

REPORT 6
(1215/53/IM)

ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 65 TOTARA ROAD – MIRAMAR

1. Purpose of Report

The purpose of this report is to obtain agreement to authorise officers to proceed with the road stopping and sale of an area of Council owned unformed legal road adjoining 65 Totara Road, Miramar (shown highlighted green on Appendix 1), which is no longer required for Council's operational requirements.

As Council officers now wish to advance the road stopping, the further recommendations contained in this report are necessary.

2. Executive Summary

An application to stop this area of road was submitted by the owners of 65 Totara Road, Miramar. This application was the subject of an earlier report to the Regulatory Processes Committee and Council whereby the Council declared this parcel of land surplus to requirements.

Resolutions previously approved have been actioned. A section 40 report has been obtained recommending that the unformed legal road, once stopped is exempt from any offer back obligations.

If the Chief Executive Officer (CEO) agrees with the recommendations of the section 40 report, and the additional resolutions contained in this report are approved, then officers will proceed with the road stopping and sale.

3. Recommendations

It is recommended that the Committee:

1. *Receives the information.*
2. *Recommends to Council that it:*
 - (a) *Approves the disposal of the Road Land described as approximately 55m² (subject to survey) of unformed legal road adjoining 65 Totara Road, Miramar.*

- (b) *Delegates to the Chief Executive Officer the power to either offer the Road Land back to its former owner or their successor, or to approve the exercise of an exemption from offer back under section 40(2), 40(3) or 40(4) (if appropriate).*
 - (c) *Authorises 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.*
 - (d) *Delegates 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 and no objections being received.*
 - (e) *Delegates to the Chief Executive Officer the power to negotiate the terms of sale 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 the Adjoining Land, provided any such agreement is conditional upon the road being stopped.*
3. *Notes that if objections are received and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*

4. Background

The application to stop this area of road was submitted by the adjoining land owner at 65 Totara Road, Miramar (Lot 1 DP 27874, being Computer Freehold Register WN F1/1109).

Under the LGA local authorities are permitted to sell portions of legal road which they no longer require for roading purposes or another public work.

This road stopping was the subject of an earlier report to the Regulatory Processes Committee and Council (refer to the minutes in appendices 2 and 3). Under the resolutions passed, the land in question was declared surplus to Council's operational requirements. Council officers now wish to advance the road stopping of the unformed road adjoining 65 Totara Road, Miramar to the eventual disposal of the land to the adjoining owners.

A section 40 report has been obtained. The section 40 report pursuant to the Public Works Act 1981, recommends that the unformed legal road, once stopped is exempt from any offer back obligations.

If the CEO agrees with the recommendations of the section 40 investigation report, officers will proceed with the road stopping and sale process prescribed under section 342 and section 345, and the Tenth Schedule of the LGA.

5. Discussion

The next steps in the road stopping and sale process are as follows:

- Obtain a valuation and prepare a sale and purchase agreement
- Undertake a survey and carry out public notification of the intent to stop the road
- Receive objections (if any) and attend to the Environment Court hearing (if required)
- Undertake public notification that road is stopped
- Attend to settlement and transfer of the stopped road

6. Conclusion

The unformed legal road adjoining 65 Totara Road, Miramar is no longer required for a public work by Council. Completion of the road stopping process and sale of the unformed road to the adjoining owner should be progressed.

It is therefore requested that the Regulatory Process Committee recommends to the Council that officers proceed with the road stopping and sale process under the Local Government Act 1974.

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) LTCCP/Annual Plan reference and long term financial impact

Provision for undertaking this work is contained within the overall organisational budget.

This report is a step towards the possible sale of the legal road. At this stage, the expected income from the sale of the road to the applicant has not been quantified as valuations are carried out at a later stage in the road stopping process. Many applicants decide not to proceed further with the purchase of the legal road once they have received a valuation from the Council.

There are no adverse financial implications imposed on the Council arising from this road stopping proposal. All of the costs associated with this proposal will be met by the applicant including all survey, administration and legal costs. This proposal will benefit 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 2004 Road Encroachment and Sale Policy.

5) Consultation

a) General Consultation

Consultation with the relevant Internal Business Units, the Wellington Tenth and Ngati Toa has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping.

Neighbours and Service Authorities have been consulted and a number of conditions have been noted.

The applicants have agreed in writing to these conditions.

6) Legal Implications

Any legal implications were addressed in the previous report to Regulatory Process Committee meeting of 22 August 2007.

APPENDIX 1
Aerial photograph



APPENDIX 2

Minutes – Regulatory Processes Committee meeting - 22 August 2007



REGULATORY PROCESSES COMMITTEE

MINUTES

WEDNESDAY 22 AUGUST 2007

1.01PM

Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

PRESENT:

Councillor Gill (Chair)
Councillor Cook
Councillor Goulden (1.04 – 1.10pm)
Councillor Morrison
Councillor Pepperell (1.02 – 1.10pm)
Councillor Wade-Brown

APOLOGIES:

Mayor Prendergast
Councillor Armstrong
Councillor Foster

074/07RP **APOLOGIES**
(1215/53/IM)

RESOLVED:

THAT the Regulatory Processes Committee:

- 1. Accept apologies for absence from Mayor Prendergast and Councillors Armstrong and Foster.*

7. *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement, provided any such agreement is conditional upon the road being stopped.*

080/07RP **PROPERTY FOR DISPOSAL UNDER THE PUBLIC WORKS ACT 1981 AND THE LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOINING 65 TOTARA ROAD - MIRAMAR**

Report of Wendy O'Neill – Property Adviser, Parking and Property Services.

(1215/53/IM)

(REPORT 3)

RESOLVED AND RECOMMENDED TO COUNCIL:

THAT the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend that the Council, pursuant to section 40 of the Public Works Act 1981:*
 - (a) *Agree that the area of approximately 55m² of unformed legal road adjoining 65 Totara Road, Miramar is not required for a Public Work (refer Appendix 1).*

Note: 65 Totara Road, Miramar is described as Lot 1 DP 27874, being Computer Freehold Register WNF1/1109.

 - (b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.*
3. *Note that once the section 40 report has been received, a report will be presented to the Chief Executive Officer for approval under delegated authority to either offer the land back to its former owner or their successor, or to approve the exemption from offer back.*
4. *Authorise Council officers to initiate the road stopping process in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
5. *Subject to all statutory and Council requirements being met and no objections to the road stopping being received, Council delegates to the Chief Executive Officer the power to formally approve the road stopping and issue the public notice to declare the road stopped.*
6. *Note that if objections are received and the proponent wishes to continue with the road stopping, a further report will be presented to Committee for consideration.*

7. *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement, provided any such agreement is conditional upon the road being stopped.*

081/07RP **PROPERTY FOR DISPOSAL UNDER THE PUBLIC WORKS ACT 1981 AND THE LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOINING 93 TIO TIO ROAD – SEATOUN**

Report of Wendy O'Neill – Property Adviser, Parking and Property Services.

(1215/53/IM)

(REPORT 4)

RESOLVED AND RECOMMENDED TO COUNCIL:

THAT the Regulatory Processes Committee:

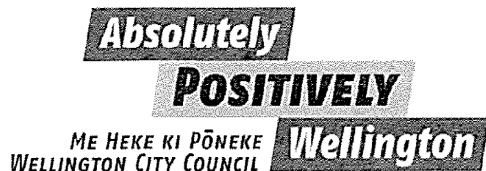
1. *Receive the information.*
2. *Recommend that the Council, pursuant to section 40 of the Public Works Act 1981:*
 - (a) *Agree that the area of approximately 454m² of unformed legal road adjoining 93 Tio Tio Road, Seatoun is not required for a Public Work (refer Appendix 1).*

Note: 93 Tio Tio Road, Seatoun is described as Lot 1 DP 83848, being Computer Freehold Register WN50D/988.

- (b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.*
3. *Note that once the section 40 report has been received, a report will be presented to the Chief Executive Officer for approval under delegated authority to either offer the land back to its former owner or their successor, or to approve the exemption from offer back.*
4. *Authorise Council officers to initiate the road stopping process in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
5. *Subject to all statutory and Council requirements being met and no objections to the road stopping being received, Council delegates to the Chief Executive Officer the power to formally approve the road stopping and issue the public notice to declare the road stopped.*

APPENDIX 3

Minutes – Council meeting -- 29 August 2007



COUNCIL

MINUTES

WEDNESDAY 29 AUGUST 2007
5.30 – 6.55PM

Council Chamber
First Floor, Town Hall
Wakefield Street
Wellington

PRESENT:

Mayor Prendergast
Councillor Ahipene-Mercer (6.25 – 6.55pm.)
Councillor Armstrong
Councillor Cook
Councillor Foster (5.37 – 6.55pm.)
Councillor Gill
Councillor Goulden
Councillor McKinnon
Councillor Morrison
Councillor Pepperell
Councillor Ritchie (5.35 – 6.55pm.)
Councillor Ruben
Councillor Shaw
Councillor Wade-Brown

APOLOGIES:

Councillor Ahipene-Mercer (for lateness)
Councillor Wain

must be offered back to its former owner or their successor, or whether an exemption from offer back applies.

2. **ITEM 080/07RP PROPERTY FOR DISPOSAL UNDER THE PUBLIC WORKS ACT 1981 AND THE LOCAL GOVERNMENT ACT 1974:
LEGAL ROAD ADJOINING 65 TOTARA ROAD - MIRAMAR
(1215/53/IM)(REPORT 3)**

THAT Council:

1. *Pursuant to section 40 of the Public Works Act 1981:*

- (a) *Agree that the area of approximately 55m² of unformed legal road adjoining 65 Totara Road, Miramar is not required for a Public Work (refer Appendix 2 of the report).*

Note: 65 Totara Road, Miramar is described as Lot 1 DP 27874, being Computer Freehold Register WNF1/1109.

- (b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.*

3. **ITEM 081/07RP PROPERTY FOR DISPOSAL UNDER THE PUBLIC WORKS ACT 1981 AND THE LOCAL GOVERNMENT ACT 1974:
LEGAL ROAD ADJOINING 93 TIO TIO ROAD – SEATOUN
(1215/53/IM) (REPORT 4)**

THAT Council:

1. *Pursuant to section 40 of the Public Works Act 1981:*

- (a) *Agree that the area of approximately 454m² of unformed legal road adjoining 93 Tio Tio Road, Seatoun is not required for a Public Work (refer Appendix 3 of the report).*

Note: 93 Tio Tio Road, Seatoun is described as Lot 1 DP 83848, being Computer Freehold Register WN50D/988.

- (b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.*

4. **ITEM 082/07RP PROPERTY FOR DISPOSAL UNDER THE PUBLIC WORKS ACT 1981 AND THE LOCAL GOVERNMENT ACT 1974:**