been received from these neighbours, should they want to further object they will have opportunity to do so when the wider public consultation takes place later in the road stopping process.

Newlands College has confirmed that they are not interested in the stopping and purchase of Area 2. They too expressed concerns on the proposal to road stop Area 1 and Area 2. While their concerns were addressed by officers in writing, a standard WCC neighbours comments / consent form has not been signed at the time of the preparation of this report. Like the owners of the Beazley Ave properties if Newlands College wanted to further object they will have opportunity to do so when the wider public consultation takes place later in the road stopping process. As the crown (Ministry of Education) are the owners of the land that the college occupies, details of the road stopping proposal has also been sent to them.

The applicant understands that there is still a further requirement for wider public consultation, and that if further objections are received then, that could result in their application ending up in the Environment Court to rule on whether to uphold any objection or not. The applicant has advised that they still want to proceed on that basis.

Refer to appendix 2 for summary of neighbours concerns and officers responses.

5.2 Financial Considerations

All costs associated with road stopping the unformed legal road land adjoining 86 Bracken Road will be met by the applicant, while the costs associated with road stopping the unformed legal road land adjoining Newlands College will be met by Council. The proceeds of the sale of both areas of land will be received by Council

5.3 Climate Change Impacts and Considerations

There are no climate change impacts.

5.4 Long-Term Council Community Plan Considerations

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

5.5 Significance Policy/ Strategic Assets

Under Council's Significance Policy, the sale of these properties would not be deemed significant.

6. Conclusion

For the reasons outlined in section 4 Background officers believe Council should progress the road stopping application by 86 Bracken Road to stop Area 1, and stop and sell Area 2 itself.

In considering our obligations under the LGA, Council officers believe that the approximately 793m² area of Council owned unformed legal road adjoining 86 Bracken Road, is no longer required for the Council's operational requirements, and could be declared surplus and sold to the applicant, and the approximately 650m² of unformed legal road adjoining Newlands College is no longer required for the Council's operational requirements, and could be declared surplus, stopped, and then put on the market for sale as a freehold residential section.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 86 Bracken Road is declared surplus, and that officers can proceed to initiate the road stopping procedure and sale to the adjoining land owner, and the land adjoining Newlands College also be declared surplus, stopped and sold.

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.

The sale of legal road, where surplus to strategic requirements, is mandated under the Council's 2004 Road Encroachment and Sale Policy.

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 also possible rejection stages throughout the process.

There are no adverse financial implications imposed on the Council arising from this road stopping proposal. Most of 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 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 has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping, with Urban Design, and Roading consent subject to certain conditions. Service Authorities have been consulted. Several adjoining landowners were required to have written notification sent to them and their approval sought, this was done and their concerns responded to.

b) Consultation with Maori

Local IWI have been consulted with.

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.

APPENDIX 2

Summary of neighbours consultation and officer's response.

Address	Issue	Officers response
97, 99, 101, 107 ,109 Beazley Ave, and 100 Bracken Road	Area 1 and 2 Traffic / Parking. Limited vision and there is high demand at peak times given the school traffic	WCC Roding and Urban Development and Transport have considered both traffic volumes and parking requirements
97 Beazley Ave	Area 1 and 2 Any new driveways will further reduce parking and create traffic hazards	WCC Urban Development and Transport advise any new driveway will have to comply with the District Plan
97, 99 Beazley Ave, and Newlands Paparangi Progressive Association	Area 1 and 2 Area should be used for a bus stop	WCC Roding have made allowance for future bus stopping needs
97, 99, 101, 105, 107, 109 Beazley Ave, and Newlands College	Area 1 and 2 There are drainage problems	WCC Public Drainage believe future development will improve drainage situation by connection to public system or control of ground water
97 Beazley Ave	Area 1 and 2 The land is of interest to the wider community and their views should be sought	Public consultation will be undertaken as required by the 10 th Schedule of the Local Government Act 1974
99, 105, 107, 109 Beazley Ave, 100 Bracken Road, Newlands College, and Newlands Paparangi Progressive Association	Area 1 and 2 Applicant definitely intends developing properties, which won't fit in with existing properties, or could be 2 or 3 stories high	WCC Urban Development and Transport - Any future development will need to either comply with the provisions of the District Plan, or obtain a resource consent for any areas of non-compliance. WCC Property Projects – Applicant has agreed to limit the height to single story
101, 107, and 109 Beazley Ave	Area 1 Services in the area, ie power, water, drainage, have not been up graded from the original sub division of the area. This would then over load the systems, if the property was to be developed for housing	WCC Property Projects - All service providers are consulted with as part of the road stopping process, if there was any issue concerning the upgrading of services then these companies have opportunity to raise it, which they did not
38, 107, 109 Beazley Ave, and Newlands College	Area 2 No 84 Bracken Road Empty If the land in front is	WCC Property Projects - No 84 Bracken Road is owned by Newlands College. Officers have consulted with the college over

	<p>sold, how and where is the access for this property?</p>	<p>the proposed road stopping of land adjoining 86 Bracken Road, and also the land it is investigating stopping itself that adjoins 84 Bracken Road. In consultation with the college officers have proposed that a boundary adjustment be carried out so the schools land is amalgamated into the schools larger adjoining site. All costs associated with this would be borne by Council</p>
100 Bracken Road	<p>Area 1 and 2 The green area at present is a good entrance to further north, eg Granada Village</p>	<p>WCC Urban Development and Transport - As stated in Amy Spurdles original statement under 'Streetscape and Amenity' - It is not considered that the road stopping of this land would create adverse effects on streetscape and amenity</p>
Newlands College	<p>Area 2 WCC Urban Development Condition - In relation to the area of land highlighted black on the plan – By stopping the area highlighted black this would create a sunlight access plane requirement for Newlands College</p>	<p>WCC Property Projects - This is the same situation as with the properties at 105, 107 and 109 Beazley Ave as detailed above. The schools buildings are approximately 13 metres below the level of Bracken Road where the unformed legal road to be stopped is situated. Unless the school ever decided it wanted to increase the size of its buildings to approx 4+ stories high, then this is also not likely to ever be an issue for the school</p>
Newlands College	<p>Area 1 and 2 That any new house built on the unformed legal road land could be built too close to the edge of the property, and that the ground would be unstable given that some of it had been filled in the past</p>	<p>WCC Property Projects - The final positioning of any new house, and the stability of the land that it is built on, are both issues that are considered and addressed as required in the resource consent and building consent processes. These processes will ensure that there are no issues regarding ground stability</p>