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**REPORT 6**  
*(1215/53/IM)*

## **PROPOSED ROAD STOPPING ADJACENT TO 41 UPLAND ROAD, KELBURN**

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### **1. Purpose of Report**

To seek approval to declare a portion of Upland Road, Kelburn stopped.

### **2. Recommendations**

It is recommended that the Committee:

1. *Receive the information.*
2. *Agree that the Council resolves to publicly notify that the portion of Upland Road, Kelburn, adjoining 41 Upland Road described as Lot 12 and Part Lot 13 Block IV Deposited Plan 1197, comprising 102m<sup>2</sup> as shown in Appendix 1, be declared stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and in so declaring that the following matters are to be noted and actioned:*
  - a) *The area of stopped road (Section 1 on SO 341430) will be amalgamated with adjoining land being Lot 12 and Part Lot 13 Block IV respectively held in Certificate of Title WN272/277.*
  - b) *That all the service authority requirements in respect of their assets/services located within the area of road to be stopped be complied with.*
  - c) *That all costs associated with compliance with the above conditions be met by the proponent. These include all survey, administration and legal costs for this application.*
3. *Recommend that Council authorises the Manager, Property and Standards to negotiate and complete terms of sale.*

## **3. Background**

### **3.1 The Proposal**

It is proposed to stop a portion of legal road on Upland Road which adjoins the property at 41 Upland Road. The area comprises 102m<sup>2</sup> as shown in the Survey Office Plan (Appendix 1) and aerial photograph (Appendix 2).

If the road is successfully stopped, the land will be amalgamated with the adjoining property at 41 Upland Road (Lot 12 and Part Lot 13 Block IV, Certificate of Title WN272/277) to be used in conjunction with the existing land holding.

The owners of 41 Upland Road (the proponent) wish to purchase 102m<sup>2</sup> of legal road as their garages and access are sited on this land.

### **3.2 Site Description**

The land to be stopped is located on the eastern side of Upland Road in Kelburn, and is on the north-western side of the adjacent property at 41 Upland Road. It consists of a near rectangular parcel of land with a depth of 5.24 and 2.48 metres along the northern boundary and 6.01 metres along the southern side boundary with a frontage of 14.10 metres. The area of road to be stopped forms the toe of an embankment, which has partly been excavated, that moderately elevates from road formation throughout the depth. Most of this area has been developed to accommodate a triple car garage. A pedestrian gate/accessway extends from the southern most portions, with the construction of stairs extending above the garaging, which is some four/five metres above road level.

The width of legal road in the immediate vicinity is approximately 27 metres and the carriageway itself is about 14 metres wide. There is a one metre wide footpath on both sides of the road, and the part of the road outside the carriageway on the south-western side slopes moderately steeply up to the south-west and to the front boundary of the proponents land.

## **4. Process**

### **4.1 Statutory Criteria**

Road Stopping is provided for under the provision of Section 342(1) of the Local Government Act (LGA) 1974<sup>1</sup>, with the required procedure being set out by the Tenth Schedule of the Act.

In summary, the Tenth Schedule requires that a local authority must initiate a road stopping action by preparing a survey plan, which is approved by the Chief Surveyor of Land Information New Zealand (LINZ). The proposal is then publicly advertised twice

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<sup>1</sup> *The relevant provisions in the 1974 Act were not repealed when the 2002 Act came into force.*

and signs erected in the area proposed to be stopped. The public has an opportunity to object within the statutory 40 day timeframe.

#### **4.2 Public Works Act (PWA) 1981 Requirements**

Council declared that the area of unformed legal road proposed to be stopped was exempt from offer-back based on Section 40(2) and Section 40(4) of the Public Works Act 1981.

#### **4.3 Consultation with Service Authorities**

Consultation with the relevant Service Authorities was sought as part of this application.

Conditional consent has been obtained from:

| Service Provider                     | Condition   |
|--------------------------------------|---|
| UnitedNetworks Limited (electricity) | Has no objection provided that <ol style="list-style-type: none"> <li>1. All activities near the lines must be carried out in accordance with the NZ Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001)</li> <li>2. Siemens Energy Services are contacted to obtain plans of the lines.</li> <li>3. Any relocation of the lines will be at the proponents cost &amp; Siemens Energy Services must be contacted.</li> <li>4. If any of United Networks' lines are to be located on private land, an easement must be granted to United Networks.</li> <li>5. If, during construction any underground electricity cables are noticed or an electricity outage is caused, construction must be halted immediately and United Networks must be contacted.</li> </ol> |
| WCC Roading                          | Has no objection provided the service pole remains on legal road and in its present location.   |
| WCC Water                            | Has no objection provided the water toby stays outside the proposed boundary.   |
| Powerco                              | Has no objection provided that: <ol style="list-style-type: none"> <li>1. The new boundary must leave any Powerco gas pipes in road reserve.</li> <li>2. If applicable, relocation of any Powerco gas pipes necessary to accommodate the land purchase will be at the proponent's cost.</li> </ol>  |

|              |  |
|--------------|--|
| TelstraClear | Has no objection provided that an easement is granted over the TelstraClear network located above the land. The easement is to be fully at the cost of the proponent to allow continued access by TelstraClear to the lines for the purposes of maintenance and upgrading. |
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Unconditional consent has been obtained from:

- WCC Parks and Gardens
- WCC Building Consents and Licensing Services
- WCC Public Drainage
- WCC Street Lighting
- Telecom New Zealand

Officers are satisfied that once the above Service Authority requirements are met, the proposed portion of legal road in Upland Road, Kelburn can be stopped with conditions a), b) and c) as noted in the recommendations.

#### **4.4 Public Notification**

In accordance with clauses 2 and 3 of the Tenth Schedule of the LGA 1974, the application was publicly notified in the Dominion Post on 9 March 2005 and 16 March 2005, closing at 4pm on 18 April 2005. Signs were also placed on the site during the notification period. No objections were received.

## **5. Discussion**

### **5.1 Completion of Stopped Road**

When copies of the Public Notice and Survey Office Plan 341430 are deposited in the Office of the Chief Surveyor at LINZ, this part of Upland Road will cease to be road.

### **5.2 Sale of Land**

The sale of the land to the proponent will be on commercial terms based on added value. The Manager, Property and Standards will finalise all negotiation details.

## **6. Conclusion**

The road stopping proposal complies with the relevant Council policies and is being processed in accordance with the Tenth Schedule of the Local Government Act 1974.

Contact Officer: *Lisa Black, Road Stopping and Encroachments Advisor*

## Supporting information

### a) Strategic fit

*In line with the Council's financial principles, assets that are declared surplus to strategic or operation requirements are sold.*

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

### b) Annual Plan reference

*Provisions for undertaking this work are contained within the overall organisational budget.*

### c) Annual Plan and Long Term Financial Strategy implications

*The land is not required to be retained for roading purposes and if stopped and transferred will no longer need to be maintained by the Council.*

### d) Treaty of Waitangi implications

*There are no Treaty of Waitangi implications.*

### e) Consultation

*Consultation with Roading and Traffic, Building Consents and Licensing Services (BCLS) and Parks and Gardens have been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping.*

*Consent from the relevant Service Authorities was sought ,namely UnitedNetworks Limited, Powerco, Telecom, TelstraClear, WCC Water, WCC Public Drainage, and WCC Street Lighting, all of whom support the proposed road stopping.*

### e) Legal implications

*The Road Stopping proposal complies with the relevant Council policies and is being processed in accordance with the Tenth Schedule of the Local Government Act 1974.*