

## REPORT 2

# PROPOSED ROAD STOPPING – 16 MALLAM STREET

## 1. Purpose of report

The purpose of this report is to seek approval from the Council for the stopping of a section of unformed legal road; being part of Mallam and Braithwaite Streets, Karori (refer Appendix 1).

## 2. Executive summary

At its meeting of 29 November 2012, the Financial Sustainability Working Party instructed officers to run a pilot 'bulk' road stopping initiative.

Officers subsequently identified a pilot area which satisfied the Council's infrastructure, urban design and District Plan criteria. This was located in Burn Street, Karori, where properties to the eastern side each held road encroachment licences.

Letters were sent to eight owners (some with dual frontage to Burn and Mallam / Braithwaite Streets), inviting them to participate in a 'bulk road stopping exercise'. The hope was that if all owners participated, some savings (eg survey, valuation etc) could be made via a joint application.

As it turned out, only one of the owners was prepared to proceed through to the road stopping application.

The owners of 16 Mallam Street (with dual frontage to Braithwaite Street) have agreed to initiate the road stopping process.

Initial consultation with utility providers, Council business units, and immediately-adjacent neighbours identified no parties who were opposed to the road stopping, and some who were conditionally supportive.

The proposed road stopping comprises some 203m<sup>2</sup> of land occupied by a grassed lawn, established vegetation and a low wall. The area is currently held by way of an encroachment licence by the owners of 16 Mallam Street.

## 3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to the Council that it agrees, pursuant to Sections 319(1)(h) and 342(1)(a) of the Local Government Act (LGA) 1974, to declare*

*surplus and stop the section of the unformed part of Mallam and Braithwaite Streets (**Road Land**), Karori (being approximately 203m<sup>2</sup> of land bordered red as shown on the plan in Appendix 1) and adjoining 16 Mallam Street, Karori.*

- (a) Note that, if successfully stopped, the area may be amalgamated with 16 Mallam Street, Karori (being Lot 1 DP 2707, comprising some 797m<sup>2</sup> under Computer Freehold Register WN220/37).*
  - (b) Note that all costs associated with the relocation of any services currently existing within the unformed road will be borne by the applicant.*
- 3. Authorise Council officers to commission a section 40 Public Works Act 1981 (**PWA**) report, from suitably qualified consultants, to identify whether the area of unformed legal road land must be offered back to its former owner or their successor, or whether exemptions from offer back applies.*
  - 4. 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).*
  - 5. 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 requirements of the Council being met with no objections being received.*
    - (a) 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**

As part of a Financial Sustainability Working Party directive, Council Officers undertook a pilot 'bulk' road stopping.

The idea behind the pilot was to approach multiple neighbouring property owners, who each held road encroachment licences, in order to gauge their interest in undertaking a road stopping simultaneously. The intent was to achieve economies both in professional fees and officer time.

In order to be suitable for a 'bulk' road stopping, the street needed to meet a number of criteria, including:

- No road widening anticipated in the future (in other words, the legal but unformed road is surplus to requirements)

- No significant vegetation onsite which needed to be retained in public ownership
- Satisfactory streetscape to be maintained
- No significant district plan / infrastructure / other Council impediments

A number of streets were examined against the above criteria and discounted due to unsuitability.

Eight properties fronting Burn and Mallam Streets were approached – 9, 13, 15 and 17 Burn Street and 4, 6, 8 and 16 Mallam Street (refer Appendix 2). Of those eight, four initially agreed to undertake the process. Subsequently three of those parties withdrew leaving 16 Mallam Street as the only party wishing to proceed.

The area of the proposed road stopping comprises some 203m<sup>2</sup> of land occupied by a grassed lawn, established vegetation and a low wall. The area is currently held by way of an encroachment licence by the owners of 16 Mallam Street.

## 5. Discussion

Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) of the LGA 1974.

### 5.1 Consultation and Engagement

Consultation was undertaken with the relevant Service Authorities and the Council's Business Units, the following comments were received:

<b>Service Provider / Business Unit</b>	<b>Condition</b>
Wellington Electricity Ltd	<p>Has no objection provided that:</p> <ol style="list-style-type: none"> <li>1. All activities near the lines must be carried out in accordance with the NZ Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001)</li> <li>2. Northpower are contacted to obtain plans of the lines.</li> <li>3. Any relocation of the lines will be at applicant's expense; contact Northpower to arrange.</li> <li>4. If any Wellington Electricity lines are to be located on private land, an easement must be granted to Wellington Electricity.</li> <li>5. If any underground electricity cables are noticed or an electricity outage is caused, construction must be halted immediately and Wellington Electricity contacted.</li> </ol>

Vodafone New Zealand Ltd	No objection.
Telecom (c/- Downer)	No objection.
Powerco Ltd (gas)	No objection. Gas pipe passes through portion of site, no build over this area or, alternatively, relocate the gas pipe.
Nova Gas Ltd	No objection.
Capacity (WCC Water Supply)	No objection.
Parks, Sport & Recreation (WCC)	Requests a vegetation protection covenant over the Road Land.
District Plan (WCC)	Note irregular road width resulting from piecemeal stopping would cause front yard rule set back anomalies. Recommend road be stopped consistently.
Urban Design (WCC)	No objection.
Vehicle Access (WCC)	No objection.
Planning (WCC)	No objection. Recommend amalgamation condition be imposed, and that consultation be undertaken with neighbouring properties due to changes in development potential.
Transport (WCC)	No objection.

### **5.1.1 Adjoining Landowners Consultation/ Public Notification**

In January 2014 letters were sent to the 20 immediately-adjacent neighbours of the Burn/Mallam/Braithwaite Street block. At time of writing no comments were received in return from these parties.

### **5.2 Financial considerations**

There are no financial considerations related to this recommendation. Any costs associated with the disposal of the Road Land are to be borne by the applicant.

In August 2011 new cost sharing incentives for road stoppings were approved by the Council. The rebate amount 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 significant impact on the Long Term Plan. The disposal of surplus land, however, will assist the Council's financial position by gaining the proceeds of sale while reducing holding and maintenance costs.

### **6. Conclusion**

Council Officers believe that the 203m<sup>2</sup> area of unformed legal road land at the corner of Mallam and Braithwaite Streets is no longer needed for Council's operational requirements and should be declared surplus, stopped and sold to the adjoining owners; 16 Mallam Street.

It is therefore recommended that the Regulatory Processes Committee recommends to the Council that the 203m<sup>2</sup> of unformed legal road adjoining 16 Mallam Street be declared surplus, and that officers can initiate the road stopping procedure, and eventual sale.

Contact Officer: Brett Smith, Property Advisor

## 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 standard conditions.*

*All internal business units gave their consent, with typical conditions imposed.*

#### b) Consultation with Maori

*Iwi have not been consulted with; the land is not to be disposed on the open market.*

### 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 the Council's policies*

# Appendix 1: Aerial Map



**Appendix 2: Encroachment Land (green) and Buildings (red) – Mallam and Burn Streets**



<p><b>Disclaimer</b></p> <p>Property boundaries, 20m Contours, road names, rail line, address &amp; title points sourced from Land Information NZ. Crown Copyright reserved.</p> <p>Property boundaries accuracy:          +/-1m In urban areas          +/-30m In rural areas</p>	<p>Census data - Statistics NZ.          Postcodes - NZ Post.</p> <p>Assets, contours, water and drainage information shown is approximate and must not be used for detailed engineering design.</p>	<p>Other data has been compiled from a variety of sources and its accuracy may vary, but is generally +/- 1m.</p>	<p style="text-align: center;"><b>Absolutely POSITIVELY Wellington</b></p> <p style="text-align: center; font-size: small;">We Revv it Pōwhiri WELLINGTON CITY COUNCIL</p> <p style="text-align: right;">Scale 1:750</p>
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