
REPORT 5
(1215/53/IM)

ROAD STOPPING AND DISPOSAL - LEGAL ROAD ADJOINING 1 MATAI ROAD, HATAITAI

1. Purpose of Report

The purpose of this report is to obtain agreement that approximately 60 m² of Council owned unformed legal road land adjoining 1 Matai Road, Hataitai, Wellington, is no longer required for Council's operational requirements. Also to authorise officers to proceed with the offer back investigations and eventual road stopping and sale.

Refer Appendix 1 for an aerial plan with the area of unformed legal road land concerned shown with a red border.

2. Executive Summary

An application has been made to Council by the owners of 1 Matai Road, Hataitai to stop a portion of unformed legal road adjoining their property. The owners currently have use of the land under an encroachment licence. They have made their road stopping application to give them more certainty for their future use.

The key question for Council is whether this area of land is surplus to requirements for a public work, and if so, whether it will support commencement of the road stopping procedures under the Local Government Act 1974 (LGA).

Internal business units and external service authorities have been consulted and all support the disposal, with minimal conditions requested to be imposed.

Immediate neighbours and the local residents association have also been advised of this proposal. They will have an opportunity to comment on the proposal when the full public consultation is carried out later in the process.

The area of unformed legal road land proposed to be stopped will be sold at current market valuation, and most of the costs will be met by the applicant.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
 - (a) *Agree that the approximate 60 m² (subject to survey) area of unformed legal road land adjoining 1 Matai Road, Hataitai, is not required for a Public Work.*
 - (b) *Approve the disposal of the approximately 60 m² area of unformed legal road land adjoining 1 Matai Road, Hataitai, to the owner of that property.*
 - (c) *Authorise Council officers to undertake a section 40 PWA report 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.*
 - (d) *Delegate to the Chief Executive Officer the power to either offer the area of unformed legal 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).*
 - (e) *Authorise Council officers to initiate the road stopping process for the area of unformed legal road in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
 - (f) *Delegate to the Chief Executive Officer the power to formally approve the road stopping, and issue the public notice to declare the area of unformed legal road land stopped as road, subject to all statutory and Council requirements being met with no objections being received.*
 - (g) *Delegate to the Chief Executive Office the power to negotiate the terms of sale, impose any reasonable covenants, and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining 1 Matai Road, either with the former owner, or their successor, or the owner of 1 Matai Road, provided any such agreement is conditional upon the road being stopped.*

4. Background

Council has received a road stopping application to 'stop' unformed legal road adjoining 1 Matai Road, Hataitai, from the owners of that property. The legal description of 1 Matai Road is Lot 5 DP 2295 being held on Computer Freehold Register WN28D/627.

The total area of unformed legal road adjoining 1 Matai Road proposed to be stopped is approximately 60 m² (subject to survey). The land proposed to be stopped is currently used by the applicant under an encroachment licence. The land is fenced, and it has a timber deck, and a single garage built on it. Road and Traffic Maintenance require that a legal road width of 18 metres be retained, resulting in a new boundary line that would be through the middle of both the deck and the garage. Despite this the applicant still wants to continue as ownership of the additional land would mean that they would have more certainty of tenure and a greater footprint for possible future house extensions.

5. Discussion

5.1 Consultation and Engagement

As part of the road stopping process service authorities, internal business units, and immediate neighbours are given an opportunity to provide preliminary comments.

All internal business units gave their unconditional approval, with the exception of Road and Traffic Maintenance and WCC Development Planning and Compliance.

Road and Traffic Maintenance required that a legal road width of 18 metres be retained, and that a restrictive covenant be registered on the title to prevent a future owner of 1 Matai Road from forming an access over the extensions of the extended side boundaries.

WCC Development Planning and Compliance required consultation with the owners of 7 Kainui Road, as the road stopping proposal if successful would result in the front yard rule set back of 1 metre on that property.

All relevant service authorities have given their consent.

The immediate neighbours and the local residents association have been advised of the proposal. They will have the opportunity to comment when the full public consultation is carried out later in the process.

Officers are satisfied that the above Service Authority, and Council requirements can be met, and that the area of unformed legal road in Matai Road, Hataitai can be stopped and sold to the adjoining owner.

5.2 Financial Considerations

Most of the costs associated with road stopping the unformed legal road land adjoining 1 Matai Road will be met by the applicant. The proceeds of the land will be received by Council.

5.3 *Climate Change Impacts and Considerations*

There are no climate change impacts.

5.4 *Long-Term Council Community Plan Considerations*

This proposed road stopping has no overall impact on the LTCCP.

5.5 *Significance Policy/ Strategic Assets*

Under Council's Significance Policy, the sale of this land would not be deemed significant.

6. Conclusion

Officers believe that the approximately 60 m² area of unformed legal road adjoining 1 Matai Road is no longer needed for Council's operational requirements and could be declared surplus, stopped and sold to the applicant subject to the conditions contained in the report.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 1 Matai Road, Hataitai, is declared surplus, and that officers can proceed to initiate the road stopping procedure, and eventual sale.

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 2011 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.

There are no adverse financial implications imposed on the Council arising from this road stopping proposal. Most of the costs associated with this proposal will be met by the applicant including 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 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 the relevant internal business units has been carried out as part of this application. Road and Traffic Maintenance, and Development Planning and Compliance have given their consent subject to certain conditions. Service Authorities have been consulted.

b) Consultation with Maori

Local IWI have been consulted with and have given unconditional consent.

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

This recommendations of this report are consistent with WCC policy.

Appendix 1

