
REPORT 1

ROAD STOPPING: 47 MANNERS STREET – SECTION 138 CONSULTATION

1. Purpose of report

To report back to Committee on the outcome of section 138 public consultation for the proposed road stopping of land adjacent to 47 Manners Street.

2. Executive summary

Agreement to proceed with a road stopping application of land adjacent to 47 Manners Street was granted by the Regulatory Processes Committee on 5 December 2013.

Resolution 7 of the Committee decision required public consultation to be undertaken in accordance with section 138 of the Local Government Act 2002 (LGA 2002). This consultation was required as the subject land is occupied as a park. This consultation is in addition to the regular consultation and notification process which is prescribed both by regulatory and legislative requirements.

On Friday 14 March 2014 two public notices were placed on site; letters were sent to the five properties adjacent to the road stopping site. On Saturday 15 March a public notice advertising the section 138 process appeared in the Dominion Post. The consultation period ran for a month, closing at 5pm on 11 April 2014.

At the close of the consultation period one submission had been received from the owners of the adjacent site at 107 Victoria Street. Concerns raised by this party include the exclusivity of the potential sale and the loss of value to their own property through the sale and redevelopment.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*

4. Background

Cook Strait Holdings Ltd (CSHL) approached the Council with a proposal to develop the buildings and surrounding area situated on the corner of Victoria Street and Manners Street and bordered by Denton Park. A road stopping proposal was subsequently submitted, with agreement of the Regulatory Process Committee to proceed with a road stopping granted on 5 December 2013.

5. Discussion

Section 138 of the LGA 2002 requires consultation before the disposal of legal road used or occupied as a park. For a 'typical' road stopping, consultation would generally encompass immediately adjacent neighbours, neighbours immediately opposite the stopping, and those who may have their access affected. When the road stopping is eventually notified there is no restriction on whom may make a submission.

Given the transient use of the park by members of the public (passing by, temporarily seated), and the commensurate difficulty in determining specific users, signage was also placed on the site. It was made clear that this notice was for the purpose of initial consultation, under section 138 or the Act, with a separate public notification process to follow; legal opinion supported this approach.

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5.1 Consultation and Engagement

At the close of the consultation period one submission had been received from the owners of the adjacent site at 107 Victoria Street. Concerns raised by this party were as follows:

- Concern over the exclusivity of any land sale to the applicant; an agreement in principal on the sale appears to have already been reached. Other parties should have the opportunity to purchase.
- The land has value, and could be developed, as a standalone allotment.
- Rates may increase and adjacent properties lose income if the land were to be sold and redeveloped.
- If the 'Lombard Lane Upgrade' were to proceed, how would Victoria Street fit in?

Analysis

Regarding the exclusivity of sale – section 40 of the Public Works Act 1981 (PWA) requires land to first be offered back to original owners or successors of

the original owners. A report commissioned by the Property Group has confirmed there are no parties to which the land needs to be offered back.

Land that is stopped and sold, and could operate as a standalone entity, could also be sold to any other party. While the 88m² parcel of land is relatively small, the rules of the Central Area are reasonably permissive; it is conceivable that some form of admittedly modest-scale development could occur. It must also be recognised that the Council, through a partnership agreement, offer local *iwi* a first right of refusal on the sale of the land.

Under section 106 of the PWA, however, a land exchange of road to be stopped and land required for a public work would take precedent. This is the case in this instance - land is to be taken on Manners Street and Bond Street as legal road in exchange for the land to be stopped on Victoria Street. While there is no requirement for an exclusive sale, in this instance, the combined road stopping / land exchange proposal does take precedence.

Considering rates and potential loss of income – at this stage it is difficult to quantify what losses may be incurred, if any; this road stopping does not deal with the land development *per se* but the precursor action of road stopping and land exchange. There is some loss of frontage rights to 107 Victoria Street, although the ‘primary’ frontage for this property is Victoria Street proper rather than this side wall.

It would be best for the submitter to outline their concerns, and under what scenarios, when they have the opportunity to address the Committee during the formal public notification stage.

Finally, considering how Victoria Street may be impacted by any upgrade of Denton Park and Lombard Street – again this may be best discussed during the formal notification stage.

6. Conclusion

The above issues and concerns raised do not impact on the mechanics of the road stopping process. There are matters the Committee may wish to explore, in the fullness of the public notification process, but are not terminal to the decision to proceed with the road stopping proposal.

Contact Officer: *Brett Smith, Property Advisor*