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

## **ROAD STOPPING AND DISPOSAL - LEGAL ROAD ADJOINING 3 CUNLIFFE STREET, JOHNSONVILLE**

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

The purpose of this report is to obtain agreement that approximately 411 m<sup>2</sup> of Council owned unformed legal road land adjoining 3 Cunliffe Street, Johnsonville, Wellington, is no longer required for Council's operational requirements. Also to authorise officers to proceed with the offer back investigations and eventual road stopping and sale.

Refer to Appendix 1 for an aerial plan with the area of unformed legal road land concerned shown coloured red.

### **2. Executive Summary**

An application has been made to Council by the owners of 3 Cunliffe Street, Johnsonville to stop a portion of unformed legal road adjoining their property. The owners currently have use of the land under an encroachment licence. They want to secure ownership of the subject land to give them certainty of tenure providing options for future development.

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 and the local residents association have been advised of this proposal, with no responses received to date. These parties will have an opportunity to comment on the proposal when full public consultation is carried out later in the process.

The area of unformed legal road land proposed to be stopped will be sold at current market valuation.

### **3. Recommendations**

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
  - (a) *Agree that approximately 411 m<sup>2</sup> (subject to survey) of unformed legal road land (Road Land) adjoining 3 Cunliffe Street, Johnsonville, is not required for a Public Work.*
  - (b) *Approve the disposal of the Road Land to the owners of 3 Cunliffe Street, Johnsonville.*
  - (c) *Authorise 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) *Delegate to the Chief Executive Officer the power to either offer the 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) *Authorise Council officers to initiate the road stopping process for the Road Land 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 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 Road Land, either with the former owner, or their successor, or the owner of 3 Cunliffe Street, 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 3 Cunliffe Street, from the owners of the property. The legal description of 3 Cunliffe Street is Lot 6 DP 22043 being held on Computer Freehold Register WN28D/543.

The total area of unformed legal road adjoining 3 Cunliffe Street proposed to be stopped is approximately 411 m<sup>2</sup> (subject to survey). The land is currently used

under an encroachment licence. The land contains lawn and garden bordered by large trees. The land is on the corner of Cunliffe Street and Ohariu Road.

## **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. All internal business units gave their unconditional approval, with the exception of Road and Traffic Maintenance and Development Planning and Compliance.

Road and Traffic Maintenance require that:

- a legal road width of 18 metres be retained on Cunliffe Street, and 20 metres on Ohariu Road.
- a covenant should be imposed on the property to prevent vehicle access over a 2 metre long extension of their side boundary where 3 Cunliffe St adjoins 7 Cunliffe Street. This is to ensure that it does not compromise Council's ability to ever sell similar road frontage to 7 Cunliffe Street.

Development Planning and Compliance require that:

- The owners of the properties at 1 Peter Button Place, 10 and 26 Cunliffe Street be consulted as a front yard set back of approximately 1 metre would apply should the proposal be successful.

All relevant service authorities have given their consent.

The immediate neighbours and the local residents association have been advised of the proposal, no responses have been received to date. The consent of those neighbours that would have new front yard rule requirements imposed on them will be sought when full public consultation is carried out later in the process.

Officers are satisfied that the above requirements can be met, and that the area of unformed legal road adjoining 3 Cunliffe Street, Johnsonville can be stopped and sold to the owners.

### **5.2 Financial Considerations**

In August 2011 new cost sharing incentives for road stoppings were approved by Council. The cost sharing incentives mean that some costs paid by applicant's in the past are now deducted. In this case the value of the land proposed to be sold will be more than \$15,000, so the deduction will be the lesser of actual costs; or an amount calculated as 15 percent of the land value plus \$500; up to a maximum deduction of \$12,500. The amount of the deduction will be determined at the end of the road stopping process when all of the costs are known.

### **5.3 Climate Change Impacts and Considerations**

There are no climate change impacts.

#### **5.4 Long-Term Plan Considerations**

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

#### **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 approximately 411 m<sup>2</sup> of unformed legal road adjoining 3 Cunliffe Street is no longer needed for Council's operational requirements and could be declared surplus, stopped and sold to the owners subject to the conditions contained in the report.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 3 Cunliffe Street, Johnsonville is declared surplus, and that officers can proceed to initiate the road stopping procedure, and eventual 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 2011 Road Encroachment and Sale Policy.*

### **2) LTP/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. 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**

*Consultation with the relevant internal business units has been carried out as part of this application. Road and Traffic Maintenance, and Development Planning and Compliance 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**

*The recommendations of this report are consistent with WCC policy.*



# APPENDIX 1



## Proposed Roadstopping 3 Cunliffe Street, Johnsonville

Property boundaries, 20m Contours, road names, rail line, address & title points sourced from Land Information NZ. Crown Copyright reserved. Property boundaries accuracy: +/-1m in urban areas, +/-30m in rural areas. Census data sourced from Statistics NZ. Postcodes sourced from NZ Post. Assets, contours, water and drainage information shown is approximate and must not be used for detailed engineering design. Other data has been compiled from a variety of sources and its accuracy may vary, but is generally +/- 1m.

MAP PRODUCED BY:  
Wellington City Council  
101 Wakefield Street  
WELLINGTON, NZ

ORIGINAL MAP SIZE: A4  
AUTHOR: swadel2m  
DATE: 1/05/2012  
REFERENCE: 10602

**Absolutely**  
**POSITIVELY**  
HE MORE IN POWER | Wellington  
WELLINGTON CITY COUNCIL

