
REPORT 3
(1215/53/IM)

ROAD STOPPING AND DISPOSAL THE LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOINING 13 TANNADYCE STREET, STRATHMORE

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 13 Tannadyce Street, Strathmore (Shown blue 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 13 Tannadyce Street, Strathmore. This application was the subject of an earlier report to the Regulatory Processes Committee and Council.

Resolutions previously approved have been completed, and a section 40 report has been obtained. The section 40 PWA report, recommends 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. *Receive the information.*
2. *Recommend that Council:*
 - (a) *Approve the disposal of the Road Land described as approximately 160m² (subject to survey) of unformed legal road adjoining 13 Tannadyce Street.*

- (b) *Delegate 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) Public Works Act 1981 (if appropriate).*
 - (c) *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.*
 - (d) *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 and no objections being received.*
 - (e) *Delegate 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. *Note 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 owners at 13 Tannadyce Street, Strathmore (Lot 136 DP 15452, being held in Computer Freehold Register WN15B/657).

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 (refer to the minutes in Appendix 2), and Council (refer to the minutes in Appendix 3). Council officers now wish to advance the road stopping of the unformed road adjoining 13 Tannadyce Street, Strathmore to the eventual disposal of the land to the adjoining owners.

The Council resolutions approved have been completed and a section 40 report has been obtained. The section 40 report pursuant to the PWA, 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 13 Tannadyce Street, Strathmore 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.

The sale of legal road, where surplus to strategic requirements, is mandated under the Council's 2004 Road Encroachment and Sale Policy

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 Tenths 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 report to the Regulatory Process Committee meeting of 13 February 2008.

APPENDIX 1

Aerial photograph



APPENDIX 2

Minutes – Regulatory Processes Committee meeting - 13 February 2008



REGULATORY PROCESSES COMMITTEE

MINUTES

WEDNESDAY 13 FEBRUARY 2008

1.33PM

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

PRESENT:

Councillor Gill (Chair)
Councillor Best
Councillor Cook (1.35 – 1.54pm)
Councillor Goulden (Deputy Chair)
Councillor Pannett
Councillor Wain

APOLOGIES:

Mayor Prendergast

001/08RP **APOLOGIES**
(1215/53/IM)

RESOLVED:

THAT the Regulatory Processes Committee:

- 1. Accept apologies for absence from Mayor Prendergast.*

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 with 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 applicant wishes to continue with the road stopping, a further report will be presented to the 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.*

005/08RP ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJACENT TO 13 TANNADYCE STREET, STRATHMORE

Report of Lynne Michael – Property Advisor, Property Advisor, Business Development, Property Services.

(1215/53/IM)

(REPORT 2)

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 (PWA):*
 - (a) *Agree that approximately 160m² (subject to survey) of unformed legal road adjoining 13 Tannadyce Street, Strathmore is not required for a Public Work (refer Appendix 3 of the officer's report).*

Note: 13 Tannadyce Street, Strathmore is described as Lot 136 DP 15452, being Computer Freehold Register WN15B/657.

- (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 with 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 applicant wishes to continue with the road stopping, a further report will be presented to the 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.

006/08RP **RESOLUTION TO EXCLUDE THE PUBLIC**
(1215/53/IM)

RESOLVED:

THAT the Regulatory Processes Committee:

1. Pursuant to the provisions of the Local Government Official Information and Meetings Act 1987, resolve that the public be excluded from the following part of the proceedings of this meeting namely:

Report 3 - Review of List of Independent Hearing Commissioners

APPENDIX 3

Minutes – Council meeting - 28 February 2008



COUNCIL

MINUTES

THURSDAY 28 FEBRUARY 2008

5.34PM

Council Chamber
First Floor, Town Hall
Wakefield Street
Wellington

PRESENT:

Mayor Prendergast
Councillor Ahipene-Mercer
Councillor Best
Councillor Cook
Councillor Coughlan
Councillor Foster
Councillor Gill
Councillor Goulden (5.50 – 6.34pm)
Councillor McKinnon
Councillor Morrison
Councillor Pannett
Councillor Pepperell
Councillor Ritchie
Councillor Wade-Brown
Councillor Wain

APOLOGIES:

Councillor Goulden (for lateness)

The substantive motion clauses 1 and 2 were put.

Voting for: Mayor Prendergast, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Foster, Gill, Goulden, McKinnon, Morrison, Pannett, Pepperell, Ritchie, Wade-Brown and Wain.

Voting against: Nil.

Majority Vote: 15:0

The substantive motion clauses 1 and 2 were declared CARRIED.

RESOLVED:

1. **ITEM 004/08RP ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOURNING 217 EVANS BAY PARADE, HATAITAI (1215/53/IM) (REPORT 1)**

THAT Council:

1. Pursuant to Section 40 of the Public Works Act 1981:
 - (a) Agree that approximately 210m² (subject to survey) of unformed legal road (Kio Road) adjoining 217 Evans Bay Parade, Hataitai is not required for a Public Work.

Note: 217 Evans Bay Parade, Hataitai is described as Lot 2 DP 48270, being Computer Freehold Register WN18D/245.

- (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.

2. **ITEM 005/08RP ROAD STOPPING AND DISPOSAL – LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJACENT TO 13 TANNADYCE STREET, STRATHMORE (1215/53/IM) (REPORT 2)**

THAT Council:

1. Pursuant to Section 40 of the Public Works Act 1981 (PWA):
 - (a) Agree that approximately 160m² (subject to survey) of unformed legal road adjoining 13 Tannadyce Street, Strathmore is not required for a Public Work.

Note: 13 Tannadyce Street, Strathmore is described as Lot 136 DP 15452, being Computer Freehold Register WN15B/657.

Council – Thursday 28 February 2008

- (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.

Reports from Committee - Part B

Committee decisions for Council to note.

011/08C **RECEIPT OF INFORMATION FOR NOTING FROM COMMITTEES**
(1215/11/IM)

Moved Mayor Prendergast, seconded Councillor Goulden the substantive motion receive the information for noting from the Strategy and Policy Committee Meetings of Thursday 7 February, Thursday 14 and Thursday 21 February 2008.

The substantive motion was put.

Voting for: Mayor Prendergast, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Foster, Gill, Goulden, McKinnon, Morrison, Pannett, Pepperell, Ritchie, Wade-Brown and Wain.

Voting against: Nil.

Majority Vote: 15:0

The substantive motion was declared CARRIED.

RESOLVED:

THAT Council:

1. *Receive the information for noting from the Strategy and Policy Committee Meetings of Thursday 7 February, Thursday 14 and Thursday 21 February 2008.*

STRATEGY AND POLICY COMMITTEE
Meeting of Thursday 7 February 2008
(1215/11/IM)

(REPORT 6)

1. **ITEM 007/08P INQUIRY INTO THE 2007 LOCAL AUTHORITY ELECTIONS**
(1215/52/IM) (REPORT 2)