



GORE DISTRICT ROAD STOPPING POLICY 2011

Name of Policy

1. This policy shall be known as the Gore District Council Road Stopping Policy 2011.

Application of Policy

2. This policy shall apply to all road stoppings undertaken or proposed to be undertaken by the Council following the date of adoption by the Council of this Policy.

Interpretation

3. For the purposes of this policy the following meanings shall apply:
 - a. "Council" means the Gore District Council and shall include any delegate acting under delegated authority of the Gore District Council.
 - b. "road" means that part of a legal road (including any unformed road) which is the subject of a road stopping application to the Council.

Evaluation Criteria

4. In considering an application for road stopping the Council must firstly consider whether the stopping should be initiated or not. The rules to govern this decision are outlined in the chart below:

District Plan	Is the road shown to be stopped in the operative District Plan or does the stopping have any adverse impact on adjoining properties under the District Plan i.e. setbacks/site coverage or the neighbourhood in general.
Current Level of Use	Is the road the sole or most convenient means of access to any existing lots or amenity features eg a river or coast.
	Is the road used by members of the public.
Future Use	Will the road be needed to service future residential, commercial, industrial or agricultural developments.
	Will the road be needed in the future to connect existing roads.

	Will the road be needed to provide a future or alternative inter-district link.
Alternative Uses	Does the road have potential to be utilised by the Council for any other public work either now or potentially in the future.
	Does the road have current or potential value for amenity or conservation functions eg walkway, utilities corridor, esplanade strip, protected trees etc.
Road adjoining any water body	If so, there is a need to consider Rule 8.11 in the District Plan which requires the establishment of an esplanade strip when land is subdivided adjacent to the Maitara River and Waikaka Stream.
Encumbrances	Is the road encumbered by any services and infrastructure and can they be protected by easements.
Traffic Safety	Does access and egress of motor vehicles on the section of the road constitute a danger or hazard to the road users.
Infrastructure	Does the road currently contain infrastructure, or will it in the future, that is better protected and managed through ownership.

5. An application for road stopping will not proceed if the Council delegate shall in their discretion determine that:
- a. the road has been identified as providing a future road corridor; or
 - b. the road has the potential to provide a future or alternative inter-district link; or
 - c. the road is required, or may be required at any time in the future, for any roading or associated purpose (including any possible future need for movement corridors, for example walkways, cycle ways or other uses additional to normal vehicular needs).
 - d. the road is required, or may be required at any time in the future, for any public work, movement corridor or associated purposes by the Council or any other agency.
 - e. the stopping of the road will result in any land becoming landlocked; or
 - f. the road provides access from a public road or reserve to a watercourse, unless there are sound management, ecological or environmental reasons for doing otherwise; or
 - g. the road provides primary access to an esplanade reserve, esplanade strip, reserve or park, unless there are sound management or ecological reasons for doing otherwise; or
 - h. the stopping of the road will adversely affect the viability of any commercial activity or operation; or

- i. objections are received from any electricity or telecommunications service provider and those objections are not able to be resolved by agreement between the Council and that provider; or
- j. any infrastructure or utilities situated on the road would be better protected and managed through continued Council ownership; or
- k. the road stopping could injuriously affect or have a negative or adverse impact on any other property; or
- l. the road stopping could have an impact on a public work to be undertaken by any other agency including the Crown; or
- m. that the road has significant landscape amenity; or
- n. any other relevant circumstances apply.

Market Valuations to be Used

- 6. All dealings with a stopped road will be at the current market value as determined by the Council.

In determining the current market value, the Council will be guided by an independent registered valuation commissioned by the Council, but it may import other factors deemed to be relevant to the land to be disposed of.

Agreement for Sale and Purchase to be entered into

- 7. Where a road stopping has been initiated by a third party and the application is accepted by the Council then it will only be processed subject to the following requirements first being accepted by the applicant:
 - a. That the proposed terms of sale of the road once stopped be recorded in a formal Agreement for Sale and Purchase prepared by the Council's solicitors and signed by both the applicant as purchaser and the Council as vendor prior to the Council taking any further steps. Such agreement to be conditional to the approval of the Minister of Lands to the stopping, if applicable, and compliance with all the relevant statutes.
 - b. That the Agreement requires the purchaser to meet all the costs incurred by the Council in relation to the proposed road stopping, including but not limited to the following costs: hearing costs, consent costs, LINZ costs relative to any proclamation required to be made and published in the NZ Gazette, LINZ registration fees, professional fees (valuers, accredited agents), court costs, advertising, legal and survey costs.
 - c. That the purchaser will pay a deposit on execution of the Agreement sufficient to cover the Council's estimate of all the Council's costs. The Agreement will provide that in the event of the road stopping being discontinued for any reason the deposit will be refundable to the applicant less the actual costs incurred by the Council in processing the application to that point, as determined by the Council.
 - d. That when a road stopping is initiated by an adjoining landowner to the road proposed to be stopped, and the process determined to be used shall be the Local Government Act 1974 process, the Agreement will provide as appropriate that:

- i. if any objection is received, the Council will endeavour to work constructively with the objector to ascertain whether the objection can be resolved. Should the objection not be able to be resolved the Agreement will be deemed to be cancelled and the deposit paid (if any) refunded to the applicant less any costs incurred by the Council to that date; and
 - ii. if any objection is received and is not allowed by the Council, and the objector wishes the matter to be referred to the Environment Court, the applicant may at that point elect to cancel the Agreement provided that all costs incurred in relation to the application by the Council to that date shall be deducted from the deposit; or
 - iii. if the applicant does not elect to cancel the agreement in the circumstances described in paragraph ii. And the objection is referred to the Environment Court for determination, the applicant shall pay on demand to the Council all costs incurred by the Council in referring the matter to the Environment Court and in relation to the hearing by that Court.
- e. That if the Agreement for Sale and Purchase is cancelled for any reason the applicant will meet all costs incurred by the Council.

Which Statutory Process to Use

- 8. The following criteria have been established to ensure that the appropriate statutory procedure is consistently adopted by the Council, and to avoid, as much as practicable, such decisions being successfully contested by any party.
- 9. The Local Government Act 1974 road stopping procedure shall be adopted if one or more of the following circumstances shall apply:
 - a. where any public right of access to any public space could be removed or materially limited or extinguished as a result of the road being stopped; or
 - b. the road stopping could injuriously affect or have a negative or adverse impact on any other property; or
 - c. the road stopping is, in the judgment of the Council, likely to be controversial; or
 - d. if there is any doubt or uncertainty as to which procedure should be used to stop the road.
- 10. The Public Works Act 1981 road stopping procedure may be adopted if **all** of the following circumstances shall apply:
 - a. where there is only one property adjoining the road proposed to be stopped; and
 - b. where the written consent to the proposed road stopping of all adjoining landowners by proposed road stopping is obtained; and
 - c. where the use of the Public Works Act 1981 procedure is approved (where necessary) by the relevant Government department of Minister; and

- d. where no other persons, including the public generally, are considered by the Council in its judgment to be adversely affected by the proposed road stopping; and
- e. where the road is to be amalgamated with the adjoining property; and
- f. where other reasonable access exists or will be provided to replace the access previously provided by the stopped road (i.e. by the construction of a new road).

Provided that if any one of the above circumstances shall not apply, then the Local Government Act 1974 procedure shall be used.

Adopted by the Gore District Council at its meeting held on 20 September 2011