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## **PROPOSED ROAD STOPPING - LAND ADJOINING 56 MAIDA VALE ROAD, ROSENEATH**

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### **Purpose**

1. This report asks the Regulatory Processes Committee to recommend that the Council stops and sells approximately 39m<sup>2</sup> (subject to survey) of unformed legal road adjoining 56 Maida Vale Road, Roseneath. Refer to Attachment 1 for location plan.

### **Summary**

2. The owners of 56 Maida Vale Road have applied to purchase the area outlined in red on Attachment 2 (the Land).
3. Utility providers and relevant Council business units have been consulted. All support the proposal, subject to conditions (where relevant).
4. Initial consultation letters were sent to four adjoining or adjacent neighbours. At the time of writing this report the only response received was from one neighbour who subsequently lodged their own road stopping application.
5. If the Council agrees with the recommendations of the Regulatory Processes Committee the road stopping will then be publically notified. At that time any neighbours, organisations, or any other members of the public will have the opportunity to make a submission.

### **Recommendation/s**

That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to the Council that it:
  - a) Agrees that approximately 39m<sup>2</sup> of unformed legal road on Maida Vale Road, Roseneath, (the Land) adjoining 56 Maida Vale Road (being Lot 2 DP 496085 ROT 730241), 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 road 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.

### **Discussion**

6. The Land proposed to be stopped extends along the entire front boundary of 56 Maida Vale Road, being used for garden (lawn, vegetation and low trees) and access.

7. Should the road stopping proposal be successful the Land would be amalgamated with 56 Maida Vale Road, its current use is not proposed to change.
8. 56 Maida Vale Road is situated approximately 2 – 3 metres above the formed carriageway. Refer to Attachment 3 for views from street level.
9. The closest point of 56 Maida Vale Road's legal frontage is approximately eight metres from the kerfacing on that properties side of the street. Should the road stopping proposal be successful, that distance would not decrease.
10. Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) and the Tenth Schedule of the Local Government Act 1974 (LGA).
11. 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. Section 345(1)(a)(i) of the Local Government Act 1974 provides council with the statutory power to dispose of stopped road.
12. Advisors from Council's Transport and Infrastructure unit (Transport) have confirmed the Land is not required for future road widening or public access purposes.
13. Transport required an isolation strip on the extension of the 56/64 Maida Vale Road legal side boundary, as shown blue on Attachment 2. Given the topography Transport also require a batter easement to reduce risk to Council from having to provide support to the applicant's property in the future.
14. A batter easement is registered on the private property title to ensure that the private property owner is responsible for the stability of the embankment, even though the embankment lies within road reserve land.
15. Number 64 Maida Vale Road directly adjoins number 56. At the time of writing this report the owners of this property have lodged their own road stopping application. If both proposals are successfully completed then no isolation strip would be required next to the extension of the shared legal side boundary.
16. Relevant Council business units have been consulted and none wish to retain the Land.
17. As is normal practise in the early stages of the road stopping process officers have written to the four adjoining or adjacent neighbours notifying them that Council had received this road stopping application. All of these owners will be consulted again when the formal public consultation is carried out later in the road stopping process.
18. When road stopping applications are first received Officers have recently commenced given the Walking Access Commission the opportunity to comment. The Commission supports the proposal by 56 Maida Vale Road, without condition.
19. If Council approves the above, officers will establish whether any offer back obligations under section 40 of the Public Works Act 1981 exist.

### Options

20. 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.
21. 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

22. Conclude a section 40 PWA acquisition history investigation.
23. Prepare a survey legalisation plan and agreement for the Land.
24. Initiate the public notification process.

### Attachments

Attachment 1.	Location plan <a href="#">↓</a> 	Page 31
Attachment 2.	Aerial <a href="#">↓</a> 	Page 33
Attachment 3.	Views at street level <a href="#">↓</a> 	Page 34

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## **SUPPORTING INFORMATION**

### **Engagement and Consultation**

In July 2019 letters were sent to four adjoining or adjacent neighbours of the land proposed to be stopped. The only response received was from one neighbour (64 Maida Vale Road) who subsequently lodged their own road stopping application.

These owners will be consulted again when the formal public consultation is carried out later in the road stopping process.

### **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.

Location Plan





Aerial



Views at street level

