

## **DUNEDIN CITY COUNCIL**

### **ROAD STOPPING POLICY**

#### **Introduction**

The Council is the legal owner of the land set aside for the majority of roads. Some exceptions are:

- roads in the Otakou - Harington Point region where the land is held in a certificate of title in the name of the Crown and issued under the authority of the Native Purposes Act 1931.
- some roads in the reclaimed areas of the City which are still in the name of the Port Company;
- Roads in the Town Belt which are held in the certificate of title for the Town Belt.

In all these cases the formed roads are public roads as they have been formed and maintained with public monies but the roads are not legal roads.

The land held by the Council as road includes formed and unformed roads and in the case of formed roads, in many instances the carriageway footpath system, only occupies part of the road reserve.

In the rural areas the majority of unformed roads are incorporated with adjacent land and utilised for rural purposes.

#### **Legal Requirements**

The law recognises that the need to retain road reserve can change and the Local Government Act allows Territorial Authorities to both create new roads and stop all or part of existing roads. The processes laid down in the Act are public processes and include provision for public notification of intentions and input to the result. If objections are received with respect to a stopping proposal the power to make a final decision is removed from the Council and passed to the Environment Court. This reflects the strong protection of the public's rights.

There is also provision in the Public Works Act to allow roads to be stopped in conjunction with creation of new roads. This is a non public process and is used where roads are being realigned and the like. It is also used when it is found formed roads are not within the legal road reserve and allows a new road reserve to be created in the correct position in exchange for the old reserve.

#### **Asset Matters**

The road reserves owned by Council are valued as part of the Council's overall Roading Asset. Changes made to the road asset value as the result of new roads being added and roads being stopped are recorded with the asset value being adjusted on a regular basis.

## Funding Policy Issues

Road stoppings are regarded as a private good and, as a minimum, all costs associated with the stoppings are recovered from the applicants.

## Current Council Practise

Council has continual requests for Road Stoppings. Standard conditions relating to their approval have been utilised for several years. These are:

It is recommended that the Council approves notice being given of its intention to stop a portion of “..... Street” subject to the applicant agreeing to:

- a) Meet all costs the Council incurs in making the stopping regardless of whether or not the stopping reaches a conclusion.
- b) Pay the Council the value, as assessed by the Council’s Valuers, for the stopped street less any stopping costs already paid. Where the stopping costs exceed the value, the costs become the amount to pay.
- c) The stopped portion being amalgamated with the applicant’s title comprising the land described as .....

The essence of these conditions is that:

- road stopping is a private good and will be done at no cost to the ratepayers.
- if the stopped roads value is greater than the stopping cost the ratepayer at large should benefit rather than the individual.
- road stoppings cannot be used as a de facto subdivision as the stopped road must be amalgamated with the title for the adjacent land.
- The stopped road will assume the land use zoning of the land it is being amalgamated with.

When considering a road stopping proposal consideration will be given to the use being made of the land and whether or not it provides for, or gives access to, recreational needs.

## Variations from the Standard Conditions

Council has allowed variations from the standard conditions with respect to payment for the value of the land in cases where the land is not being fenced off for private gain and the public still enjoy access provisions through the area in general. In particular this has involved roads stopped to create the main campus for the University and roads stopped to allow Carisbrook redevelopment to proceed.

## **ROAD STOPPING POLICY**

The Council's goals with respect to road stopping are to:

- Recognise the changing needs of the community and of the transportation network.
- Encourage full use of the resources available.
- Decrease the community cost involved in maintaining unnecessary assets.
- Ensure the costs of making the stopping are fully recovered from the applicant, plus any additional land value, in cases where only private gain results.
- Ensure the road stopping process is not used to create additional land parcels.

### **POLICY STATEMENT**

As part of the Dunedin City Council's commitment to delivering strategic community outcomes of:

- A wealthy community; and,
- enhanced community life

The Council accepts that land set aside for roads (road reserve), which is not likely to be required for roading or recreational purposes, may be stopped and transferred to adjacent property owners.

The process used for stopping roads will ensure that adequate preliminary consultation is undertaken to determine whether or not the road is surplus to requirements before Council grants authority to proceed. Council will also use the processes laid down in the Local Government Act to stop roads except in the situation where the creation of new road reserve to replace the stopped road is included. In these cases the processes set out in the Public Works Act will be followed.

## **METHODS PROPOSED**

To deliver this policy the Council will apply the following:

### **Needs Evaluation**

1. Each proposal will be examined and the applicant will be required to consult all interested parties to ensure they are fully informed and not opposed to the proposed stopping.
2. The transportation and recreational needs of the area will be examined to determine whether or not the portion of road proposed for stopping can be declared as surplus.

### **Financial Criteria**

1. Where the stopped road is to be used entirely for private purposes the applicant will be required to pay Council the value of the land less any stopping costs with the proviso that the minimum cost to pay is the stopping costs.
2. In cases where the public will generally retain access to the land and public utility services remain the applicant will not be required to pay the value of the land but will be required to pay the stopping costs.

### **Legal process**

1. Staff will determine the appropriate legal process to follow.
2. Where only road stopping is involved, the process set out in the Local Government Act will apply.
3. Where both stopping and legalisation of land in close proximity is involved, the provisions of the Public Works Act will be followed to effect the process.

### **Other matters**

1. Council will require stopped portions of road to be amalgamated into the title of adjacent land to ensure new land parcels are not created outside RMA processes.
2. Council will ensure the principles are publicly available so the community are well informed on road stopping.
3. The process will be managed to ensure no undue delays occur.
4. Applicants will be kept fully informed over the progress of the process.