

Waimatenui Farms Limited - Road Stopping

Meeting: Kaipara District Council
Date of meeting: 28 February 2024
Reporting officer: John Burt, Property, Procurement and Commercial Manager

Purpose | Ngā whāinga

To seek approval for road stopping and subsequent sale of the roads as requested by Waimatenui Farms Limited in their application to Council.

Executive summary | Whakarāpopototanga

Council has received an application from Waimatenui Farms Limited (the Applicant) for the stopping of sections of road adjacent to their 600ha property south of Waimatenui.

Road stopping is a legal process detailed in section 345 of the Local Government Act 1974 where the status of a legal road is changed to fee simple status and the land can then be sold to the adjoining landowners. Council requires applicants to meet all costs associated with the process regardless of the outcome.

A valuation has been obtained which indicates that the 82 Ha proposed to be stopped and sold has a value of \$670,000 plus GST (if any). Any proceeds of the sale belong to Council.

A survey plan is required to be prepared prior to public notification and this will be a significant cost to the applicant. Because of the cost the applicant has requested Council confirms by resolution that it approves the stopping and subsequent sale of the sections of road detailed in the report.

Officers are recommending Council approve the road stopping and subsequent sale of the land as its retention is not necessary to meet the Council's strategic goals and objectives and the capital realised could be better utilised elsewhere.

Recommendation | Ngā tūtohunga

That the Kaipara District Council:

- a) Approves the stopping and subsequent sale to Waimatenui Farms Limited of the part of Waiotekumurau Road that is not maintained by Kaipara District Council and parts of Waiowhata Road and all of Pakotai Road and another unnamed road adjacent to land owned by Waimatenui Farms as detailed in Attachment A of the Waimatenui Farms Limited Road stopping application.
- b) Delegates the Chief Executive responsibility for preparation of the survey plan and the public notification of the Road stopping proposal.
- c) Notes that the sale of the land at a valuation of \$670,000 will not proceed until the Road stopping has been publicly notified and any submissions or objections received have been considered and resolved by Council or the environment court.

Context | Horopaki

Council received a briefing on this application in May 2023 and at that briefing elected members indicated they were generally supportive of the application.

After the May 2023 briefing and the receipt of an appropriate bond, the application was sent to LINZ for review. LINZ have now provided consent for the road stopping to proceed. A valuation of the land has also been obtained.

The next step in the process is for Council to approve the road stopping so that a survey plan can be prepared, and the proposed road stopping publicly notified.

Background on road stopping process.

Road stopping is the process undertaken to change unformed legal road land (also commonly known as road reserve or paper road) into fee simple land so that it can be sold. It is public land legally held for roading but not formed into actual roadway. Council will consider applications from people wanting to buy areas of unformed legal (paper) road.

All applications are assessed on a case-by-case basis. This process can be undertaken under the Local Government Act 1974 or the Public Works Act 1981. The process of buying legal road land can be lengthy and expensive, taking a minimum of 12–18 months. The length of time involved is partly due to the specific legislation that dictates how the Council must go about stopping the legal road land before it can be sold.

Additional steps, such as consulting affected neighbours may also be required. This step is included as it can help to avoid objections that might lead to an application being sent to the Environment Court (at the applicant's expense) for a decision.

When Council receives an application, the details of the proposed purchase are passed to the relevant departments of Council for their comments and approval. Council needs to consider such things as:

- whether the land is required for roading purposes, such as road widening, footpaths, future services, etc
- whether sale of the land is going to adversely affect other property owners in the area or the public at large
- possible roading network changes if the land was to pass into private ownership (eg development potential)
- any significant trees or vegetation in the area and possible covenants to protect them
- any heritage or cultural sites in the area that need protection.

All costs as they occur during the process are required to be met by the applicant. Those costs include, but are not limited to:

- valuation
- survey plans
- legal work—Applicants and Council's
- public notification
- consultants
- Council staff time
- any Council hearing costs
- any Environment court cost

Discussion | Ngā kōrerorero

The applicant proposes that Council Stop and then subsequently sell the part of Waiotekumurau Road that is not maintained by Kaipara District Council (KDC) and parts of Waiowhata Road, all of Pakotai Road and another unnamed road adjacent to land owned by Waimatenui Farms Limited. The area proposed to be stopped and transferred is approximately 82ha. The applicant also proposes that another 7.5ha of stopped road be vested with KDC as an esplanade reserve.

The next stage in the road stopping process will require significant expenditure for the preparation of a survey plan. Therefore, the applicant has requested that before this is incurred, Council

confirms by resolution that it approves the stopping and subsequent sale of the sections of road detailed in the application.

The proposal by Waimatenui Farms Limited (WFL)

The applicant Waimatenui Farms Limited is applying for road stopping of four unformed roads adjacent to their 600ha property south of Waimatenui. This area of the district is characterised by large scale farming and forestry businesses and low population density.

In support of their application WFL provide the following information:

Public access to the Marlborough State Forest will be preserved and provided on the western side of the property. Access will be over the proposed Waiowhata Stream Esplanade Reserve and a proposed new 10m wide walking access easement over Waimatenui Farm and a section of reduced width Waiowhata Road. This route is not formed but is a suitable route for walking, cycling or riding access. It follows the Waiowhata Stream and property boundaries which are fenced and will be easy to navigate.

The known public use of the paper roads to be stopped is nil or very low. The farming operation to the east uses Waiotekumurau Road and part of Pakotai Road. Hunters rarely use this route. Hunters predominantly request permission to access the WFL property via the privately owned roading. Having control over who is hunting on the property is the applicant's strong preference from a health and safety and security perspective. Hunting is encouraged by WFL as a pest control mechanism.

- a) There is no known public use of Waiowhata Rd as there is no formation.
- b) The adjacent landowners support the proposal. The eastern neighbour on the basis that their access rights that they use for their business will be protected. WFL will negotiate this with the neighbour.
- c) The proposal is consistent with KDC Asset Management Plan for Unformed (Paper) Roads.
- d) The proposed road stopping will generate significant benefit over and above the status quo for KDC and the wider community.
- e) There are several environmental benefits proposed including an increase in carbon capture, improved pest control and enhancement of kiwi habitat and protection of native vegetation.

Northland Transport Alliance staff and Council's District planning team have reviewed and are in support of the application.

The applicant has engaged with local iwi and received a positive response from Te Roroa.

A copy of the application is included as **Attachment A**.

A valuation of the land currently designated as road has been obtained and included as **Attachment B**. The land is valued at **\$670,000 + GST (if Any)**.

A copy of the letter of support from the General Manager of Te Roroa Development Group is included as **Attachment C**.

Options

Option 1: Approves the stopping and subsequent sale of the part of Waiotekumurau Road that is not maintained by KDC and parts of Waiowhata Road and all of Pakotai Road and another unnamed road adjacent to land owned by Waimatenui farms as detailed in Attachment A

This is the recommended option.

Option 2: Approves the stopping and subsequent sale of some but not all of roads detailed in Attachment A

Option 3: Status Quo - Decline to approve any of the Road stopping.

Option	Advantages	Disadvantages	Financial implications
Option 1: Approves the stopping and subsequent sale of the part of Waiotekumurau Road that is not maintained by KDC and parts of Waiowhata Road and all of Pakotai Road and another unnamed road adjacent to land owned by Waimatenui farms as detailed in Attachment A	<p>Enables applicant to rationalise their land holdings and frees up capital for alternative uses.</p> <p>Environmental benefits such as increase in carbon capture, improved pest control and enhancement of kiwi habitat and protection of native vegetation.</p>	<p>The roads will no longer be available for alternative uses.</p> <p>Council may have a future maintenance obligation.</p>	<p>The land is valued at \$670,000 and this will be available to be utilised in accordance with Council policy.</p>
Option 2: Approves the stopping and subsequent sale of some but not all of roads detailed in Attachment A	<p>Enables applicant to partially rationalise their land holdings and frees up a lesser amount capital for alternative uses.</p> <p>Environmental benefits such as increase in carbon capture, improved pest control and enhancement of kiwi habitat and protection of native vegetation.</p>	<p>The roads will no longer be available for alternative uses in the future.</p> <p>Council may have a future maintenance obligation</p>	<p>The full \$670,000 will not be realised but a lesser amount will be available to be utilised</p>
Option 3: Status Quo - Decline to approve any of the proposed Road stopping.	<p>The roads will still be available for alternative uses in the future.</p>	<p>Council may have a future maintenance obligation and proposed environmental benefits won't be realised.</p>	<p>No capital will be realised, and future maintenance obligations may be incurred.</p>

Policy

Council's Property disposals and acquisitions policy states that:

- 4.1 The Council will consider the disposal of property in the following circumstances and subject to the Principles of this Policy:
- in circumstances where the maintenance costs are of a magnitude that they outweigh the benefits of retaining the property.
 - where the Council has been approached by an interest party regarding a part of a property and the part concerned is not deemed necessary to meet the Council's strategic goals and objectives or other principles as provided in this Policy.

Legal

Road stopping and sale is provided for in section 345 of the Local Government Act 1974, which states:

Disposal of land not required for road.

- (1) Subject to subsection (3), where in forming a new road, or in diverting or stopping or diminishing the width of any existing road, any part thereof is no longer required as a road, the council may—
- (a) either:
- (i) sell that part to the owner or owners of any adjoining land for a price to be fixed by a competent valuer appointed by the council to value that part; or
 - (ii) grant a lease of that part to the owner or owners of any adjoining land for a term and at a rental and subject to such conditions as the council thinks fit.

Significance and engagement | Hirahira me ngā whakapāpā

Once approved the proposed road stopping will be notified through a public notice in local newspapers as well as on Council's other media channels.

The decisions or matters of this report are considered to have a low degree of significance in accordance with Council's Significance and Engagement Policy. No feedback is required, and the public will be informed of Council's decision via the agenda and minutes publication of this meeting, on the website and through the public notification process detailed above.

Next steps | E whaiake nei

A survey plan will be prepared by the applicant and approved by Council.

The application will then be publicly notified in accordance with section 345 of the Local Government Act 1974.

Attachments | Ngā tapiritanga

	Title
A	Waimatenui Farms Limited -Road stopping application
B	Keystone valuers- Valuation of proposed stopped road
C	TRDG - letter supporting road stop -Waimatenui Farms