

REPORT 1
(1215/53/IM)

**ROAD STOPPING AND ACQUISITION – LEGAL ROAD
ADJOINING 68, 70 AND 74 EVANS BAY PARADE, HATAITAI**

1. Purpose of report

The purpose of this report is to obtain agreement that approximately 100 m² of Council owned unformed legal road land adjoining 68, 70, and 74 Evans Bay Parade, Hataitai, Wellington (the Land), is no longer required for Council's operational requirements and to authorise officers to proceed with the offer back investigations and eventual road stopping and sale.

Refer Appendix 1 for an aerial plan with the Land proposed to be stopped and sold shaded red.

2. Executive summary

An application has been made to Council by the owner of three adjoining properties, 68, 70, and 74 Evans Bay Parade, Hataitai, Wellington to stop approximately 100 m² of unformed legal road adjoining them. The applicant currently has use of two small areas of road land under two encroachment licences, used for garaging and parking. One area adjoins number 68, and the other adjoins number 74. The applicant has long term plans to develop the three properties, and has made her road stopping application so as to increase options.

The key question for Council is whether the road land is surplus to requirements for a public work, and if so, whether it will support commencement of the road stopping procedures under the Public Works Act 1981 (PWA). Officers believe it appropriate that the PWA process be used due to the topography of the area, the Land being a long thin strip, and there being no neighbours situated directly opposite on Evans Bay Parade.

Internal business units and external service authorities have been consulted. All support the disposal.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

- 1. Receive the information.*

2. *Recommend to Council that it:*

- (a) *Agree that the approximate 100 m² (subject to survey) of unformed legal road land in Evans Bay Parade (Road Land) adjoining 68, 70 and 74 Evans Bay Parade (Adjoining Land) is not required for a Public Work.*
- (b) *Approve the disposal of the Road Land.*
- (c) *Authorise Council officers to commission a section 40 Public Works Act 1981 (PWA) report from suitably qualified consultants to identify whether the area of 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 area of Road Land in accordance with section 116 of the Public Works Act 1981.*
- (f) *Delegate to the Chief Executive Office the power to complete the terms of sale, impose any reasonable restrictions, in respect of the Road Land adjoining 68, 70 and 74 Evans Bay Parade, either with the former owner, or their successor, or the owner of 68, 70 and 74 Evans Bay Parade, 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 68, 70 and 74 Evans Bay Parade, from the owner of those three properties.

The legal descriptions are –

- 68 Evans Bay Parade – Part lots 11 and 12 DP 1219, being held on Computer Freehold Register WN 433/94.
- 70 Evans Bay Parade -- Part lots 10 and 11 DP 1219, being held on Computer Freehold Register WN 201/112.
- 74 Evans Bay Parade -- Part lots 10 DP 1219, being held on Computer Freehold Register WN 643/40.

The total area of the road land proposed to be stopped adjoining these three properties is approximately 100 m² (subject to survey). It is proposed that approximately 45 m² would be amalgamated with number 68, approximately 35 m² amalgamated with number 70, and approximately 20 m² amalgamated with number 74.

The Land is used by the applicants by way of two encroachment licences for carparking and garage. The applicant has said that she has long term plans to develop the three properties, and has made her road stopping application to increase her options.

The land slopes steeply up from Evans Bay Parade, and retaining walls have been constructed in order to use it for carparking and garaging.

Refer Appendix 2 for a photograph of the three properties taken from Evans Bay Parade.

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 comments.

All relevant service authorities have given their consent, with standard conditions applying. Capacity advised there is a water supply toby, manifold, and possibly a rider main likely to be in the Land being stopped. These may need to be moved so that they remain in road reserve land. Whether or not any of these services need to be relocated will be confirmed once the land proposed to be stopped is surveyed later in the road stopping process.

All internal business units gave their unconditional approval, with the exception of:

- Road and Traffic Maintenance who required that a road reserve width of 20m in Evans Bay Parade be retained; and that an isolation strip be created at the 66 / 68 Evans Bay Parade boundary. The purpose of the isolation strip is to prevent vehicle access being formed by 68 Evans Bay Parade in front of 66 Evans Bay Parade. This may create issues if the owner of 66 Evans Bay Parade ever applied to stop road land themselves.
- Development Planning and Compliance, Policy and Urban Design. These units supported the road stopping proposal on the condition that no future construction takes place further forward of the predominant building line, without the written approval and/or any related consents (if needed) obtained from the Council'. The predominant building line is the existing front legal boundaries, and the outside edge of the garage in front of 74 Evans Bay Parade. To ensure enforcement of this condition it is intended to register an interest on the title.

5.2 Adjoining landowners and public consultation

A road stopping under section 116 of the PWA requires either that:

- Adequate road access to land adjoining the road is left or provided for; or
- The owners of the land adjoining the road or part of the road give their consent in writing.

The proposed stopping will not compromise the legal or physical access to any other landowner's property, so no public consultation is required. However out of courtesy the immediate neighbours have been sent written advice of the proposal. Doing this is viewed favourably by LINZ when they are transferring the land later in the process, to confirm that there are no issues affecting the neighbours.

While one of the neighbours did highlight that they had some concerns, officers have satisfied those, so there are no outstanding neighbours concerns.

5.3 Financial considerations

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

In August 2011 new cost sharing incentives for road stoppings were approved by Council. The cost sharing incentives mean that some costs paid by applicants 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.

5.4 Climate change impacts and considerations

There are no climate change impacts.

5.5 Long-term plan considerations

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

6. Conclusion

Officers believe that the approximately 100 m² area of unformed legal road land in Evans Bay Parade is no longer needed for Council's operational requirements and should be declared surplus, stopped and sold to the owner of the adjoining properties of 68, 70 and 74 Evans Bay Parade.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the approximately 100 m² of unformed legal road adjoining 68, 70 and 74 Evans Bay Parade be 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 service authorities, relevant internal business units, and the immediate neighbours, has been carried out.

All service authorities gave their consent some with just standard conditions.

All internal business units gave their consent, with Road and Traffic Maintenance, Development Planning and Compliance, Policy and Urban Design's consents being subject to the conditions outlined in the report.

b) Consultation with Maori

IWI have been consulted with and are not interested in the land.

6) Legal implications

There are no significant legal implications arising from this matter. Compliance with the PWA 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



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Map Scale: 1:300
Map Units: Meters
Map Projection: UTM
Map Datum: WGS 84
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Proposed Road Stopping



Map Scale: 1:300
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APPENDIX 2

