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**REPORT 1**  
*(1215/53/IM)*

## **DECISION ON OBJECTION TO ROAD STOPPING AND DISPOSAL: LEGAL ROAD ADJOINING 227 NEWLANDS ROAD, NEWLANDS**

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

The purpose of this report is to seek the Committee's recommendation to Council, that an objection from the owners of 4 Bracken Road, Newlands to a road stopping proposal in Newlands, not be upheld.

This report follows the oral submission presented by Mr Brian Clifford to the Committee on 15 December 2010 objecting to the proposal to stop 1,368m<sup>2</sup> of road land that adjoins 227 Newland Road, and the Newlands shopping centre.

### **2. Executive Summary**

The road stopping applicant is Foodstuffs (Wgtn) Co-op Society Ltd (Foodstuffs). Appendix 1 shows the 1,368m<sup>2</sup> land proposed to be stopped coloured light green. If the road stopping proposal is successful, Foodstuffs' propose to amalgamate the sites and build a supermarket.

After public consultation for the road stopping two objections were received. Officers discounted one of them, and that objector has chosen not to continue. The other objection which is from the owners of 4 Bracken Road remains, and a decision is now required from Council on whether to uphold that or not.

If Council does uphold this objection, then the road stopping proposal is effectively ended, and the 1,368m<sup>2</sup> of road land will not be stopped and sold. If Council does not uphold the objection, and the objector and Foodstuffs still want to continue, then the matter would be referred to the Environment Court for a decision.

### **3. Recommendations**

Officers recommend that the Committee:

1. *Receive the information.*
2. *Recommend that the Council:*
  - (a) *Agree not to uphold the objection from 4 Bracken Road, Newlands to the proposal to stop 1,368m<sup>2</sup> of road land adjoining 227 Newlands Road, Newlands.*
  - (b) *Agree to authorise officers to refer the proposal to stop 1,368m<sup>2</sup> of Road Land adjoining 227 Newlands Road, Newlands, and the objection from 4 Bracken Road, Newlands, to the Environment Court, if needed.*
  - (c) *Agree to delegates to the Chief Executive Officer the power to approve and conclude any action relating to Environment Court proceedings, if needed.*

### **4. Background**

#### **4.1 Road stopping application**

Foodstuff's own the property at 227 Newlands Road. They have applied to the Council to stop 1,368m<sup>2</sup> of road land that adjoins their property. The road land is currently used as garden and part of the Newlands Shopping Centre's car park. If the road stopping is successful Foodstuff's intend to amalgamate the sites and build a supermarket.

The road land was declared surplus and approved for sale by Council in December 2009. Refer to Appendix 2 for a copy of the 2009 committee report and minutes of the Regulatory Processes Committee and full Council meetings.

#### **4.2 Road stopping public consultation**

Public consultation on the road stopping proposal was undertaken during July and August 2010.

Two written objections were received, these being from the owners of numbers 4 and 6 Bracken Road. These properties are located directly across the road from the road land that is proposed to be stopped.

### **5. Discussion**

#### **5.1 Objection from 6 Bracken Road**

Number 6 Bracken Road is owned by The Baptist Union of New Zealand. Officers discounted their objection as it did not relate directly to the road

stopping proposal. Instead it related to a proposed change to the time limit for the Newlands shopping centre's existing car parking spaces. Officers have advised this objector that the grounds for their objection were not considered relevant to the road stopping proposal. Changing the time limit of the existing car parks could have happened irrespective of any road stopping proposal. The objector was advised that they could challenge their objection being discounted, but they have chosen not to pursue it further.

## **5.2 Objection from 4 Bracken Road**

Number 4 Bracken Road is owned by Mr Brian Clifford and Ms Noom-Hall (objectors). The grounds for their objection are –

- Noise
- Loss of greenery
- Height of proposed supermarket, loss of sunlight
- Increase in traffic making entering and exiting their driveway difficult
- Loss of existing car parks
- Negative affect on the value of their property

Officers met with the objectors on 20 September 2010, and again on 28 October 2010, and have responded to their concerns in writing to alleviate their concerns. Despite this these objectors have not withdrawn.

Refer to Appendix 3 for a copy of the objector's original written objection dated 17 August 2010, officer's letter of response dated 24 September 2010, and the objector's second written advice dated 3 October 2010.

The Committee heard an oral submission from Mr Clifford at the meeting held on 15 December 2010. No new issues were raised other than that the objectors plan to live in the 4 Bracken Road property from April 2011. It is currently rented.

The grounds for the objection and officers' comments are set out in Appendix 4. While the grounds of the objection are of a resource consent nature, they have still been given due consideration because the road stopping is an integral part of the proposal to build a new supermarket.

## **5.3 Key points in consideration of the grounds for the objection from 4 Bracken Road**

- The development of the proposed supermarket is considered by officers to be consistent with the role and function of the existing shopping centre. The land is zoned Suburban Centre and as such a development is reasonable to have been expected on this site.
- The design of the supermarket complies with District Plan zoning restrictions, enabling a non-notified conditional resource consent to be granted. This consent is conditional on the road stopping being completed.

- The road stopping proposal is considered by officers to be a good utilisation of the 1,368m<sup>2</sup> area of road land. This road land is currently formed as part of a shopping centre's car park, is underutilised and used as an unofficial 'park and ride'. This means that cars are left there all day, instead of the parks being used by short term shoppers at the centre.
- If the supermarket is built patronage to the centre will increase. While stopping the road land does remove some of the existing car park, the basement level of the proposed supermarket would be car parking and these under cover car parks will be able to be used by all shoppers at the centre. So the number of available car parks will actually increase by approximately 50 parks.
- There will be long term benefit to the wider community from having a new supermarket as a direct result of the proposed road stopping.

#### **5.4 Next Steps**

The next steps in the process are:

- The Committee considers the objection from the owner of 4 Bracken Road and the recommendations from officers, and recommends to Council whether or not to uphold the objection.
- If the objection from 4 Bracken Road is upheld by the Committee, and full Council agrees with that recommendation, then Foodstuff's road stopping application is effectively ended.
- If the Committee and full Council does not uphold the objection from 4 Bracken Road, and
  - the objector wants to pursue their objection, and
  - Foodstuff's want to continue with their road stopping application, then
- The road stopping proposal and objection would be referred to the Environment Court for decision.

## **6. Conclusion**

Officer's opinion is that the committee should recommend to Council that the objection from the owners of 4 Bracken Road, Newlands, to the road stopping proposal in Newlands, not be upheld, and that if the objector and the applicant both still want to continue, that the matter be referred to the Environment Court.

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. Any funds the Council receives as a result of this disposal, will be used to contribute towards upgrading the remaining car park, and the public space of the Newlands Centre.*

*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 only seeks decision on whether to uphold the objection from 4 Bracken Road or not.*

### **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, with the consents from Roothing and Traffic Maintenance, Parks and Gardens, and Public Drainage subject to certain conditions.*

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

*Public consultation has been carried out, and one objection received from 4 Bracken Road. This report concerns Council's decision on whether to uphold that objection or not.*

### **6) Legal Implications**

*All legal implications relevant to this road stopping such as public consultation requirements have been considered and are contained in this report.*

