

# REGULATORY PROCESSES COMMITTEE

19 JUNE 2013



**REPORT 2**  
(1215/53/IM)

## ROAD STOPPING AND ACQUISITION – LEGAL ROAD ADJOINING 3 BURN STREET, KARORI

### 1. Purpose of report

The purpose of this report is to obtain agreement that 96 m<sup>2</sup> of Council owned unformed legal road land adjoining 3 Burn Street, Karori, 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

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 Local Government Act 1974 (LGA).

An application has been made to Council by the owners of 3 Burn Street, Karori to stop a portion of unformed legal road adjoining their property. The owners currently have use of the Land under an encroachment licence. They have no plans to develop the Land and have made their road stopping application to give them security of ownership.

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

The immediate neighbours have been advised. The owners of the adjoining 1 Burn Street property queried the location of the boundary they share with the applicants property, hence the Land has been surveyed earlier than usual in the process. There are no outstanding neighbour concerns, and they will have the opportunity to comment when the full public consultation is carried out later in the process.

### 3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*

2. *Recommend to Council that it:*

- (a) *Agree that 96 m<sup>2</sup> of unformed legal road land in Burn Street (Road Land) adjoining 3 Burn Street (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 Road Land in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
- (f) *Delegate 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 with no objections being received.*
- (g) *Delegate to the Chief Executive Officer, if no objections are received during the consultation period, the power to negotiate the terms of sale, impose any reasonable covenants, 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 3 Burn Street, provided any such agreement is conditional upon the road being stopped.*
- (h) *Note that if objections are received to the road stopping and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*

#### **4. Background**

Council has received a road stopping application to 'stop' unformed legal road adjoining 3 Burn Street, from the owners of the property. The legal description of 3 Burn Street, is Lot 10 DP 2707 being held on Computer Freehold Register WN313/247 Wellington Registry.

The Land is used by the applicants by way of encroachment licence for lawn, garden and carport, with a fence separating it from the street. The applicants have said that they have no intention to develop the Land, but have made the application to give them certainty of tenure.

## **5. Discussion**

### **5.1 Consultation and Engagement**

As part of the road stopping process service authorities, internal business units, and immediate neighbours are given an opportunity to provide comments.

All relevant service authorities have given their consent, with just their standard conditions.

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

- Road and Traffic Maintenance who required that a legal road width of 14.5m be retained.
- Parks and Gardens who required a kowhai tree located on the Land be protected by way of a conservation covenant registered on the title.
- Development Planning and Compliance required consultation with the owners of 2, 4 and 6 Burn Street as the proposal triggers new front yard rule requirements on them, and with 1 Burn Street who would have additional sunlight access plane and yard requirements. All of these neighbours have been advised of the road stopping proposal and they have no outstanding concerns. These parties will have the opportunity to comment when the full public consultation is carried out later in the process.

### **5.2 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.

### **5.3 Climate change impacts and considerations**

There are no climate change impacts.

### **5.4 Long-term plan considerations**

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

## **6. Conclusion**

Officers believe that the 96 m<sup>2</sup> area of unformed legal road land in Burn Street is no longer needed for Council's operational requirements and should be declared surplus, stopped and sold to the adjoining owners of 3 Burn Street.

**It is therefore recommended that the Regulatory Processes Committee recommends to Council that the 96 m<sup>2</sup> of unformed legal road adjoining 3 Burn Street 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.*

*Number 1 Burn Street had concerns about their shared boundary with the applicant and that has been satisfied by having the land surveyed and the boundary defined.*

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

*All internal business units gave their consent, with Road and Traffic Maintenance, Parks and Gardens, and Development Planning'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 LGA and Section 40 PWA considerations will address relevant issues.*

### **7) Consistency with existing policy**

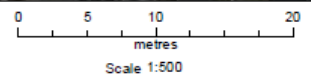
*The recommendations of this report are consistent with WCC policy.*



# APPENDIX 1



## Proposed road stopping - 3 Burn Street



Property boundaries, 20m Contours, road names, rail line, address & title points sourced from Land Information NZ. Crown Copyright reserved. Property boundaries accuracy: +/-1m in urban areas, +/-30m in rural areas. Census data sourced from Statistics NZ. Postcodes sourced from NZ Post. Assets, contours, water and drainage information shown is approximate and must not be used for detailed engineering design. Other data has been compiled from a variety of sources and its accuracy may vary, but is generally +/- 1m.

MAP PRODUCED BY:  
Wellington City Council  
101 Wakefield Street  
WELLINGTON, NZ

ORIGINAL MAP SIZE: A4  
AUTHOR: shakes2a  
DATE: 17/08/2012  
REFERENCE:



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