
REPORT 5

1215/47/IM

**STEBBINGS ROAD LAND EXCHANGE AGREEMENT –
GREATER WELLINGTON (INCLUDING
WESTCHESTER DRIVE & OXFORD STREET)**

1. Purpose of Report

The purpose of this report is to obtain the Council's agreement to a land exchange with the Greater Wellington. This will involve:

1. Wellington City Council stopping and vesting land, that currently forms part of Stebbings Road, in Greater Wellington.
2. Greater Wellington vesting land in Wellington City Council for the future Westchester Drive road extension.
3. Wellington City Council vesting land at 12a Oxford Street, Tawa in Greater Wellington for stream access purposes.

The sites are highlighted on the attached plans (refer Appendix 1).

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Recommend that the Council, pursuant to Sections 50 and 117 of the Public Works Act 1981:*
 - (a) *Agree that the Wellington City Council property, Road to be Stopped (being part of Stebbings Road, measuring 3,850m², coloured green on the attached Truebridge Callender Beach Limited plan number 94-346-1A) be stopped and transferred to the Greater Wellington.*
 - (b) *Note that the Road to be Stopped will be amalgamated with adjoining land owned by Greater Wellington.*
 - (c) *Agree that in exchange for the Wellington City Council area of Road to be Stopped, the Greater Wellington-owned property, Area A on SO Plan 37948 (being part of Lot 2 DP 26649 measuring 2,800m²) be transferred from Greater Wellington to the Wellington City Council.*

- (d) *Note that the Wellington City Council property, being all that land contained in Certificate of Title WN6D/1224 (located at 12A Oxford Street, Tawa), be transferred to Greater Wellington.*
- (e) *Authorise officers to proceed with the proposed land exchange under Section 50 of the Public Works Act 1981 on the basis that \$112,000 is payable by the Wellington City Council to the Greater Wellington by way of partial equality of exchange.*

3. Background

At a meeting held on 27 March 1996, the Council resolved to dispose of a number of properties. One of these was a site that formed part of the Porirua Stream bed and known as 12a Oxford Street. This site is largely unusable but is of interest to Greater Wellington (“WRC”) as it currently uses this land for access onto the stream bed.

A second area of Council-owned land has also been identified for transfer to WRC. The WRC completed a flood control dam at Stebbings Road in April 1997. In the course of this work, WRC inadvertently constructed the dam over part of Stebbings Road being an area of legal but unformed road called “the Road to be Stopped”. WRC then requested that the Council transfer ownership of the Road to be Stopped to them.

WRC has also identified an area of its land (shown as Area A on SO 37948) as surplus to its operational requirements. WRC offered this land to the Council in exchange for the Road to be Stopped outlined above. The Council’s Finance and Infrastructure Business Unit has been consulted and has identified a need for this area of land (Area A on SO 37948) for the purposes of the Westchester Drive extension as part of its Northern Growth Management Plan.

4. Discussion

4.1 Road to be Stopped

The Road to be Stopped is a “paper road”. This means that while it is currently identified by Council as a legal road, it is not formed but its route is identified on a map. The Council’s Senior Roading Engineer has indicated that this land is surplus to its operational requirements. The Road to be Stopped has never been physically used as a road and the Council has no intention to form it and use it in the future for roading purposes.

The paper road (Road to be Stopped) bisects the WRC dam, with approximately 50%-60% of the road being covered by either the actual dam or spillway. The area of land is still required by Greater Wellington for a public work, namely flood control, but there is no requirement for Council to retain it for the public work purpose of roading.

This continued public work usage is important as it affects the mechanism by which the land transfer can take place. Use of Section 50 of the Public Works Act 1981 (PWA) is permitted in these circumstances.

We have received confirmation from all relevant network utility companies that the proposed road stopping and transfer to WRC does not conflict with any drainage, electricity, telephone or gas services within the immediate area.

4.2 Exchange Land

This area of land, shown as Area A on SO 37948, is surplus to WRC's operational requirements.

The Council's Senior Roading Engineer has confirmed that this land will be required within the next five years for the proposed new road linking Westchester Drive to Middleton Road. The Council is looking to carry out this work as part of its Northern Growth Management Plan.

The proposed land exchange provides an ideal opportunity for the Council to obtain this land.

A subsequent acquisition of this area would be more costly and time-consuming should the Council decline this opportunity to purchase and the land potentially transferring into private ownership.

4.3 Valuation of land

WRC and the Council sent joint instructions to CB Richard Ellis Limited requesting a current market valuation of both parcels of land. This valuation, dated 11 March 2003, showed a balance of \$112,000 payable by the Council to WRC. Road to be Stopped and exchange land details are as follows:

WRC Land	\$170,000
<i>Less Road to be Stopped</i>	<i>\$ 55,000</i>
<i>Less Area B (12a Oxford Street)</i>	<i>\$ 3,000</i>
Balance to be paid by the Council	\$112,000

The difference in value lies with the dimensions and location characteristics of the parcels of land to be exchanged. The Council's Road to be Stopped consists of an elongated piece of land that has a width of approximately 20.12 metres and runs for a length of approximately 191 metres giving a total area of 3,850m². Disregarding the current improvements (flood protection dam) the road would have value to an adjoining owner only. Given its shape and contour, it would not be suitable for building upon.

On the other hand, the WRC land (Area A) consists of a triangular shape of contoured hillside land rising from Stebbings Road through to its rear or south western boundary. The aspect of this site is to the north and enables a good amount of sunshine to be received together with an attractive rural outlook.

The Road to be Stopped is estimated from plans to be 3,850m², and the valuation has been prepared on this basis. On completion of the legal survey, valuation adjustments will be made if the difference in the area of the Road to be Stopped is greater than 500m² (ie more than 4,350m²).

The Council will be responsible for the costs of preparation of the survey plan in respect to the Road to be Stopped along with the costs and disbursements incurred in stopping the road. These costs are estimated at \$6,000 plus GST and disbursements.

WRC and WCC will meet an equal share of the accredited agents' costs to undertake the necessary Section 50 PWA actions for the exchange.

In all other respects, each party shall meet its own costs in respect to the negotiations and execution of the agreement.

Provision for the land exchange is contained within the Finance and Infrastructure Unit's annual plan and specified in the Northern Growth Management Plan.

4.4 Mechanisms for the transfer of the land

The two options available to the Council for transfer of the Road to be Stopped and 12a Oxford Street are either under s50 PWA or the Local Government Act 2002 ("LGA"). It is the Council's usual approach to use the powers under the LGA as these can be exercised directly by the Council. By contrast, the powers under the PWA are vested in the Minister of Lands and require a Gazette Notice to be signed by that Minister (as opposed to the Council).

In this instance, the Council's land (Road to be Stopped) is required by the WRC for another public work, namely flood protection via the dam. Likewise, the Council requires WRC's land (Area A) for another public work being the future extension of Westchester Drive.

If the LGA process were to be used, the Council would be obliged to first offer the Road to be Stopped to the adjoining owners. This would provide added expense to the process and has an associated risk in that it may result in the land transferring into private ownership, rather than to WRC.

However, because the PWA process specifically allows for the transfer of the land to another public authority where it is required for another public work, the Council is able to exchange the land directly with the WRC without having to offer it to any other party first.

Therefore, the PWA process will be used because this will be the cheapest, simplest, and least risk mechanism to affect the exchange.

To facilitate the transfer under Section 50 of the PWA, the Council will need to retain the services of an agent accredited by Land Information New Zealand to prepare a report and recommendation to the Minister of Lands in respect of that land. The agent will be required to legalise the transfer.

4.5 Future Actions

Once Council approval has been obtained, officers will continue to work with WRC to effect the transfer and land exchange. No further Council approvals will be sought.

5. Conclusion

It is recommended that the Finance and Corporate Committee recommend to the Council that officers are authorised to proceed with the exchange of land as proposed in the draft land exchange agreement.

Contact: Tracy Morrah, Property Advisor

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 acquisition of Area A is in line with the Council's Northern Growth Management Plan in terms of the Westchester Drive extension.

b) Annual Plan reference

Provision for undertaking this work is contained within the Finance and Infrastructure Unit's annual plan.

c) Annual Plan and Long Term Financial Strategy implications

Provision for the land exchange is contained within the Finance and Infrastructure Unit's annual plan and specified in the Northern Growth Management Plan.

d) Treaty of Waitangi implications

There are no Treaty of Waitangi implications.

e) Consultation

Consultation with the Finance and Infrastructure Business Unit has been completed.

f) Legal implications

The legal implications of the proposed exchange have been fully explored by Council's legal advisors and this report incorporates the advice received.

APPENDIX 1

PLANS