

REGULATORY PROCESSES COMMITTEE

15 MAY 2013



REPORT 5
(1215/53/IM)

ROAD STOPPING AND DISPOSAL – LEGAL ROAD GLOVER STREET, NGAURANGA

1. Purpose of report

The purpose of this report is to seek the Committee's agreement to recommend to Council that approximately 600 m² of unformed legal road land (the Land) situated next to 13 Glover Street, Ngauranga, Wellington, is no longer required for Council's operational requirements and to authorise officers to proceed with the offer back investigations and eventual road stopping and sale.

Refer Appendix 1 for an aerial with the Land shown shaded light green.

2. Executive summary

Council officers have identified the Land as being suitable to be stopped and sold. It is proposed that the road stopping be carried out in accordance with the Local Government Act 1974 (LGA), and the disposal pursuant to Section 40 of the Public Works Act 1981 (PWA).

The key question for Council is whether the Land is surplus to requirements for a public work, and if so, whether it will authorise commencement of the road stopping procedures, with a view to eventual sale. Currently the Land does not serve any public purpose or provide public access.

Internal business units and external service authorities have been consulted. All support the road stopping disposal, and no services run through the Land.

A combination of factors (proximity of railway tunnel, land contours, and road operational needs) have dictated the proposed shape and size of the Land.

The owners of properties in close proximity to the Land have been advised of this proposal. Those owners and any tenants will have an opportunity to comment on the proposal when full public consultation is carried out later in the process. If the proposal is successful the Land will be sold at current market valuation.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*

2. *Recommend that the Council, pursuant to section 40 of the Public Works Act 1981:*
 - (a) *Agree that the approximately 600m² (subject to survey) of unformed road (Road Land) situated next to 13 Glover Street, Ngauranga, is not required for a public work.*
 - (b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the Road Land must be offered back to its former owner or their successor, or whether an exemption from offer back applies under section 40(2), 40(3) or 40(4).*
 - (c) *Delegate to the Chief Executive Officer the power to either offer the 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).*
3. *Recommend that the Council:*
 - (a) *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.*
 - (b) *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.*
 - (c) *Approve the disposal of the Road Land. (Subject to the proposed road stopping being successful)*
 - (d) *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 13 Glover Street, or the successful purchaser following the Road Land being marketed for sale.*
4. *Note that if objections are received to the road stopping public notice, a further report will be presented to the Committee for consideration.*

4. Background

Council officers have identified an area of road land that could be suitable to be stopped and sold. The Land is situated directly next to 13 Glover Street and slopes moderately to steeply from Glover Street up to Wakely Road. Wakely Road is an unsealed disused road. Parks and Gardens have advised that there is no existing significant vegetation on the Land.

Due to the topography, and the Land's proximity to the nearby railway line, the size and shape of the Land available is restricted.

To avoid any potential issues relating to frontage rights that could result from the road stopping proposal officers approached the owners of 13 Glover Street to confirm whether or not they were interested in lodging a road stopping application to purchase the Land themselves.

As the owners of 13 Glover Street advised they were not interested in the Land, officers are progressing the proposal on the basis of a stand alone lot being created. If later in the process the owners of 13 Glover Street change their position, then officers would try to reach agreement with them. This would be in the interests of avoiding the potential for frontage rights issues, and also there is a requirement pursuant to Section 345 (1)(a)(i) Local Government Act 1974 for Council to offer the stopped road land to owners of adjoining land prior to it being sold on the open market.

There is an electrical substation situated next to the Land. The land that the substation occupies is part of 13 Glover Street. Interests relating to the substation are registered on 13 Glover Street's title. The road stopping proposal does not affect the substation, no underground or overhead electricity cables run through the Land, and no issues were raised by any service authority or by Development Planning and Compliance.

View of the Land from Glover Street.



5. Discussion

5.1 Consultation and Engagement

As part of the road stopping process, service authorities and all relevant internal business units have been consulted, and none object to the proposal.

Road and Traffic Maintenance want to ensure the unsealed unused Wakely Road above Glover Street is supported should the Land be developed in the future. Accordingly it is proposed that isolation strips be created along the Lands proposed new boundaries nearest to Wakely Road, in order to create and register batter easements.

Development Planning and Compliance commented that if the road stopping was successful the Land would become zoned Suburban Centre. As such there would be no permitted activity restrictions such as sunlight access plane or front yard requirements triggered for properties situated on the other side of Glover Street (as is the case for residentially zoned areas).

Neighbouring property owners have been sent letters advising of the road stopping proposal, keeping them updated on progress. All property owners, and any tenants where a property is rented, will have the opportunity to comment when the full public consultation is carried out later in the process.

5.2 Financial Considerations

The costs of the road stopping process will be deducted from the income received from the sale of the Land.

The 13 Glover Street building is currently leased and that tenant has expressed an interest in using part of the Land. Officers therefore intend to grant that party a licence to take effect up until the road stopping proposal has been completed. There is also a possibility that this party could actually purchase the 13 Glover Street building, and in that circumstance they have indicated that they may also want to purchase the Land. The timing of that happening would affect whether or not it was appropriate for officers to sell the Land to them.

While a current market valuation has not yet been obtained from a registered valuer, advice from a Bayleys real estate agent familiar with the area is that when it became fee simple the Land would have an approximate current market value of between \$250,000.00 - \$300,000.00.

5.3 Significance Policy/ Strategic Assets

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

5.4 Climate Change Impacts and Considerations

Officers believe that there are no significant climate change impacts.

5.5 Long-Term Council Community Plan Considerations

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

5.6 Offer back investigations

Should the recommendations of this report be approved, then officers would commission a section 40 PWA report from suitably qualified consultants. This would identify whether the land has to be offered back to its former owner or their successor (in probate), or whether an exemption applies.

5.7 Next Steps

Should the recommendations of this report be approved, the next steps in the road stopping and sale process are as follows:

- Undertake a survey to define the total area of unformed legal road land that is proposed to be stopped
- Public notification of the intention to stop the road land
- Receive objections (if any), negotiate and refer back to the Regulatory Processes Committee / full Council, and to an Environment Court hearing (if required)
- Commission a section 40 report from a suitably qualified consultant
- Obtain the Chief Executive Officer's approval of section 40 report recommendations (obtaining a current market valuation if an offer back is required)

If the road stopping proposal is still in effect, then -

- Undertake public notification that the road is stopped
- Obtain a current market valuation
- Depending on the outcome of offer back, and first rights of refusal requirements, attend to settlement and transfer with either,
 - the former owner their or successor (in probate); or
 - the owner(s) of 13 Glover Street; or
 - a private party after marketing the land for sale on the open market.

6. Conclusion

Following internal and external consultation, Council officers believe that the approximately 600m² unformed legal road land that is situated next to 13 Glover Street, Ngauranga, is no longer required for the Council's operational requirements and should be declared surplus.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land be declared surplus, and to authorise officers to initiate the road stopping procedure and 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.

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

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 has not been quantified as obtaining a valuation will be carried out later in the road stopping process.

The costs associated with this proposal will be met by the proceeds of sale. This proposal will benefit the Council in financial terms as once the road land is stopped and sold Council will receive the revenue from the sale, and the new private owners will pay rates.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications.

Local Iwi have been consulted and do not have an interest in having a first right of refusal.

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

Consultation with the relevant internal business units have been carried out. They have all advised that they have no objection to the proposed road stopping.

Service Authorities have been consulted with their standard general conditions noted.

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.

Any Agreement for Sale and Purchase will be prepared by Council's lawyers, and a solicitor's certificate issued.

APPENDIX 1

