
REPORT 6
(1215/53/IM)

ROAD STOPPING AND DISPOSAL - LEGAL ROAD (SALFORD STREET) ADJOINING 103 & 105 NEWLANDS ROAD, NEWLANDS

1. Purpose of Report

This report seeks the Committee to recommend to Council to agree that approximately 372 m² of Council owned unformed legal road, on Salford Street, adjoining 103 and 105 Newlands Road, Newlands is no longer required for Council's operational requirements, and authorise officers to proceed with the offer back investigation and eventual road stopping and sale.

Refer Appendix 1 for an aerial plan of the subject area, shaded green.

2. Executive Summary

An application has been made to Council by the owners of 103 and 105 Newlands Road, Newlands to stop a portion of unformed legal road, being part of Salford Street, adjoining their property. The landowners have indicated that they would like to purchase the road land to legalise their current encroachment, and to possibly carry out building alterations.

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 1974 (LGA).

Internal business units and external service authorities have been consulted and all support the disposal, with minimal conditions requested to be imposed.

Immediate neighbours have been consulted, no objections have been received. The area of unformed legal road land proposed to be stopped will be sold at current market valuation, and most of the costs will be met by the applicant.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

- 1. Receive the information.*

2. *Recommend to Council that it:*

- (a) *Agree that the area of approximately 372 m² (subject to survey) of unformed legal road land, on Salford Street, adjoining 103 and 105 Newlands Road, Newlands, is not required for a Public Work.*
- (b) *Approve the disposal of approximately 372m² of unformed legal road land, on Salford Street, adjoining 103 and 105 Newlands Road, to the owner of that property.*
- (c) *Authorise Council officers or suitably qualified consultants to undertake a section 40 Public Works Act 1981 report 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) *Delegate 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) Public Works Act (if appropriate).*
- (e) *Authorise 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) *Delegate 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) *Delegate 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, on Salford Street, 103 and 105 Newlands Road, either with the former owner, or their successor, or the owner of 103 and 105 Newlands Road, 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 103 and 105 Newlands Road, Newlands. Both properties are owned by the same private owner. The legal description of the land is Lots 1 and 2 DP 12515 which are comprised in Computer Freehold Registers WN806/98 and WN806/99 respectively.

The legal road land that is proposed to be stopped is situated at the rear of the property, being an unformed part of Salford Street.

The total area that is proposed to be stopped is approximately 372m² (subject to survey). The land is used for vehicle manoeuvring by the applicants, and it also appears from the aerial photograph there may be a slight building encroachment onto the road land, but this has not been determined by legal survey. Part of the land is a steep bank which slopes up towards Salford Street, and is grassed with some vegetation.

We have been advised by the applicant that they would like to acquire the area to rectify the current driveway encroachment, and the possible building encroachment. Furthermore the applicant is considering carrying out building alterations and extensions to their current buildings.

5. Discussion

5.1 Consultation and Engagement

As part of the road stopping process service authorities and internal business units are given an opportunity to provide preliminary comments and these are summarised in the following table:

| Internal Business Units | Comments |
|-------------------------------------|---|
| WCC Road and Traffic Maintenance | No objection, but requires: <ul style="list-style-type: none"> ○ The road batter to be supported by retaining walls in the case of any excavation. ○ Any walls on road land will require an encroachment licence to record responsibility for future maintenance by the private landowner. |
| Transport Planning | Unconditional consent. |
| Vehicle Access Engineer | Unconditional consent. |
| Development Planning and Compliance | <ul style="list-style-type: none"> ○ Notes that the road stopping proposal will trigger Front Yard Rule requirements to some adjacent properties, consultation should be carried out. ○ Notes that the additional land afforded to the site could reduce the noise buffer between the subject property and those across the road on Salford Street. |
| Policy and Planning | Unconditional consent. |

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| Urban Design | Unconditional consent. |
| Parks and Gardens | Unconditional consent. |
| WCC Treaty Relationships | No objections or conditions received from Port Nicholson Block Settlement Trust, or Ngati Toa. |
| Service Authorities | |
| Capacity | Unconditional consent. |
| WCC Public Drainage | No objection, but notes that there is public storm water drain located in the subject area and that building over or near this area is subject to prior approval. |
| WCC Street Lighting | Unconditional consent. |
| Telecommunications | Unconditional consent. |
| Wellington Electricity | No objections, but notes that underground electricity cables are in the vicinity of the area. Standard conditions apply, including requirement for easement if underground cables are to be located on private land as a result of boundary change, no structures to be built on top of electricity cables, any relocation of cables will be at the landowners cost. |
| Powerco Ltd | No gas network pipes in this area. |
| Nova Gas Ltd | No mains or services in this area. |

Officers are satisfied that the above service authority and Council requirements can be met and that the area of unformed legal road at Salford Street can be stopped and sold to the adjoining owner.

Letters have been sent to the adjoining owners of the land to advise them of the proposal. Landowners affected by the Front Yard Rule have been advised that they may require a one metre setback from the boundary of their property that adjoins Salford Street. No objections to this letter have been received. Should any neighbour or member of the public have an issue with the road stopping proposal, they will have a further chance to discuss this with Council at the public notification stage of the road stopping process. Public notification of all road stoppings is a statutory requirement.

5.2 Financial Considerations

Most of the costs associated with road stopping the unformed legal road land adjoining 103 and 105 Newlands Road 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 unformed legal road, being part of Salford Street, approximately 372 m² (subject to survey) adjoining 103 and 105 Newlands Road, is no longer required for Council's operational requirements and could be declared surplus, stopped and sold to the applicant subject to the conditions contained in this report.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 103 and 105 Newlands Road, Newlands, be declared surplus, and that officers can proceed to initiate the road stopping procedure, and consider eventual sale.

Contact Officer: Nicola Hine - Property Advisor, Property Services

Supporting Information

1) Strategic Fit / Strategic Outcome

It is inline with the Council's financial principals that assets which 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 2011 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.

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 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 2011 Road Encroachment and Sale Policy.

5) Consultation

a) General Consultation

Relevant Council business units have been consulted with, and have no objection to the intention to dispose of this land.

Public consultation will be carried out as per the statutory requirements of the road stopping process.

b) Consultation with Maori

Both Port Nicholson Block Settlement Trust and Ngati Toa have no objections to the intention to dispose of the land.

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. Any Sale and Purchase Agreements will be prepared by the Council's solicitors. A solicitor's certificate will be obtained before any documentation is executed.

7) Consistency with existing policy

The recommendations of this report are consistent with WCC policy for the disposal of surplus property.

Appendix 1

