

Proposed amendments to the “Road Encroachment and Sale Policy, April 2011”

Replace section 7 with the following (note that new text is highlighted and deletion of existing text is shown as a strikethrough):

7. SALE OF LEGAL ROAD

The Council may sell legal road to a property owner when it considers that the land is not needed for utilities, roads or footpaths in the future and private occupation will not compromise the amenity or environmental values.

The sale of legal road for private use is a legal process which is outlined in Annex 2. It is subject to statutory and planning requirements and requires the section of road to be legally ‘stopped’¹. The process, under the Tenth Schedule of the Local Government Act 1974, can involve appeals to the Environment Court. The Public Works Act also provides a mechanism for stopping legal roads. **The Council will generally apply the Local Government Act process for the stopping and sale of unformed legal road.**

Eligibility to purchase any surplus legal road from the Council (unless it can be subdivided for use as a building site) is limited to the adjoining property owner. ~~Most of the costs associated with road stopping and the amalgamation with the existing title have to be met by the purchaser.~~

Costs associated with road stopping and amalgamation of land with an existing title must be met by the purchaser. The Council will make a deduction for costs from the land valuation in accordance with the following policy:

- o **property owners meet costs as they are incurred, but a proportion of these costs will be deducted from the land valuation in order to establish a final settlement price;**
- o **deductions are the lesser of: actual costs; or an amount calculated as 15 percent of the land value plus \$500 - up to a maximum deduction of \$12,500;**
- o **for transactions below \$15,000 of land value, deductions, if any, will be by agreement between the Council and applicants, but will not exceed the deductions applicable using the formula above.**

The sale of any legal road will not generally be permitted where public utilities (such as pipes and cables) are located underneath, unless the prospective purchaser undertakes to relocate the services at their cost or an easement or other arrangement satisfactory to the utility operator(s) can be agreed. The Council will also need to be satisfied that the land is not likely to be required for the location of services at any point in the future.

¹ Changing the status of land from legal road to freehold land.

APPENDIX 1

The market value of legal road being sold by the Council will be determined by an independent registered valuer who is a member of the New Zealand Institute of Valuers. Valuations for establishing the price for purchase are based on the added value to the existing title - based on valuations before and after the addition of the land.

Prospective purchasers have the opportunity to lock in a land valuation early in the road stopping process, and that valuation will be binding on both parties provided the road stopping is completed within 18 months, subject to final survey. This period may be extended at the Council's discretion, for example where a stopping proposal is referred to the Environment Court. Where road stopping takes longer than 18 months, the Council may require any existing valuation to be updated before land is transferred, and the final settlement price will be based on the latest land valuation.

Amend Annex 2 "Summary of Process for Sale or Legal Road" by adding the highlighted text to the last paragraph as described below:

The legal costs incurred by the Council will be recovered from the applicant, but may be included in any estimation of costs for the purposes of applying the costs deduction policy described in section 7 above.