
REPORT 1
(1215/53/IM)

**BACKGROUND TO AN ORAL SUBMISSION OBJECTING TO
THE PROPOSED ROAD STOPPING AND DISPOSAL - THE
LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOINING
227 NEWLANDS ROAD, NEWLANDS**

1. Purpose of Report

The purpose of this report is to provide the Regulatory Processes Committee (the Committee) with background information to an oral submission to be presented by Mr Brian Clifford, joint owner of 4 Bracken Road, opposing a road stopping application for land adjoining 227 Newlands Road, Newlands.

Refer to appendix one for an aerial photograph which shows the land that is subject to the road stopping application coloured light green.

2. Executive Summary

On 11 December 2009 Council declared surplus and approved the sale of a portion of legal road to Foodstuffs Limited, where it adjoins their property at 227 Newlands Road, Newlands.

The land (legal road) proposed to be stopped is currently used for car parking and landscaping of the existing shopping centre. If the road stopping is successful, Foodstuffs intend to amalgamate the stopped land with their 227 Newlands Road property and construct a new supermarket.

Public consultation on the proposed road stopping, including formal notification, was undertaken during July and August 2010. Two written objections were received during the consultation period. These were from the owners of numbers 4 and 6 Bracken Road. Both properties are situated directly opposite the road land that is proposed to be stopped. The objection from 6 Bracken Road was discounted as it did not relate specifically to the road stopping. The owners of 4 Bracken Road have chosen to take the opportunity to present an oral submission to the Committee, in support of their written submission.

In terms of process, no decisions will be made by the Committee on the day of Mr Clifford's oral submission. A final report will be prepared by officers following the oral hearing, and this will be completed for the Committee's next available meeting to enable a decision.

3. Recommendations

Officers recommend that the Committee:

1. *Receive the information.*
2. *Agree to thank Mr Clifford for his oral submission and advise that the Committee will consider the matter and make a decision on whether to uphold his objection or not, at its next scheduled meeting of the Regulatory Processes Committee.*

4. Background

4.1 Road stopping consultation

In December 2009, Council agreed to proceed with the road stopping application made by Foodstuffs Limited. Refer to appendix two for the report and minutes of the Regulatory Processes Committee meeting of 9 December 2009, and the Council meeting of 11 December 2009.

Consultation on the proposed road stopping was undertaken during July and August 2010 (this followed the consultation process for the draft Newlands Centre Plan). Letters were sent to forty seven owners and occupiers of properties situated immediately near the shopping centre and road stopping site. Public notices were placed in the Dominion Post (13 and 20 July 2010) and signage was placed on site. Information was also made available on Council's website, the main Council library, and the Newlands community centre.

The resolutions of the 11 December 2009 Council meeting noted that a further report would be presented to the Committee outlining any objections received during the public consultation subject to the road stopping applicant wishing to proceed with the process.

4.2 Objections received

Two written objections were received during the road stopping consultation period. These were from the owners of numbers 4 and 6 Bracken Road.

The objection from number 6 Bracken Road related to a proposed change to the time limit for the existing car parking spaces at the centre, and not to the road stopping proposal itself. Officers advised the owners of 6 Bracken Road that their objection was discounted as it was not considered to be applicable to the road stopping proposal. The owners of 6 Bracken Road have chosen not to pursue their objection any further.

The remaining objection is from the owners of 4 Bracken Road - Mr Brian Clifford and Ms Barbara Noom-Hall. This property is situated directly opposite the land subject to the proposed road stopping. The property is currently rented. The details of the objection are outlined and discussed in more detail in section 5.1 below.

5. Discussion

5.1 Objection from 4 Bracken Road (Mr Brian Clifford and Ms Barbara Noom-Hall)

The key issues raised in the objection made by Mr Clifford and Ms Noom-Hall are summarised as follows:

- noise from generators from the old bakery building, and potentially from the new supermarket
- loss of greenery on the corner of Newlands Road and Bracken Road
- height of proposed supermarket / Loss of sunlight
- increase in traffic making entering and exiting their driveway difficult
- loss of existing car parks
- negative affect on the value of their property.

Refer to appendix three for Mr Clifford and Ms Noom-Hall's written objection dated 17 August 2010, Council officer's response dated 24 September 2010, and Mr Clifford and Ms Noom-Hall's subsequent written reply dated 3 October 2010.

Officers have met with Mr Clifford and Ms Noom-Hall on two separate occasions in an attempt to resolve their concerns, however this has not been successful. As a result, Mr Clifford and Ms Noom-Hall have been advised that the Regulatory Processes Committee will hear and consider their objection, and that if the Committee and full Council do not uphold it, and the objector still wishes to pursue it, the matter would be referred to the Environment Court for a decision.

Mr Clifford and Ms Noom-Hall have chosen to proceed with their objection, and to take the opportunity to present an oral submission to the Committee.

It should be noted that officer's responses to the issues raised in Mr Clifford and Ms Noom-Hall's objection will be presented to the Committee at the next available meeting date (likely to be 9 February 2011).

5.2 Next Steps

The next steps in the process for this road stopping proposal are:

- After the Committee hears Mr Clifford's oral submission, officers will finalise a report for the Committee's next available meeting.
- At a subsequent meeting, the Committee will consider Mr Clifford and Ms Noom-Hall's objection and the final Committee report, and will make a recommendation to Council on whether or not to uphold the objection.
- If the Committee's decision is to uphold the objection, and the full Council agrees, then the road stopping application is effectively ended and the land will not be sold.

- If the decision reached is to not uphold (i.e. reject) the objection and to proceed with the road stopping process, and the objector still wishes to pursue their objection, then the road stopping proposal and the objection will be referred to the Environment Court for a decision.

6. Conclusion

This report provides background information for the Committee on the road stopping application and the oral submission to be made by the owner of 4 Bracken Road in objection to the road stopping.

A further report to the Regulatory Processes Committee's next meeting will be scheduled. That meeting will consider the objection and make a recommendation to Council on whether or not the objection is upheld or rejected.

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.

2) LTCCP/Annual Plan reference and long term financial impact

This report is a step towards the possible sale of the legal road.

The costs associated with this proposal will be met by the applicant including all survey, administration and legal costs. 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 report is for the purposes of providing background only.

5) Consultation

Consultation with the relevant internal business units has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping, with the consents from Roading and Traffic Maintenance, Parks and Gardens, and Public Drainage subject to certain conditions.

Service Authorities have been consulted and a number of conditions have been noted.

Public consultation has been carried out with two objections received. One objection has been discounted. The Committee is to hear an oral submission on the second objection, and make final decision at a separate meeting.

6) Legal Implications

All legal implications relevant to this road stopping such as public consultation requirements and offer back investigations have been considered and are contained in this report.