

Chairperson and Committee Members
REGULATORY MANAGEMENT COMMITTEE

5 MAY 2011

Meeting Status : Public

Purpose of Report: For Decision

DEDICATION OF LOCAL PURPOSE (ROAD) RESERVE AS LEGAL ROAD - QUEENS ROAD, WAIKANAЕ

PURPOSE OF REPORT

- 1 This report seeks to obtain a resolution to dedicate the sealed part of the Local Purpose (Road) Reserve at Lot 19 DP 65737, Queens Road, Waikanae as legal road pursuant to Section 111 of the Reserves Act 1977.

SIGNIFICANCE OF DECISION

- 2 The recommendations in this report do not trigger the Council's significance policy.

BACKGROUND

- 3 The turning area at the end of Queens Road, Waikanae is not legal road. The land is part of Lot 19 DP 65737 which is classified as Local Purpose (Road) Reserve under the Reserves Act 1977 and held by Kāpiti Coast District Council. See plan **attached** as Appendix 1.
- 4 Historically, it was common practice to create an area of Local Purpose (Road) Reserve at the termination of a subdivision. This served to restrict access onto the legal road at the end of the development, whilst providing for the future extension of the street, at which point the Local Purpose (Road) Reserve would then be dedicated as legal road.
- 5 The owners of 182 Queens Road have constructed a vehicular access onto the turning area on the Local Purpose (Road) Reserve, presumably believing it to be vested as legal road. As there are no vehicular access rights over road reserve, the owners of the property can not legitimately use their driveway. See photo **attached** as Appendix 2.
- 6 The property has an existing access onto the legal road off Weggery Drive West which, due to the orientation of the new dwelling, can not be used to gain access to the garage.
- 7 The owners of 182 Queens Road have approached Council requesting a vehicle access easement across the Local Purpose (Road) Reserve. See extract from easement request **attached** as Appendix 3.

CONSIDERATIONS

Issues

- 8 The new dwelling at 182 Queens Road has been constructed with the garage facing the turning area at the end of Queens Road, rather than being orientated in such a way that enables use of the existing access off Weggery Drive West.
- 9 The sealed turning area at the end of Queens Road is Local Purpose (road) Reserve and not legal road. The turning area is used and maintained as if it were legal road. It would be appropriate to dedicate this area as legal road, according to its use.
- 10 Part of the road reserve is used as if it were recreation reserve. Rather than extend the road frontage of 129 and 182 Queens Road into this area, it is recommended that the area is split with only the sealed area becoming legal road as show on the plan **attached** as Appendix 4. The area used as if part of the recreation reserve would remain as road reserve and could be formally re-classified as recreation reserve at a later date, in keeping with the actual use.

Options

- 11 The situation can be remedied by several methods.
- 12 Option 1: Deny the owners of 182 Queens Road vehicular access to their property over the road reserve from Queens Road and take no further action to reclassify the road reserve. Access to the property can be obtained using the existing access off Weggery Road.

12.1 Advantages

- There are no advantages.

12.2 Disadvantages

- The owners of 182 Queens Road will not be able to access their garage. They will need to reposition their garage/remodel their property to rectify the situation.
- The sealed turning area would remain as an anomalous piece of incorrectly classified road reserve, used as if it were legal road, but not formally classified as legal road.

- 13 Option 2: Grant the owners of 182 Queens Road a right of way easement across the road reserve.

13.1 Advantages

- The owners of 182 Queens Road will be able to legally gain vehicular access to their garage.
- Minimal cost to the Council (\$1000 legal fees for registering the easement).

13.2 Disadvantages

- The sealed turning area would remain as an anomalous piece of incorrectly classified road reserve, used as if it were legal road, but not formally classified as legal road.

14 Option 3: Dedicate the sealed part of the Local Purpose (Road) Reserve (an approximate area of 325m²) as legal road under Section 111 of the Reserves Act 1977. The remaining 180m² grassed area of Lot 19 DP 65737, used as if recreation reserve, will remain Local Purpose (Road) Reserve. See plan attached as Appendix 4. The estimated cost for survey and legal fees is \$5,000.

14.1 Advantages

- The land is dedicated according to the land use.
- 182 Queens Road can be granted access to the legal road from Queens Road using the driveway, as constructed.
- The area of land maintained through the road maintenance budget becomes road and is thus included as a roading asset for New Zealand Transport Agency funding purposes.

14.2 Disadvantages

- An additional vehicular access to the road network is created.
- Survey and legal costs to the Council in the order of \$5,000

Option 3 is officers' preferred option.

Financial Considerations

15 The cost for the project will be charged to budget code GL1791J: Network Management which has a current balance of \$126,800. Whilst the owners of 182 Queens Road are the main beneficiaries of this process, this area of land is used and maintained as if it were part of the road network. It is in order for the Council to regularise this area of land according to its use.

Legal Considerations

16 The Council must follow a process requiring a resolution to dedicate a Local Purpose (Road) Reserve as legal road, as per the staff recommendation.

The Council has the delegation to dedicate road reserve as legal road under the Reserves Act 1977, Section 111(1):

(1) Where any land is vested in the Crown or in any local authority for the purposes of a road reserve and the land is required for the purposes of a road, the land may be dedicated as a road by notice under the hand of the Minister or, as the case may be, by resolution of the local authority, and lodged with the District Land Registrar.

Delegation

- 17 Council's Governance Structure 2010-2013 document does not grant the Regulatory Management Committee delegated authority to resolve that road reserve be dedicated as legal road under Section 111 of the Reserves Act 1977 and for that reason, the Committee can make a recommendation to Council on this matter.

Consultation

- 18 No consultation has been carried out.

Policy Implications

- 19 There are no policy implications.

Publicity Considerations

- 20 There are no publicity considerations regarding the change of status of Lot 19 DP 65737.

Other Considerations

- 21 The District Registrar (The Registrar General at Land Information New Zealand) will be notified of the resolution if the Council approves the dedication of approximately 325m² of Lot 19 DP 65737 as legal road, as per the officers' recommendation.
- 22 The exact area will be subject to survey.
- 23 The remaining 180m² grassed area of Lot 19 DP 65737, used as if recreation reserve, will remain Local Purpose (Road) Reserve, as per the officers' recommendation.

CONCLUSION

- 24 The Local Purpose (Road) Reserve status of Lot 19 DP 65737 was only intended to be temporary, pending the extension of Queens Road into the area that is now recreation reserve. Approximately 180m² is used as if recreation reserve and the remaining 325m² forms the sealed turning area at the end of Queens Road.
- 25 The officers recommendation is to proceed with option 3, above. By dedicating the approximate 325m² area of the sealed turning area as legal road the land classification will reflect the use of the land. The remaining 180m² grassed area of Lot 19 DP 65737, used as if recreation reserve, will remain Local Purpose (Road) Reserve.
- 26 The survey and legal costs to dedicate the sealed 325m² area of Lot 19 DP 65737, as per the officers' recommendation, will be approximately \$5,000. Whilst this is the most expensive option, it provides a permanent solution and classifies the land according to use. The sealed area is currently maintained from the roading budget as if it were part of the legal road network. When dedicated as legal road the area will be entitled to New Zealand Transport Agency subsidy funding.

RECOMMENDATIONS

27 That the Committee recommends to the Council that the sealed 325m² area of Lot 19 DP65737 be dedicated as legal road under section 111 of the Reserve Act 1977 as shown in Appendix 4 to report IS-11-186.

Report prepared by:

Approved for submission by:

Darren Price
ROAD NETWORK ENGINEER

Sean Mallon
GROUP MANAGER
INFRASTRUCTURE SERVICES

ATTACHMENTS:

Appendix 1: Aerial Plan

Appendix 2: Photograph 192 Queens Road, Waikanae

Appendix 3: Excerpt from application for right of way easement

Appendix 4: Indicative boundary plan