

REPORT 1
(12/15/53/IM)

**DECISION ON OBJECTIONS TO THE PROPOSED ROAD
STOPPING AND DISPOSAL OF LEGAL ROAD BETWEEN 8 AND
28 JAUNPUR CRESCENT, BROADMEADOWS**

1. Purpose of report

To seek the Committee's recommendation to Council that 15 objections to a road stopping proposal concerning 3,677m² of unformed legal road in Jaunpur Crescent, Broadmeadows (the Land) not be upheld.

The objections include an ePetition and 'legal notice' also received from two of the objectors.

2. Executive summary

On 29 February 2012 Council agreed to initiate a road stopping of the Land (total area of 3,677m²).

Public consultation was subsequently carried out and 15 written objections were received. Twelve of these objectors were scheduled to make oral submissions to the Regulatory Processes Committee on 12 September 2012, however only four attended and spoke - see Appendix One for committee reports.

It was agreed at the 12 September 2012 meeting that Committee members would visit the site to familiarise themselves. That site visit took place on 17 September with no new issues being raised.

The Land slopes down from Jaunpur Crescent at between 36 to 40 degrees and contains fill. Geotechnical investigations carried out by Abuild Consulting Engineers Ltd (Abuild) in October 2011 concluded that with engineered design the Land is suitable for residential development.

A key concern for objectors is the Land's stability, so to assist the Committee in its decision officers have had Abuild's investigations peer reviewed by Tonkin and Taylor Environmental and Engineering Consultants (T&T). Further geotechnical testing was carried out in December 2012 and consisted of three boreholes. The boreholes found that the depth of fill is greater than previously understood. However the conclusions are the same, namely that with engineered design considerations the Land is suitable for residential development.

Officers believe that objectors concerns have been sufficiently addressed and any effect on adjoining properties resulting from this proposal has been appropriately mitigated.

Therefore officers are recommending that the objections to the road stopping proposal in Jaunpur Crescent not be upheld.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
 - (a) *Agree to not uphold the objections from any of the 15 objectors, the ePetition or the legal notice to the proposal to stop 3,677 m² road land between 8 and 28 Jaunpur Crescent (the Land).*
 - (b) *Delegate to the Chief Executive Officer the power to approve and conclude any action relating to Environment Court proceedings, if needed.*
 - (c) *Agree to the disposal of the Land between 8 and 28 Jaunpur Crescent.*
 - (d) *Delegate to the Chief Executive Officer the power to negotiate and conclude all matters in respect of a sale and purchase agreement for the Land between 8 and 28 Jaunpur Crescent.*
3. *Note that if the road stopping proposal is successful the Land would firstly be offered to the adjoining neighbours pursuant to section 345 Local Government Act 1974, then secondly the Port Nicholson Block Settlement Trust, and (if not sold to those parties) it would then be marketed for sale.*

4. Background

4.1 History of application

On 29 February 2012 Council resolved to declare the Land surplus and commence the road stopping process in accordance with section 342 and the tenth schedule of the Local Government Act 1974. A land area of approximately 3,690m² was declared surplus and, following survey, the area was confirmed as 3,677m².

4.2 Residents letters

In April 2011 officers sent letters to the owners of 19 properties immediately surrounding the Land advising them of the proposal and that they would have an opportunity to comment when the wider public consultation process commenced.

At this stage one of the residents, Ms Stephanie Chung, prepared a standard letter of objection for residents to sign. Officers met with Ms Chung on 20 December 2011 and she presented 12 signed letters which were mainly from owners of properties that did not immediately surround the Land. A good

outcome of the meeting with Ms Chung was that officers felt that she had a better understanding of the road stopping proposal. We were also able to advise her that the width of the existing footpath and formed road carriageway in Jaunpur Crescent would not change as a result of the proposed road stopping. These objections were not formally withdrawn at this time. All parties received correspondence as part of the wider public consultation to either withdraw or have their objection remain so some are included in the current objections.

4.3 ePetition

Prior to the road stopping public consultation officially commencing resident and objector Mr Ron Zoest arranged for an ePetition via Council's website. The ePetition commenced on 3 February 2012 and closed on 3 April 2012. A total of 56 signatures were received. Only 17 signatories were from Wellington, three from Dunedin, one from Auckland and 35 were from Thailand and other south east Asian countries.

4.4 Public consultation - Road Stopping

Consultation on the road stopping proposal was undertaken during June, July and August 2012. 15 written objections were received with 12 of them indicating they were also interested in presenting oral submissions.

Only four of them gave oral submissions to the Committee on 12 September 2012. They were Mr Zoest (25 Jaunpur Crescent), Ms Chung (27 Jaunpur Crescent), Mr Anderson (11 Jaunpur Crescent), and Mr Marks (105B Kanpur Road). Mr Marks spoke on behalf of his wife. It is noted that unfortunately Mr and Mrs Marks were mistakenly left off the list of objectors in section 4.2 of the committee report prepared for the 12 September 2012 meeting.

4.5 Legal Notice

Following the road stopping public consultation Council received a further written objection prepared by Mr Zoest and Ms Chung which was titled 'legal notice'. Refer to Appendix Two for a copy.

This additional objection alleges that the Wellington City Council is being negligent and would be criminally accountable for any loss, injury or effect resulting from stopping and selling the Land.

5. Discussion

5.1 Investigations to confirm land suitable for development

Officers engaged Abuild to carry out geotechnical testing to confirm the Lands suitability for development. Abuild is an established and respected consulting practice providing geotechnical and civil expertise in the lower North Island. It is a member of the Association of Consulting Engineers NZ (ACENZ), and The Institution of Professional Engineers (IPENZ).

Abuild's report concluded that the Land could be built on. While officers are proposing to sell the Land as one large lot, Abuild did recommend further geotechnical assessments specific to any smaller lot subdivided from it. The requirement for further specific geotechnical testing for any subdivided smaller

lot will be recorded by Council on its electronic and property files, and would be an integral part of marketing.

Due to the objections received, officers have had Abuild's report peer reviewed by another independent registered company, namely T&T. T&T is an environmental and engineering consultancy which carries out work throughout New Zealand, Australia, Malaysia and the Philippines.

Refer Appendix Three for a copy of T&T's peer review.

T&T's advice was that further testing would be appropriate and officers duly commissioned Abuild to conduct further testing.

The additional testing identified that the depth of fill was deeper than originally understood, but it was of good quality and indicated that it had been compacted.

Abuild noted that other areas of the Broadmeadows subdivision had been filled and had been built on. So while the depth of fill in other areas is not known, this is relevant as the presence of fill does not necessarily preclude development.

Refer to Appendix Four for the conclusions of the additional geotechnical testing.

5.2 Proposal to retain land for a public lookout.

When Ms Chung gave her oral submission she suggested that the Land could be retained and used as a public lookout.

Officers carried out comprehensive consultation with internal business units on the proposal to dispose of the Land to ensure that it was not needed for Council's operational requirements. No unit indicated interest with Parks and Gardens stating they considered the Land had no recreational values.

During the recent public consultation the local residents association was advised and it did not indicate any interest.

5.3 Site meeting of 17 September 2012

A site meeting was held on 17 September 2012 with three members of the Regulatory Processes Committee and officers from Property. Other members of the Committee visited the site separately at different times.

The purpose of the site meeting was for Committee members to familiarise themselves with the general area and the Land. No new issues arose from the site meeting.

5.4 Summary of objection grounds and officers' responses

The 13 grounds of the 15 objections are summarised in Appendix Five and listed below:

1. Adverse effects - Front Yard Rule and Stability
2. Increased road congestion (on-street parking)

3. Stability of carriage way not addressed
4. How land was shown on District Plan maps
5. Size of road land larger than normal road stopping applications
6. If land was subdivided in six lots that would require a discretionary use unrestricted resource consent
7. Existing land owners denied opportunity to purchase Land
8. Stability of the Land being Road Stopped
9. Reduction in privacy
10. Views would be obstructed by future development with negative impact on property valuation
11. New Sunlight Access Plane Restriction
12. Safety (earthquake stability)
13. Potential new wind channel effect

In brief officers believe all of the above have been properly addressed. Our roading engineers believe Jaunpur Crescent will more than adequately handle any additional traffic that this stopping may lead to.

Stability is covered by peer reviewed geotechnical advice that will be recorded in Council's electronic and property files. The geotechnical report will be integral in marketing the Land. Most of the adverse affects contained in the objections are appropriately dealt with by the rules in the Council operative District Plan.

This road stopping will create a uniform legal road width which will have no affect on the formed road (including the footpath) in Jaunpur Crescent. Clearly any form of development is a change but any adverse affects of future development would be addressed appropriately through the resource consent process.

Each of the above points including the ePetition and legal notice are fully detailed and responded to in Appendix Five of this report.

5.5 Northern Reserves Management Plan

The Northern Reserves Management Plan identifies future reserve requirements in the general Broadmeadows area. The Land is not included in this Plan.

5.6 Financial considerations

There are no significant financial considerations to be considered in the decision on objections to this road stopping proposal.

5.7 Climate change impacts and considerations

There are no climate change impacts.

5.8 Long-term plan considerations

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

5.9 Next Steps

The next steps in the process for this road stopping proposal are:

- The Committee will consider the submissions and officers responses, and will make a recommendation to Council on whether or not to uphold the objections.
- If the Committee's decision is to uphold any objection, and the full Council agrees, then the road stopping proposal is effectively ended and the Land will not be stopped and sold.
- If the decision is to not uphold (i.e. reject) the objections and to proceed with the road stopping process, and any of the objectors still wish to pursue their objection, then the road stopping proposal and the objection(s) will be referred to the Environment Court for a decision.
- If the objections are not upheld and are withdrawn then the road stopping would be finalised and one large new lot would be created.
- Officers will obtain a current market valuation
- The stopped road land will be offered for sale (at current market value) to either,
 - an immediately adjoining owner or owners; or
 - PNBST; or
 - a private party after marketing the land for sale by tender on the open market.

6. Conclusion

Officers have responded to all the objections and believe the concerns outlined mitigated either through existing policies and procedures, the geotechnical report or a combination of these. Any possible adverse affects of future development will be appropriately dealt with under the Council's operative District Plan rules and Resource Management Act process.

Officers therefore believe that the committee should recommend to Council that all objections to the road stopping proposal in Jaunpur Crescent not be upheld.

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) LTP/Annual Plan reference and long term financial impact

This report is a step towards the possible sale of the legal road.

The costs associated with this proposal will be met by the proceeds of sale. This proposal will benefit the Council in financial terms as a large new lot will be created, sold at market value, with future owners then paying rates on it in the future.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications.

4) Decision-making

This report is for the purposes of making a decision on whether objections should be upheld or not.

5) Consultation

a) General consultation

Consultation with the relevant service authorities and 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 standard conditions relating to leaving services in road land applying.

Public consultation has been carried out with fifteen objections received.

b) Consultation with Maori

The internal business unit consultation included Treaty Relations who consulted with local iwi, with the Port Nicholson Block Settlement Trust asking that they be given a first right of refusal.

6) Legal implications

All legal implication relevant to this road stopping such as public consultation requirements are considered in this report.

7) Consistency with existing policy

The road stopping proposal and this report are consistent with WCC policy.