
REPORT 1
(1215/53/IM)

ROAD STOPPING AND DISPOSAL - LEGAL ROAD ADJOINING 124 CHURCHILL DRIVE, CROFTON DOWNS

1. Purpose of Report

The purpose of this report is to obtain agreement that approximately 2,365 m² of Council owned unformed legal road adjoining 124 Churchill Drive, Crofton Downs, Wellington, is no longer required for Council's operational requirements. Also to authorise officers to proceed with the offer back investigation and eventual road stopping and sale.

Refer Appendix 1 for an aerial plan with the area of land concerned shown yellow with a red border.

2. Executive Summary

An application has been made to Council by the owners of 124 Churchill Drive, Crofton Downs to stop a portion of unformed legal road adjoining their property. The owners are Progressive Enterprises Ltd who have indicated that they intend to redevelop the existing Woolworths supermarket, and shopping centre. The development plans will be subject to the resource management process.

The key question for Council is whether this area of land is 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 have been consulted and support the disposal. Parks and Gardens require that the native vegetation, on the embankment next to Churchill Drive, be protected. Development Planning and Compliance, request the applicant to lodge a resource consent application to redevelop the site, within five years of the road stopping.

External service authorities and immediate neighbours have been consulted, all having no objections. The area of unformed legal road land proposed to be stopped will be sold at current market valuation, and all costs will be met by the applicant.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receives the information.*
2. *Recommends to Council that it:*
 - (a) *Agrees that the 2,365 m² (subject to survey) area of unformed legal road land adjoining 124 Churchill Drive, Crofton Downs, is not required for a Public Work.*
 - (b) *Approves the disposal of the approximately 2,365 m² area of unformed legal road land adjoining 124 Churchill Drive, Crofton Downs, to the owner of that property.*
 - (c) *Authorises Council officers to commission a section 40 PWA report from suitably qualified consultants to identify whether the area of unformed legal road land must be offered back to its former owner or their successor, or whether exemptions from offer back applies.*
 - (d) *Delegates to the Chief Executive Officer the power to either offer the area of unformed legal road land back to its former owner(s) or their successor(s), or to approve the exercise of exemptions from offer back under section 40(2), 40(3), or 40(4) PWA (if appropriate).*
 - (e) *Authorises Council officers to initiate the road stopping process for the area of unformed legal road in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
 - (f) *Delegates to the Chief Executive Officer the power to formally approve the road stopping, and issue the public notice to declare the area of unformed legal road land stopped as road, subject to all statutory and Council requirements being met with no objections being received.*
 - (g) *Delegates to the Chief Executive Office the power to negotiate the terms of sale, impose any reasonable covenants, and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining 124 Churchill Drive, either with the former owner, or their successor, or the owner of 124 Churchill Drive, 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 124 Churchill Drive, Crofton Downs, from Progressive Enterprises Ltd. The legal description of 124 Churchill Drive is Lot 1 DP 33037 being held on Computer Freehold Register WN9C/1002.

The total area of unformed legal road adjoining 124 Churchill Drive that is proposed to be stopped is approximately 2,365 m². Most of the land proposed to be stopped is currently sealed and used for car parking, with the balance nearest to Churchill Drive being grassed, with some vegetation and small trees.

We are advised by the applicant that they propose to redevelop the site with a new supermarket. This will provide a new and larger supermarket which supports Council's Centres Policy.

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 preliminary comments and these are summarised on the following table

Internal Business Units	Comments
WCC Road and Traffic Maintenance	The new boundary line of 124 Churchill Drive is to be approximately 20m in from the western kerb face of Churchill Drive in order to maintain sufficient road width.
WCC Development Planning and Compliance	That the road stopping applicant be requested to lodge a resource consent application for a comprehensive development of the amalgamated site, within five years of the road being stopped.
WCC Parks and Gardens	Require a covenant to be registered on the applicant's title when the stopped road is amalgamated with their current land The covenant would ensure that the existing native vegetation is suitably protected should any further development be proposed.
WCC Treaty Relationships	Unconditional consent.
Service Authorities	
Capacity	Records show there are existing main storm water and sewer pipes in the portion of legal road proposed to be stopped. Note there is no need for WCC to have easements over these main pipes, as it has access rights under the Local Government Act 1974.
WCC Street Lighting	Unconditional consent.
WCC Public Drainage (Comments included in Capacities response)	Unconditional consent.

Telstra Clear	Unconditional consent.
United Networks Ltd	Unconditional consent.
Powerco Ltd	Unconditional consent.
Nova Gas Ltd	Unconditional consent.
Immediate Neighbours	<i>There are two immediate neighbours.</i>
Shell New Zealand Ltd	Unconditional consent.
WCC Street Lighting	Unconditional consent.

Officers are satisfied that the above Service Authority, neighbour and Council requirements can be met and that the area of unformed legal road in Churchill Drive, Crofton Downs can be stopped and sold to the adjoining owner.

The intent of the Development Planning and Compliance request is to encourage the owner to proceed with the lodgement of a resource consent application as soon as possible. This has been discussed with the owner who advises that it is their intent is to lodge the application once the road is stopped. The Parks and Gardens objective is to protect the native vegetation. The owner may submit an application that could impact on this vegetation so in proposing the condition we should acknowledge that a landscape and planting scheme submitted as part of a resource consent application could seek to modify the requirement in a way that is acceptable to Parks and Gardens. In that situation the covenant could be amended or surrendered. In both cases, the Council's interests would be protected by way of a registered encumbrance on the owner's title.

Due to the large size of the area to be stopped, officers have considered the sale of it as a separate lot on the open market. This option has been discounted because:

- Frontage and access rights to 124 Churchill Drive would be blocked (illegally).
- Overall Development of the adjoining site could be stifled.
- Would not support Council's Centre's Policy.

5.2 Financial Considerations

All costs associated with road stopping the unformed legal road land adjoining 124 Churchill Drive will be met by the applicant. The proceeds of the 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 this land would not be deemed significant.

6. Conclusion

Officers believe that that the approximately 2,365 m² area of unformed legal road adjoining 124 Churchill Drive is no longer needed for Council's operational requirements and could be declared surplus, stopped and sold to the applicant subject to the two conditions contained in the report.

Sale of the stopped road to Progressive Enterprises Ltd will help facilitate the redevelopment of the amalgamated site

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 124 Churchill Drive, Crofton Downs, is declared surplus, and that officers can proceed to initiate the road stopping procedure, and sale.

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.

This application supports Council's Centres Policy, with the shopping centre at 124 Churchill Drive designated as a 'District Centre'. The general intent of the Centres Policy is to expand retail, service and community facilities. This proposed road stopping is viewed as an important step to facilitate future redevelopment at the location.

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. 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 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. Urban Development and Transport, Roading and Parks and Gardens, have given their consent subject to certain conditions... Service Authorities have been consulted.

b) Consultation with Maori

Local IWI have been consulted with and have given unconditional consent.

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

This recommendations of this report are consistent with WCC policy.

