

ORDINARY MEETING

OF

REGULATORY PROCESSES COMMITTEE

AGENDA

Time: 1:00pm
Date: Wednesday, 14 February 2018
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

MEMBERSHIP

Mayor Lester
Councillor Calvert
Councillor Calvi-Freeman
Councillor Lee
Councillor Sparrow (Chair)

Have your say!

You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 803-8334, emailing public.participation@wcc.govt.nz or writing to Democratic Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number and the issue you would like to talk about.

AREA OF FOCUS

The Regulatory Processes Committee has responsibility for overseeing the Council's regulatory functions.

The committee will have responsibility for:

- Resource Management Act (RMA) Commissioners – Approve List and Appointment Guidelines
- Dog Objections and Fencing of Swimming Pools
- Road Stopping
- Temporary Road Closures
- Liquor Ban Bylaw Appeals
- Development Contributions Remissions.
- Approving leases under the “Leases Policy for Community and Recreation Groups”

Quorum: 3 members

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1 Meeting Conduct

1.1 Apologies

The Chairperson invites notice from members of apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

1.2 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

1.3 Confirmation of Minutes

The minutes of the meeting held on 15 November 2017 will be put to the Regulatory Processes Committee for confirmation.

The minutes of the meeting held on 29 November 2017 will be put to the Regulatory Processes Committee for confirmation.

1.4 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 3.23.3 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

1.5 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows:

Matters Requiring Urgent Attention as Determined by Resolution of the Regulatory Processes Committee.

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor Matters relating to the General Business of the Regulatory Processes Committee.

No resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Regulatory Processes Committee for further discussion.

2. General Business

DEVELOPMENT CONTRIBUTIONS REMISSION REPORT FOR 82 WOODLAND ROAD

Purpose

1. The purpose of this report is to provide advice on the development contribution fee remission application received from Markus Frey, owner of 82 Woodland Road.

Summary

2. The owner has applied for a building consent to convert a 5-bedroom, 3-bathroom home into a 3-bedroom, 2-bathroom unit and a 2-bedroom, 1-bathroom unit.
3. As outlined in the Development Contributions Policy (the Policy), a residential Equivalent Household Unit (EHU) is a household unit that has more than one bedroom. One-bedroom or studio households are charged 70% of an EHU.
4. Therefore based on the Policy the development will result in one additional EHU. The development contributions charge for this additional EHU is \$5,913.30.
5. The owner has applied to the Committee to remit this charge in full or failing that, to reduce the fee to the equivalent of a one-bedroom household unit.
6. The Policy allows the Council to remit development contributions at its complete discretion. This authority is delegated to the Regulatory Processes Committee.
7. Officers recommend declining the request for both the full and partial remission.

Recommendation/s

That the Regulatory Processes Committee:

1. Receives the information.
2. Declines the application for a remission of development contributions and confirms the development contribution of \$5,913.30 (GST inclusive) payable by the owner.

Background

Development

8. The owner has applied for a building consent to convert a 5-bedroom, 3-bathroom home into a 3-bedroom, 2-bathroom apartment and a 2-bedroom, 1-bathroom apartment. He is creating the second apartment by separating a portion of the ground floor off and adding a kitchen. He is not increasing the floor area (see floor plans in **Attachment 3**).
9. The building consent was lodged with the Council on 24 July 2017. The application has, therefore, been assessed under the 2015/16 Development Contributions Policy (the Policy).

Development Contributions Policy

10. The Policy provides Council with a method to obtain contributions to fund infrastructure required as a result of growth.
11. Council believes it is appropriate that development contributions fund additional capacity in infrastructure as the benefits of this additional capacity mainly accrue to new households (EHUs) and businesses generating the demand for that capacity.
12. The Policy provides that any development associated with an application for building consent, resource consent or service connection lodged on or after 1 July 2005, will be required to pay a contribution under the Policy (see clause 1.4.2 of the Policy).
13. The Committee can only consider exercising its discretion upon consideration of a remission application as described under section 2.6 of the Policy below.

2.6 Remission and Postponement

- 2.6.1 *The Council may postpone payment or grant a remission on development contributions at its complete discretion.*
- 2.6.2 *Applications made under this part will be considered on their own merits and any previous decisions of the Council will not be regarded as creating precedent or expectations.*
- 2.6.3 *An application for remission must be made before any development contributions payment is due to the Council. The Council will not allow remissions retrospectively.*
- 2.6.4 *An application must be made in writing and set out the reasons for the request*
- 2.6.5 *Green Building Remission ... (not applicable in the instance)*
- 2.6.6 *Other remissions - the Council will only consider exercising its discretion in exceptional circumstances. Other remissions will only be granted by resolution of the Council (or a Committee or Subcommittee acting under delegated authority).*

14. In terms of the Policy, residential development is assessed on the basis of the number of equivalent household units (EHUs) created by the development.
15. EHUs are applied as follows:

| Type of development | EHU assessment based on |
|----------------------------|---|
| Residential development | 1 EHU per household unit of two or more bedrooms 0.7 EHU per studio or one-bedroom household |

Development Contributions assessment

16. Council officers applied the Policy to the development and assessed that the conversion of the house increases the current number of EHUs from 1 to 2 EHUs.
17. The Development Contribution charge for this additional EHU was calculated as \$5,913.30 (GST inclusive) (see **Attachment 2**). The owner was invoiced accordingly.

Discussion

Officers' assessment of remission application

18. The owner has applied to have his development contributions waived in full (see **Attachment 1**). He has put forward two arguments, which are assessed below.

A. Very limited, if any, benefit of additional capacity

19. The owner has stated that he believes his conversion will require little, if any, additional infrastructure capacity and therefore his property will not accrue any benefit from paying development contributions.
20. His argument is that the property will have the same number of bedrooms after the development as it had before, therefore the same number of people could live in the existing house as could live in the two new units. Whilst acknowledging that the development includes an additional kitchen, he does not believe that this will put any additional pressure on services.
21. The Policy defines a household as any self-contained unit that includes “kitchen and bathroom facilities of any nature”. Further to the definition, section 11.1.2 of the Policy states “EHUs will be applied uniformly for each lot regardless of size for reasons of administrative simplicity and lot size is not considered to have a material impact on demand”.
22. The consistent application of policy is central to good governance and equity. Given that the Policy does not determine household units by the number of bedrooms this application should not be treated any differently. In addition, it is important to note the cumulative impact of even seemingly minor infrastructure demand. As such it is recommended to decline the application.

B. Increased Wellington City rates after renovation

23. The owners have stated that their new apartment will result in an increased valuation of their property and therefore they “will contribute more already by paying increased rates”.
24. The value of this property may increase as a result of the improvements, meaning that the property will contribute a higher portion of the Wellington City Council’s rates requirement; however, this will not affect the total value of rates collected by WCC.
25. Rates are charged for ongoing maintenance and operation of existing infrastructure not for increased demand put on the system due to new developments
26. Therefore officers believe that an increased rates impost on an individual property should not be considered as a reason for remitting development contributions

Alternative request to reduce development contributions

27. The owner has requested that, if development contributions are not waived in full, that the Committee considers treating the new apartment as a one-bedroom apartment. This would reduce the contributions by 30% (to \$4,139.31).
28. The owner states that the bathroom in the new unit can only be accessed via one of the bedrooms therefore the two-bedroom apartment could only be rented to a couple, as such Council should treat it as a one-bedroom apartment.
29. It is true that the bathroom is only accessible via the main bedroom, but this might not dissuade a family with one or two children from moving in and using the second bedroom. As such officers believe the new apartment should be charged the full EHU in line with the Policy.

Options

30. The Policy enables remissions of development contributions to be granted in exceptional circumstances at the Council’s discretion and states that these decisions will not be regarded as creating precedent or expectations.
31. The Regulatory Processes Committee has delegated authority and responsibility for making decisions on applications for remissions under the Policy.

32. The Committee has three options:
- a. To remit the development contributions of \$5,913.30 in full or;
 - b. To assess the new household unit as a one-bedroom unit and invoice the owner \$4,139.31 or;
 - c. To decline the request for a remission and invoice the owner \$5,913.30.
33. As stated above, the recommended option is Option C.

Next actions

34. The Committee is to notify Council officers of their decision and the owner will be notified accordingly.

Attachments

| | | |
|---------------|--------------------------------------|---------|
| Attachment 1. | Remission request from owner | Page 12 |
| Attachment 2. | Development Contributions Assessment | Page 14 |
| Attachment 3. | Floor Plans | Page 15 |

| | |
|------------|--|
| Author | Nicole Tydda, Manager Cust Serv & BusSupport |
| Authoriser | David Chick, Chief City Planner |

SUPPORTING INFORMATION

Engagement and Consultation

Not applicable

Treaty of Waitangi considerations

Not applicable

Financial implications

See paragraph 31 of the report above

Policy and legislative implications

The recommendations are considered to be compliant with the Development Contributions Policy.

Risks / legal

Not applicable

Climate Change impact and considerations

Not applicable

Communications Plan

Not applicable

Health and Safety Impact considered

Not applicable

Dear members of the Regulatory Process Committee,

I am writing you to ask for remission of the development contributions for the flat conversion at 82 Woodland Road.

Shortly after my wife and I purchased the property at 82 Woodland Road we started thinking about whether we should get flatmates or create a separate flat to help us with paying off our mortgage. We decided to create a separate flat to ensure we contribute to a lasting improvement to the Wellington rental market. Even if future owners of 82 Woodland Road were unwilling to have flatmates, they could still rent out the separate flat and therefore we would have created a lasting contribution to ease the tense Wellington rental market. We decided to do this although creating a separate flat incurred substantial costs (\$50,000).

I would also like to mention we are passionate about creating warm, dry and healthy rentals to fellow Wellingtonians. The flat will be almost completely double glazed, well insulated, very sunny due to the main bedroom facing north-west and will have a heat pump.

I would like to point out why I believe it would be fair for the Regulatory Process Committee to waive the development contributions for the flat conversion at 82 Woodland Road. Wellington City Council's development contribution policy says:

1.1.2 Development contributions may be required in relation to developments if the effect of the developments is to require new or additional assets of increased capacity and as a consequence the Council incurs capital expenditure to provide appropriately for network infrastructure or reserves. In addition the Council may require development contributions to pay, in full or in part, for capital expenditure already incurred by the Council in anticipation of development.

9.3.1 It is appropriate that development contributions fund additional capacity in water supply, wastewater, stormwater, roading and parks and reserves. The benefits of this additional capacity mainly accrue to new households (EHUs) and businesses generating demand for that capacity. Development contributions paid by developers are likely to be passed on through section and building prices to the residents of new households and businesses. Existing residents and businesses, however, gain a much reduced benefit from the infrastructure and resulting growth in the city, and therefore they should not be required to fund the majority of the costs (where the benefit accrues to new developments) through rates.

I think it is important to emphasise the development policy says contributions *may* be not *are* required and I would like to ask the Committee members to consider deciding that contributions are not necessary in this case. I would like to explain why I don't believe 9.3.1 makes sense for the flat conversion at 82 Woodland Road. This is because:

- There will be very limited, if any, benefit of additional capacity accrued by us, the owners of 82 Woodland Road
- We are the developers of the flat conversion as well as the owners of 82 Woodland Road and will already face increased Wellington City rates after the renovation

Very limited, if any, benefit of additional capacity

I believe we, as the owners of 82 Woodland Road will accrue very limited, if any, benefit of additional capacity in water supply, wastewater, etc. This is because there is very limited, if any, additional capacity needed as a result of the flat conversion. The number of bedrooms (5 + one study), living areas (3) and bathrooms (3 + one toilet) will remain the same after the conversion. The only difference is the introduction of a new kitchen. The house has been built for a big family in mind using more than one car (double garage and plenty of off street parking) so there is no additional capacity for roading needed. We were deciding between getting flatmates or

creating a separate flat. Having flatmates would have meant there were more than our one car at the property but no additional contribution for roading costs would have occurred.

I also don't believe there is a need for additional water capacity as a result of the flat conversion because had we chosen to get flatmates the additional water use in our kitchen and the bathrooms would have been comparable to the additional water use after the flat conversion.

As mentioned above we want to create a high quality rental which also means we will not have more than two adult tenants in the flat. I struggle to see how two adults would require more capacity in water, roading, etc. than a big family which is what the house is being built for and which is what the current rates are based on.

Increased Wellington City rates after renovation

The rates for 82 Woodland Road will increase after the renovation due to the increased Wellington City Council valuation. If the Council increases the valuation of 82 Woodland Road by \$150,000 the increased rates would currently be \$774.11 per year (WCC rates: $150,000 \times 0.431475 / 100 = \647.21 ; GWC rates: $150,000 \times 0.0846 / 100 = \126.90) or \$1,032.15 for a \$200,000 increase.

Because we are the developers of the flat conversion as well as the owners of 82 Woodland Road, in this case we, as the owners will contribute more already by paying increased rates.

Flat will be like one bedroom flat

We will be happy to do whatever the Regulatory Process Committee believes is reasonable. If the Committee does not believe it is reasonable to waive the development contribution for the creation of the new flat we would like the Committee to consider reducing the contribution. The development policy says creating a one bedroom flat will trigger 70% of the contribution costs of a bigger unit (0.7 EHU compared to 1.0 EHU). I would like to explain a little bit more about the plans for the new flat. It will have one large bedroom with ensuite bathroom and a small second bedroom or study. The fact that the bathroom comes off the large bedroom means the flat can not be rented out to two parties (eg flatmates) but only to a single person or a couple. I believe this makes it very similar to a one bedroom flat and therefore, if you believe we need to pay a development contribution, I would like you to consider setting this at the contribution cost of a one bedroom unit.

I would be happy to attend the meeting of the Regulatory Process Committee meeting to discuss any questions the Committee members might have about anything in this letter.

Kind regards,
Markus Frey

Development Contribution Summary

Property

WUFI: 1049812 Property Type: Survey
 Address: 82 Woodland Road Status: Current
 Legal Description: LOT 3 DP 50260

Service Requests with Development Contribution Items

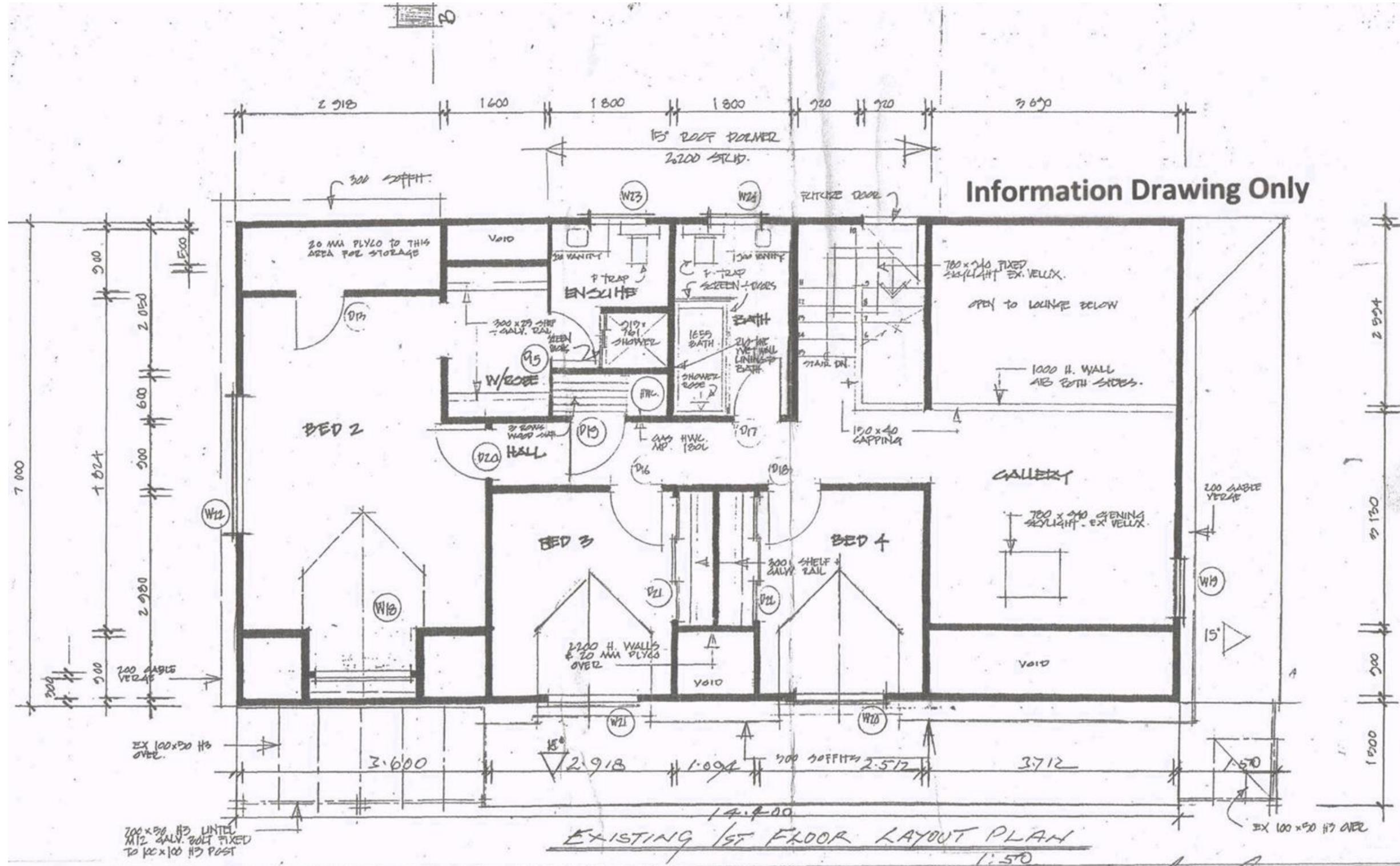
SR Code: 390186 SR Type: aBLDG CONSENT Regular Under
 SR Item Description: C1 - Alterations to an existing dwelling to create a separate unit on ground floor, contains both vertical and horizontal fire separation.

| DC Attribute Type | Actual Value | Calculation Value | Calculation Value Change Reason |
|---|------------------------|-------------------|---------------------------------|
| Year | 2015-2016 | 2015-2016 | |
| Base SR Number | 390186 | 390186 | |
| Base Assessment | Yes | Yes | |
| No. of Existing Dwellings | 1 | 1 | |
| Final No. of Dwellings | 2 | 2 | |
| No. of Existing Lots | 0 | 0 | |
| Final No. of Lots | 0 | 0 | |
| No. of Existing Units | 0 | 0 | |
| Final No. of Units | 0 | 0 | |
| Existing Square Metres | 0 | 0 | |
| Final Total Square metres | 0 | 0 | |
| Max EHU per Level | 1.00 | 1.00 | |
| Zone (Locality) | F - Johnsonville-Onslo | F - Johnso | |
| Development Contribution | 6103.05 | 6103.05 | |
| Equivalent Household Unit | 1.00 | 1.00 | |
| Equivalent Household Unit - Residential | 1.00 | 1.00 | |
| EquivHousehold Unit - Non Residential | 0.00 | 0.00 | |

Development Contribution Fees Breakdown

| Type | Rate (GST Inclusive) | EHU | Total Fee (GST Exclusive) | Gst | Total Fee (GST Inclusive) |
|--|----------------------|--------------|---------------------------|------------------|---------------------------------------|
| ZoneF Dev Contr City - Reserves | 522.10 | 1 | 454.00 | 68.10 | 522.10 |
| ZoneF Dev Contr City - Roading | 1508.80 | 1 | 1312.00 | 196.80 | 1508.80 |
| ZoneF Dev Contr City - StormWater | 189.75 | 1 | 165.00 | 24.75 | 189.75 |
| ZoneF Dev Contr City - WasteWater | 139.15 | 1 | 121.00 | 18.15 | 139.15 |
| ZoneF Dev Contr City - WaterSupply | 387.55 | 1 | 337.00 | 50.55 | 387.55 |
| ZoneF Dev Contr - Reserves | 0 | 1 | 0.00 | 0.00 | 0.00 |
| ZoneF Dev Contr - Roading | 0 | 1 | 0.00 | 0.00 | 0.00 |
| ZoneF Dev Contr - WasteWater | 1362.75 | 1 | 1185.00 | 177.75 | 1362.75 |
| ZoneF Dev Contr - WaterSupply | 1820.45 | 1 | 1583.00 | 237.45 | 1820.45 |
| ZoneF Dev Contr City - Com_Infra_Str | 0 | 1 | 0.00 | 0.00 | 0.00 |
| ZoneF Dev Contr City - Com_OpenSpace | 172.50 | 1 | 150.00 | 22.50 | 172.50 |
| Total: | | | | | 6103.05 5,913.30 |

Assessment updated date: 17/10/2017 10:17:13



PROPOSED 2 BEDROOM FLAT for MARKUS FREY & WEN YIM: EXISTING
1ST FLOOR LAYOUT PLAN: 82 WOODLAND RD JOHNSONVILLE, WELLINGTON
6057 LOT 3 DP 50260 AREA 691M² CT VN 20/32

A. S. Senewaj NCC/PA
LBP 125881
SCALE: AS SHOWN 8-11

PROPOSED ROAD STOPPING - LAND ADJOINING 87 RUSKIN ROAD, NEWLANDS

Purpose

1. The purpose of this report is to recommend that the Council disposes of approximately 65m² of unformed legal road adjoining 87 Ruskin Road, Newlands (refer Attachments 1 and 2).

Summary

2. The owners of 87 Ruskin Road, Newlands, have applied to purchase part of the unformed legal road adjoining the road frontage of their property.
3. The approximately 65m² 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 the road stopping will then be publicly notified. At that time any neighbours, organisations, or 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 65m² of unformed legal road on Ruskin Road, Newlands, shown as the land bordered red on the plan in Attachment 2 (the **Land**) and abutting 87 Ruskin Road, Newlands (being Lot 7 DP 29289, CFR WN5D/1007), is not required for a public work and is 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 roads stopping and disposal of the Land, including all legislative matters, issuing of 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 with the process, a further report will be presented to the Regulatory Processes Committee for consideration.

Background

7. Ruskin Road was originally set out in 1921 (DP5259) while 42 Maupuia Road is the result of a more recent subdivision completed in the late 1960s (DP29289).

8. 87 Ruskin Road comprises a 1970s bungalow situated well below the road on a part sloping but generally level section with established trees, gardens and landscaped.
9. The Land is set back approximately 5 metres from the kerb face and is a sloping bank with established trees. It falls moderately steeply down from the Ruskin Road carriageway towards the northeast.
10. The applicant is seeking to purchase the Land to stabilise it above their house, further establish the garden on the slope, and create an off street car deck and landscaped seating areas.

Discussion

11. Road stopping is provided for under sections 319(1)(h) and 342(1)(a) of the Local Government Act 1974 (the **LGA**).
12. Council, under section 40 of the Public Works Act 1981 (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.
13. The Transport Network Team has confirmed the Land is not required for road or access purposes in the foreseeable future. No other relevant business units of the Council seek to retain the Land for other purposes.
14. The section 40 PWA report will, otherwise, determine whether any offer back obligations exist.

Options

15. 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 that Council no longer requires or intends to use.
16. 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

17. Conclude a section 40 PWA acquisition history investigation.
18. Prepare a survey legalisation plan and agreement for the Land.
19. Initiate the public notification process.

Attachments

| | | |
|---------------|-----------------------|---------|
| Attachment 1. | Location Plan | Page 23 |
| Attachment 2. | Aerial | Page 24 |
| Attachment 3. | Views at street level | Page 25 |

| | |
|------------|--|
| Author | John Vriens, Senior Property Advisor |
| Authoriser | Tracy Morrah, Property Services Manager David Chick, Chief City Planner |

SUPPORTING INFORMATION

Engagement and Consultation

Community

In December 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 neighbour consultation 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

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 sets 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

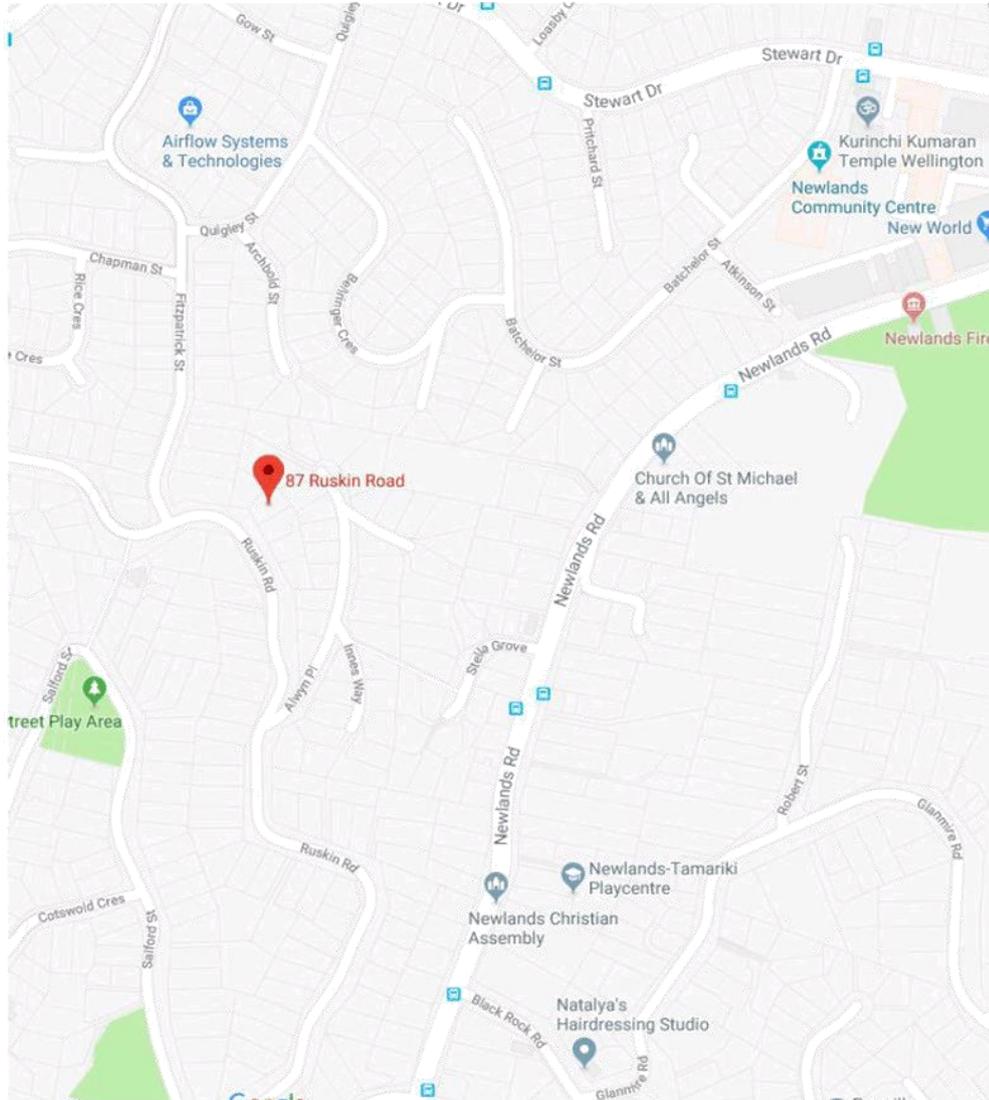
There are no climate change implications arising from this road stopping.

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

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.

Locality Plan for 87 Ruskin Road, Newlands



Aerial plan of 87 Ruskin Road, Newlands



87 Ruskin Road, Newlands - views from street level



ROAD STOPPING AND LAND EXCHANGE - LEGAL ROAD IN MANCHESTER STREET ADJOINING 1 MANCHESTER STREET

Purpose

1. To recommend that the Council:
 - a. Stops and sells approximately 110m² of Council-owned unformed legal road adjoining 1 Manchester Street, Melrose, Wellington (the Land); and
 - b. Acquires approximately 1m² of the applicants' land for the purposes of road (refer to the land exchange plan shown in **Attachment 1**).

Summary

2. The owners of 1 Manchester Street have applied to purchase part of the unformed legal road adjoining their property. This proposed road stopping area of 110m² is shown outlined red in **Attachment 1**.
3. Council's transport planners have taken this opportunity to acquire a small part of the owners' property (the Applicants' Land) in partial exchange for the above for future road improvement.
4. The Applicants' Land measures approximately 1m² and is shown outlined green in **Attachment 1**.
5. Utility providers and relevant Council business units have been consulted. All support the proposal subject to standard conditions (where applicable).
6. Initial consultation has been undertaken with neighbours and at the time of writing this report no replies have been received.
7. If the Council approves officers' recommendations then public notification will commence. At that time neighbours, and any other member of the public, will have an opportunity to make a submission.

Recommendations

That the Regulatory Processes Committee:

1. Receive the information.
2. Recommends to Council that it:
 - a) Agrees that approximately 110m² (subject to survey) of unformed road land in Manchester Street, Melrose, shown outlined red on **Attachment 1** (the Land), and adjoining 1 Manchester Street, Melrose (Part Lot D DP 145 CFR WN155/213) is not required for a public work and is surplus to Council requirements.
 - b) Agrees to dispose of the Land by partial exchange and/or sale for approximately 1m² of the owners adjoining land currently part of 1 Manchester Street (Part Lot D DP 145 CFR WN155/213) shown outlined green in **Attachment 1** (the Applicant's Land).
 - c) Agrees to acquire the Applicant's Land.
 - d) Delegates to the Chief Executive Officer all powers necessary to conclude this transaction including all legislative matters, issuing relevant public notices,

declaring the road stopped, negotiating the terms of sale and 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 with the road stopping, a further report will be presented to the Committee for consideration.

Background

8. The owners of 1 Manchester Street, Melrose have applied to acquire an area of legal but unformed road in Manchester Street to secure tenure of their decking, part house and retaining encroachments. This is shown outlined red in **Attachment 1** (the Land).
9. The Land is proposed to be amalgamated with 1 Manchester Street and measures approximately 110m². The legal description of 1 Manchester Street, Melrose is Part Lot D DP 145 CFR WN155/213.
10. In partial exchange for the Land, the owners have agreed to sell 1m² of land to Council. This is for the purposes of future road realignment and is outlined green on **Attachments 1 and 2** (the Applicant's Land).
11. The Applicant's Land is near a tight bend on Manchester Street and the Transport Network team have taken this opportunity to acquire 1m² for long term improvement of the road alignment and visibility on this bend in Manchester Street. Refer to **Attachment 2** for views of both areas at street level.

Discussion

12. Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) of the Local Government Act 1974 (LGA).
13. The Council, under section 40 of the Public Works Act 1981 (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. As part of the road stopping, officers consult with service authorities and affected internal business units. All have granted consent with only standard conditions applying.
15. The neighbours have been consulted and at the time of writing no reply have been received from the one immediately adjoining property.
16. Advisors from Council's Transport Team have confirmed the Land is not required for future road widening or public access purposes, and support the proposal. The proposal also addresses long term road alignment improvement on a tight bend in Manchester Street.
17. If Council approves the above, officers will establish whether any offerback obligations under section 40 PWA exist although exclusions are likely to apply.

Options

18. The alternative to undertaking the road stopping is to retain the Land as legal road. In the long term this will incur maintenance and retention costs on land that Council no longer requires

Next Actions

19. Conclude an investigation in accordance with s40 PWA.

-
20. Initiate the public notification process.
 21. Prepare a survey plan and conclude a land exchange agreement.

Attachments

| | | |
|---------------|------------------------------|---------|
| Attachment 1. | Aerial Plan of land exchange | Page 31 |
| Attachment 2. | Views at street level | Page 32 |
| Attachment 3. | Location plan | Page 33 |

| | |
|------------|--|
| Author | John Vriens, Senior Property Advisor |
| Authoriser | Tracy Morrah, Property Services Manager David Chick, Chief City Planner |

SUPPORTING INFORMATION

Engagement and Consultation

Community

Initial consultation has been undertaken with the neighbours and the time of writing no replies have been received.

Utility Provider and Council Business Units

All relevant utility providers and Council business units have been consulted. None have assets in the subject road land, or objected to the road stopping.

Treaty of Waitangi considerations

Iwi groups have not been consulted. The subject road land is not located in a Māori Precinct, or other area identified as significant to Māori. The land is not being disposed on the open market, and will not become a standalone allotment (amalgamation is proposed).

Financial implications

There are no financial considerations related 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 policies of the Council; the road stopping is also being undertaken in accordance with legislative requirements.

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

This proposed road stopping and exchange has no significant impact on the Long Term Plan.

Risks / legal

The road stopping process is consistent with legislative, and the Council's 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 for this road stopping and exchange.

Communications Plan

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

Health and Safety Impact considered

There are no Health and Safety Impact considerations for this proposed road stopping and exchange.

Aerial plan of proposed road stopping 110m² and acquisition 1m² at 1 Manchester Street, Melrose

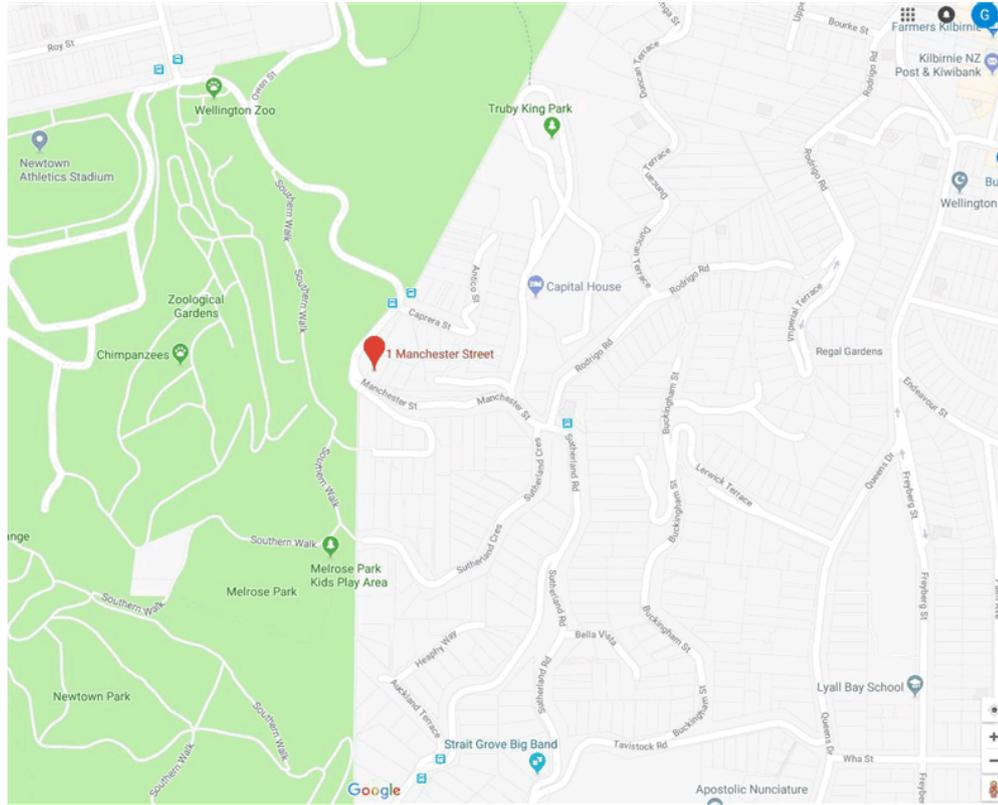


1 Manchester Street, Melrose – approximate indication of land exchange areas

- 1m² triangle to be acquired bordered green.
- 110m² to be stopped and sold bordered red



Locality Plan for 1 Manchester Street, Melrose



3. Public Excluded

Resolution to Exclude the Public:

THAT the Regulatory Processes Committee :

Pursuant to the provisions of the Local Government Official Information and Meetings Act 1987, exclude the public from the following part of the proceedings of this meeting namely:

| General subject of the matter to be considered | Reasons for passing this resolution in relation to each matter | Ground(s) under section 48(1) for the passing of this resolution |
|--|--|---|
| 3.1 Review of Independent Commissioners List | 7(2)(a) The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person. | s48(1)(a) That the public conduct of this item would be likely to result in the disclosure of information for which good reason for withholding would exist under Section 7. |
