
REPORT 8*1215/53/IM*

**PROPOSED ROAD STOPPING
PART BLACK ROCK ROAD
ADJACENT 61 BLACK ROCK ROAD**

1. Purpose of Report

To seek approval to declare a portion of Black Rock Road, Newlands, 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 Black Rock Road, Newlands, adjoining 61 Black Rock Road described as Lots 1 and 2 DP 14838, comprising 458m² 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) *That the area of stopped road (Section 1 on SO339269) will be amalgamated with adjoining land, being Lots 1 and 2 DP14838 held in Certificate of Title 562/18.*
 - (b) *That a protective covenant be placed on the area of land to be stopped for the protection of the existing mature trees, and that this is done at the expense of the proponent.*
 - (c) *That the boundary is moved to a minimum of 0.5m from the back of the kerb where the land adjoining the road is level and a 1.5m set back of the boundary where the land is higher than the road.*
 - (d) *That all of the service authority requirements, in respect of their assets/services located within the area of road to be stopped be complied with, and that an easement be entered into with regard to the United Network power lines that cross the area proposed to be stopped*
 - (e) *That all costs associated with the compliance of the above conditions be met by the proponent, including all survey, administration and legal costs involved in 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 Black Rock Road which adjoins the property at 61 Black Rock Road. The area comprises 458m² shown on the Survey Office Plan (Appendix 1) and aerial photograph (Appendix 2).

Should the road stopping be successful, the land will be amalgamated with the adjoining property at 61 Black Rock Road (Lots 1 and 2 DP 14 838) to be used in conjunction with the existing land holding.

The land which is subject to the road stopping has been maintained by the proponent over a number of years. They have not indicated any plans to develop the area. The proponent has agreed to the condition proposed by Parks and Gardens, with regard to a protective covenant, to ensure the protection of the trees within the area to be stopped.

3.2 Site Description

The land area proposed to be stopped is located on the eastern side of Black Rock Road, Newlands, and is on the northern side of the adjacent property at 61 Black Rock Road. The area consists of an oddly shaped parcel of land which begins at street level and slopes up towards the south and contains a grassed area as well as a number of well maintained, mature native species. The area also contains part of a planter box and a portion of the driveway that provides the access to at 61 Black Rock Road.

The section of legal road subject to the proposed road stopping is between 15.4 and 13.8 metres wide. If the road stopping is successful the adjacent portion of legal road will be 11 metres at its narrowest point. The formed carriageway in front of 61 Black Rock Road is approximately 7 metres, this will remain the same.

4. Process

4.1 Statutory Criteria

Road Stopping is provided for under the provisions of Section 342(1) of the Local Government Act (LGA) 1974¹, with the required procedure being set out by the Tenth Schedule of the Act.

In summary, the Tenth Schedule requires that for a local authority to initiate a road stopping action it must prepare a survey plan, which is approved by the Chief Surveyor of Land Information New Zealand (LINZ). The proposal is then publicly advertised twice and signs erected in the area proposed to be stopped. The public has opportunity to object within the statutory 40 day timeframe. One objection was received by Council and withdrawn on 17 November 2004.

¹ The relevant provisions in the 1974 Act were not repealed when the 2002 Act came into force.

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 on 20 August 2003.

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
United Networks Limited	No objection provided that the new boundary must leave United Networks gas service pipes, power cables, overhead lines and poles within the legal road, or alternatively these services be relocated at the cost of the proponent or appropriate easements created protecting rights of access.
WCC Parks and Gardens	No objection subject to a protective tree covenant being placed on the area proposed to be stopped
WCC Roading	No objection subject to the proposed boundary being moved to be a minimum of .5m from the back of the kerb where the land adjoining the road is level and a 1.5m set back of the boundary where the land is higher than the road.

Unconditional consent has been obtained from:

- WCC Public Drainage
- WCC Water Supply
- Power Co
- Wellington Regional Council
- Telstra Clear
- Telecom (Alstrom)
- WCC Environmental Control Business Unit

Officers are satisfied that once the Service Authorities requirements are met, the proposed portion of legal road in Black Rock Road, Newlands can be stopped with the conditions a), b), c) and d) 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 Wednesday 15 and 22

September 2004, closing at 4pm on 25 October 2004. Signs were also placed on the site during the notification period (attached as Appendix 3).

4.5 Objections Received at Public Notification Stage

One objection was received from the owner of 6 Dunmail Way, Newlands, who had concerns that the section of road is very narrow, and if at some stage the owner decides to develop the land it could change the character of the area and increase traffic flow.

The Council responded to the objection in writing on 1 November 2004. The letter requested that the owner either confirm in writing that they wish to make an oral submission at the Regulatory Committee meeting or confirm in writing that the explanation in the letter clarified their concerns. A letter withdrawing their objection was received 17 November 2004.

5. Discussion

5.1 Completion of Stopped Road

When copies of the Public Notice and Survey Office Plan 339269 (attached as Appendix 1) are deposited in the Office of the Chief Surveyor at LINZ, this part of Black Rock 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: *Wendy Gerraty, Road Stopping and Encroachment Advisor*

Attachments

- Appendix 1 Survey Office Plan 331829
- Appendix 2 Aerial Photograph
- Appendix 3 Public Notification Photographs
- Appendix 4 Initiation Report

Supporting information

a) Strategic fit

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 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, Parks and Gardens, Public Drainage, Water Supply, Wellington Regional Council and Environmental Control Business Unit has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping.

Consultation with the relevant Service Authority Providers was also sought, namely United Networks (Gas and Power), Power Co, Telstra Clear and Telecom all of whom support the proposed road stopping.

f) 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.

APPENDIX 1
SURVEY OFFICE PLAN 339269

APPENDIX 2
AERIAL PHOTOGRAPH

APPENDIX 3
PUBLIC NOTIFICATION PHOTOGRAPHS

APPENDIX 4
INITIATION REPORT