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## PROPOSED ROAD STOPPING - LAND ADJOINING 17 CENTRAL TERRACE, KELBURN

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### Purpose

1. The purpose of this report is to recommend that the Council disposes of approximately 55m<sup>2</sup> of unformed legal road adjoining 17 Central Terrace, Kelburn (refer Attachments 1 and 2)

### Summary

2. The owners of 17 Central Terrace, Kelburn, have applied to purchase part of the unformed legal road adjoining the road frontage of their property.
3. The approximately 55m<sup>2</sup> of legal road to be purchased (the **Land**) is shown bordered red on the plan in Attachment 2.
4. Utility providers and relevant Council business units have been consulted. All support the proposal, subject to conditions (where relevant).
5. Initial consultation letters were sent to adjacent neighbours and, at time of writing of the report, no replies had been received.
6. If the Council agrees with the recommendation of the Regulatory Processes Committee then it will be publicly notified. At that time neighbours, organisations, and any other member of the public will have the opportunity to make a submission.

### Recommendations

That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to the Council that it:
  - a. Agrees that approximately 55m<sup>2</sup> of unformed legal road on Central Terrace, Kelburn, shown as the land bordered red on the plan in Attachment 2 (the **Land**) and abutting 17 Central Terrace, Kelburn (being Lot 17 Blk III DP 1197, CFR WNF4/1445), is not required for a public work and surplus to requirements.
  - b. Agrees to dispose of the Land.
  - c. Delegates to the Chief Executive Officer the power to conclude all matters in relation to the road stopping and disposal of the Land, including all legislative matters, issuing relevant public notices, declaring the road stopped, negotiating the terms of sale or exchange, imposing any reasonable covenants and anything else necessary.
3. Notes that if objections are received to the road stopping, and the applicant wishes to continue, a further report will be presented to the Regulatory Processes Committee for consideration.

### Background

7. Central Terrace and the surrounding properties were originally set out in 1901 (DP1197). Other than successive road improvements and housing development this basic layout still exists today.

8. 17 Central Terrace is occupied by a single storey, c.1910, weatherboard dwelling that has been modified and improved over several years. A weatherboard c.1920 garage straddles the western (road frontage) boundary.
9. The property is otherwise occupied with landscaping, decking, and established vegetation on the periphery.
10. The Land partly includes the garage (built under an encroachment licence), driveway, retaining wall and vegetated bank (refer photos in Attachments 3 and 4).
11. The applicant is seeking to purchase the Land to increase future development options and rectify ongoing annual encroachment costs.

### Discussion

12. Road stopping is provided for under sections 319(1)(h) and 342((1)(a) of the Local Government Act 1974 (the LGA).
13. Council, under section 40 of the Public Works Act 1980 (the **PWA**), 'shall endeavour' to dispose of any land not required for the public work for which it was taken, and which is not required for any other public work.
14. The Transport Network team has confirmed the Land is not required for road or access purposes. No other relevant business units of the Council seek to retain the Land.
15. The section 40 PWA report will, otherwise, determine whether any offer back obligations exist.

### Options

16. The alternative to undertaking the road stopping is to retain the Land in Council ownership as unformed legal road. In the long term this will incur maintenance and retaining costs on land the Council no longer requires or intends to use.
17. An encroachment licence could be issued for the Land if it is not stopped. Such a licence provides less certainty of tenure for the adjacent landowner and limits the scope for better utilisation of the land by these owners.

### Next Actions

18. Conclude a section 40 PWA investigation.
19. Prepare a survey legalisation plan and sale & purchase agreement for the Land.
20. Initiate the public notification process.

### Attachments

Attachment 1.	17 Central Tce - Location Plan	Page 60
Attachment 2.	17 Central Tce - Aerial Plan	Page 61
Attachment 3.	Photo looking south, from existing driveway, over road stopping area	Page 62
Attachment 4.	Photo looking north east, from Central Tce footpath, over road stopping area	Page 63

Author	Brett Smith, Property Advisor
Authoriser	Tracy Morrah, Property Services Manager David Chick, Chief City Planner



## **SUPPORTING INFORMATION**

### **Engagement and Consultation**

#### **Community**

In April 2017 letters were sent to adjacent neighbours of the Land. At time of writing no replies had been received.

#### **Utility Provider and Council Business Units**

The applicant is obliged to obtain comment from utility providers prior to submission of the application. None objected to the road stopping and/or have provided conditional support subject to the creation of relevant easements.

Several business units of the Council were consulted: specifically Transport Networks (including Vehicle Access), Planning, District Plan Policy and Parks, Sport & Recreation. None objected to the road stopping or provided conditional support.

Conditions such as carriageway setbacks, the inclusion of an isolation strip, amalgamation of parcels and CFR encumbrances have been adopted where applicable and agreed by the applicant.

#### **Treaty of Waitangi considerations**

Iwi groups have not been consulted. The proposal does not conflict with the principles of the Treaty of Waitangi nor is the land located within a Māori Precinct or an area identified as significant to Māori.

As sale to, and amalgamation with, the adjacent parcel is a condition of the stopping the Land is unlikely to be made available for purchase by iwi or the public in general.

#### **Financial implications**

There are no financial considerations relating to this recommendation. Any costs associated with the disposal of the Land will be recovered from the applicant, and the proceeds of the sale are directed towards the general fund.

As of August 2011 a new cost sharing initiative for road stoppings was approved by the Council. The rebate amount is a percentage of the sale price, so is determined at the end of the process when these costs are known.

#### **Policy and legislative implications**

The recommendations of this report are consistent with the policies of the Council. The road stopping is also undertaken in accordance with relevant legislation.

This is not a significant decision. This report set out the Council's options under the relevant legislation and under the Council's Road Encroachment and Sale Policy 2011.

#### **Risks / legal**

The road stopping process will be undertaken in accordance with legislative, and Council, requirements. Any legal agreement, or action in the Environment Court, will be overseen by the Council's lawyers.

#### **Climate Change impact and considerations**

There are no climate change implications arising from this road stopping.

#### **Communications Plan**

Public consultation in accordance with the Tenth Schedule of the LGA will be carried out later in the road stopping process.

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**Health and Safety Impact considered**

The road stopping is a minimal risk to health and safety. The work is almost entirely administrative and a normal operational function of Council Officers.









