

## REGULATORY PROCESSES COMMITTEE 15 AUGUST 2012



### REPORT 1 (1215/53/1M)

## BACKGROUND TO ORAL SUBMISSIONS OBJECTING TO THE PROPOSED ROAD STOPPING AND DISPOSAL OF LEGAL ROAD ADJOINING 84 – 90 BRACKEN ROAD, PAPARANGI

### 1. Purpose of report

The purpose of this report is to provide the Committee with background information to two oral submissions opposing a road stopping proposal for land adjoining 101 – 109 Beazley Avenue, 84 – 90 Bracken Road and Newlands College.

The oral submissions will be made by Christine and Eric Miller the owners of 101, 107 and 109 Beazley Avenue, and Lynn and Patrick Smyth who own 97 Beazley Avenue.

No decisions will be made by the Committee on the day of the oral submissions. A final report will be prepared by officers following the oral hearing, to enable the Committee's next available meeting to make a decision on the objections and road stopping proposal.

Refer to Appendix 1 for an aerial photograph which shows the road land proposed to be stopped coloured red.

### 2. Executive summary

On 28 April 2010 Council declared surplus approximately 1,443m<sup>2</sup> of road land (the Land) in Bracken Road. This proposal resulted from Council receiving a road stopping application from the owner of the adjoining 86 Bracken Road. At that time approximately 793m<sup>2</sup> of the Land was proposed to be sold to the owner of 86 Bracken Road with the balance to be marketed for sale by Council.

Since 2010 the owner of 86 Bracken Road subdivided their property into four separate lots, these now being 84 – 90 Bracken Road. These lots have been developed and sold, and the former owner withdrew their road stopping application. Officers are therefore progressing this matter on the basis that if the proposed road stopping is successful then the Land would be marketed for sale on the open market as two separate lots. This does not create any frontage issues for the adjoining 84 – 90 Bracken Road properties.

Public consultation on the proposed road stopping, including formal notification, was undertaken during April and May 2012. Two written objections were received. Both are taking the opportunity to present an oral submission to the Committee, in support of their written objection.

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## 3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Thank Mr and Mrs Miller and Mr and Mrs Smyth for their oral submissions and advise that it will consider the matter and make a decision on whether or not to uphold either objection, at its next available meeting of the Regulatory Processes Committee.*

## 4. Background

### 4.1 Road stopping consultation

The Regulatory Processes Committee meeting of 14 April 2010, and the Council meeting of 28 April 2010 agreed to proceed with the road stopping application made by the owners of 86 Bracken Road. Refer to Appendix 2 for a copy of the 2010 committee report.

Consultation on the proposed road stopping was undertaken during April and May 2012. Letters were sent to 21 owners and occupiers of properties situated immediately near the road stopping site. The recipients of these letters included anyone who had indicated earlier in the road stopping process that they had concerns. Public notices were placed in the Dominion Post on 17 and 24 April 2012, and signage was placed on site. Information was also made available on Council's website, the main library and service centre, 101 Wakefield Street.

The resolutions of the 28 April 2010 Council meeting noted that a further report would be presented to the Committee outlining any objections received during the public consultation subject to the road stopping applicant wishing to proceed with the process.

### 4.2 Objections received

Two written objections were received from the public consultation. These were from Mr and Mrs Miller whose properties at 101, 107 and 109 Beazley Avenue directly adjoin the Land. The other objectors are Mr and Mrs Smyth who own 97 Beazley Avenue which is situated nearby.

The details of both objections are outlined and discussed in more detail in section 5. Discussion below.

## 5. Discussion

### 5.1 Grounds for objections

#### **Objection from Mr and Mrs Miller**

The grounds for Mr and Mrs Miller's objection are:

1. The underground springs / surface water from the Land is not being managed and is adversely affecting our adjoining property. There are 2 springs and 1 spring has no field drain. Building on the Land will disturb the springs.

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2. There will be negative traffic effects from vehicles turning into the Land at high peak times with school traffic.
3. Services in the area have not been upgraded since the original subdivision and will be overloaded if the Land is developed. The Land has been built up so high that it now slopes towards 107 Beazley Avenue causing overflow of water to run into the storm water sump in 107 Beazley Avenue's driveway. Extra dwellings will put pressure on this sump so who will be responsible for any damage?
4. Impact on our adjoining property if houses are built on the Land are 2 or 3 stories high.
5. The sunlight access plane and yard effects on our property because part of one of our legal front boundaries would become a front boundary.
6. Concerns over building on the Land as it is now partly backfilled.

Officers met with Mr and Mrs Miller on 11 June 2012 in an attempt to resolve their concerns. Refer to Appendix 3 for copy of the letter dated 29 June 2012 which summarised the objection grounds and officer's responses. Mr and Mrs Miller have chosen not to withdraw.

Refer to Appendix 4 for six photos that Mr and Mrs Miller wanted presented to the Committee with their objection.

Refer to Appendix 5 for a plan of the area showing the Land outlined green, the new subsoil drain coloured red, and the new storm water main that runs through the Land coloured blue.

### **Objection from Mr and Mrs Smyth**

1. Bracken Road is the only road access to both Newlands College and Newlands Intermediate, and in addition provides access to Newlands Road and Ngauranga Gorge for Paparangi, Granada Village, the Mark Ave extension development and Churton Park residents who wish to avoid Johnsonville Road. We noted that traffic congestion associated with the schools on Bracken Road has increased since our last objection. Wet mornings result in traffic queues backed as far as the bus stop in front of 91 Beazley Ave as traffic negotiates cars and buses parked on both sides of the Bracken Road alongside the College and Intermediate, while Saturday morning winter sport sees cars increasingly further down Beazley Ave and Bracken Road and taking up all of Kahikatea Grove and Ring Lane.

As housing development in the area continues and school rolls consequently increase the situation at this bottleneck will become even more pressured.

We note that only two new houses will be built on the stopped land but disagree that these properties will not adversely affect the parking problems and congestion in the area. While the shared driveway meets the design criteria to serve six properties, in reality the Council cannot have foreknowledge of the actual parking needs of the future occupiers of those

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six properties. Today it is commonplace to take work vehicles home or own a business that relies on vehicles kept at the owner's residence. One house in Bracken Road is used as a mosque, while we have neighbours who run a taxi business.

We accept that easing congestion by creating a carpark on the land contravenes Council policy not to provide off street parking for public use. However on balance, it seems unnecessary to potentially add to traffic congestion outside two schools for the sake of building two houses when large residential developments are already progressing in the area.

Officers met with Mr and Mrs Smyth on 13 June 2012 in an attempt to resolve their concerns. Refer to Appendix 6 for copy of the letter dated 29 June 2012 which summarised the objection grounds and officer's responses. Mr and Mrs Smyth initially had several concerns which have all been allayed with the exception of traffic congestion.

Both objectors have chosen not to withdraw their objections and now want to take the opportunity to present an oral submission to the Committee. Officer comments and recommendations on the issues raised by both objectors, taking into consideration any new points that may be raised in their oral submissions, will be presented to the Committee in a final report to be prepared for its next available meeting.

## **5.2 Next Steps**

The next steps in the process for this road stopping proposal are:

- After the Committee hears the oral submissions, officers will finalise a report for the Committee's next available meeting.
- The Committee will consider the submissions and final report, and will make a recommendation to Council on whether or not to uphold the objections.
- If the Committee's decision is to uphold either objection and full Council agrees, then the road stopping proposal is effectively ended and the road land will not be stopped and sold.
- If the decision reached is to not uphold (i.e. reject) the objections and to proceed with the road stopping process, and either of the objectors still wish to pursue their objection, then the road stopping proposal and the objection(s) will be referred to the Environment Court for a decision.

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## **6. Conclusion**

This report provides background information for the Committee on the road stopping proposal and the oral submissions to be made by Mr and Mrs Miller and Mr and Mrs Smyth in support of their objections.

After the oral submissions a final report will be prepared for the Regulatory Processes Committee to make a recommendation to Council on whether either objection should be upheld or rejected.

Contact Officer: *Paul Davidson, Property Advisor, Property Services*

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<b>SUPPORTING INFORMATION</b>
<p><b>1) Strategic fit / Strategic outcome</b></p> <p><i>In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold.</i></p>
<p><b>2) LTP/Annual Plan reference and long term financial impact</b></p> <p><i>This report is a step towards the possible sale of the legal road.</i></p> <p><i>The costs associated with this proposal will be met by the proceeds of sale. This proposal will benefit the Council in financial terms as two new lots will be created, sold at market value, with future owners then paying rates on them in the future.</i></p>
<p><b>3) Treaty of Waitangi considerations</b></p> <p><i>There are no Treaty of Waitangi implications.</i></p>
<p><b>4) Decision-making</b></p> <p><i>This report is for the purposes of providing background information to the oral submissions only, a final decision will be made at the next available meeting.</i></p>
<p><b>5) Consultation</b></p> <p><b>a) General consultation</b></p> <p><i>Consultation with the relevant service authorities and internal business units has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping, with standard conditions relating to leaving services in road land applying.</i></p> <p><i>Public consultation has been carried out with two objections received.</i></p> <p><b>b) Consultation with Maori</b></p> <p><i>The internal business unit consultation included Treaty Relations who consulted with local iwi, who had no interest in the subject land.</i></p>
<p><b>6) Legal implications</b></p> <p><i>This report is for the purpose of providing background to the objections. Any legal implications relating to the objections will be considered and addressed in the final report to decide on the objections.</i></p>
<p><b>7) Consistency with existing policy</b></p> <p><i>The road stopping proposal and this report are consistent with WCC policy.</i></p>

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REGULATORY PROCESSES  
COMMITTEE  
14 APRIL 2010

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REPORT 1  
(1215/53/IM)

### ROAD STOPPING AND DISPOSAL - LEGAL ROAD ADJOINING 86 BRACKEN ROAD AND NEWLANDS COLLEGE, PAPARANGI

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#### 1. Purpose of Report

The purpose of this report is to obtain agreement that two areas of Council owned unformed legal road adjoining 86 Bracken Road, and Newlands College, Paparangi, Wellington, are no longer required for Council's operational requirements. Also to authorise officers to proceed with the offer back investigation and eventual road stoppings and sales.

Refer Appendix 1 which shows the two areas of land adjoining 86 Bracken Road (Area 1), and Newlands College (Area 2).

#### 2. Executive Summary

An application has been made to Wellington City Council (WCC) by the owners of 86 Bracken Road, to stop a portion of unformed legal road adjoining their property.

As a result of this application a second area of unformed legal road in front of the Newlands College has been identified as also being suitable to be stopped. Newlands College has indicated that it is not interested in purchasing this land, so officers now believe that Council should pursue the stopping and subsequent disposal itself.

The key question for Council is whether both areas of land are surplus to requirements for a public work, and if so, whether it will support commencement of the road stopping procedures under the Local Government Act (LGA)

Internal business unit consultation has taken place, and all relevant business units support the disposal. External service authorities also have no objection to the proposed stopping. Immediate neighbours have been consulted. While concerns have been expressed, officers believe that they have been addressed and there is now no reason why road stopping Area 1 and Area 2 should not proceed.

Neither areas of road proposed to be stopped have been valued at the time of preparing this report.



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### 3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
  - (a) *Agree that the 793m<sup>2</sup> area of unformed legal road land adjoining 86 Bracken Road, Paparangi, and the approximately 650 m<sup>2</sup> (both subject to survey) of unformed legal road land on Bracken Road adjoining Newlands College, Paparangi, are not required for a Public Work.*
  - (b) *Approve the disposal of the approximately 793m<sup>2</sup> of unformed legal road land adjoining 86 Bracken Road, Paparangi, to the owner of that property.*
  - (c) *Approve the disposal of the approximately 650 m<sup>2</sup> of unformed legal road land on Bracken Road, adjoining Newlands College, Paparangi, to be marketed publicly*
  - (d) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether both areas of unformed legal road land must be offered back to their former owner(s) or their successor(s), or whether exemptions from offer back applies.*
  - (e) *Delegate to the Chief Executive Officer the power to either offer both areas of unformed legal road land back to their former owner(s) or their successor(s), or to approve the exercise exemptions from offer back under section 40(2), 40(3), or 40(4) (if appropriate)*
  - (f) *Authorise Council officers to initiate the road stopping process for both areas of unformed legal road in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
  - (g) *Delegate to the Chief Executive Officer the power to formally approve both road stoppings, and issue the public notice to declare both areas of unformed legal road land stopped as road, subject to all statutory and Council requirements being met with no objections being received.*
  - (h) *Delegate to the Chief Executive Office the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining 86 Bracken Road, either with the former owner(s) or their successor(s), or the owner of 86 Bracken Road, provided any such agreement is conditional upon the road being stopped.*

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- (i) *Delegate to the Chief Executive Office the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining Newlands College, either with the former owner(s) or their successor(s), or the successful purchaser following the land being marketed for sale, provided any such agreement is conditional upon the road being stopped.*

### 4. Background

Council has received a road stopping application to 'stop' unformed legal road adjoining 86 Bracken Road from the owner of that property. The legal description of 86 Bracken Road is Lot 1, DP 75369, being held on Computer Freehold Register WN42B/156.

While the application related to the stopping and purchase of unformed legal road in front of the applicants property, they also expressed interest in stopping and purchasing further unformed legal road that is in front of the neighbouring Newlands College.

The total area of unformed legal road in front of both properties is approximately 1,443 m<sup>2</sup> (subject to survey). The land is currently grassed, with some small trees. As land that size could be issued with its own title, officers considered whether it would be in Council's best interests to proceed with road stopping and disposal of this total area itself. If Council did that there would be frontage rights and access issues to resolve with the applicant. Officers believe that these issues outweigh any possible benefits, so it would be better to progress the application received from 86 Bracken Road for Area 1, and pursue the stopping and disposal of Area 2 itself, if Newlands College were not interested.

### 5. Discussion

#### 5.1 Consultation and Engagement

As part of the road stopping process service authorities, internal business units, and immediate neighbours are given an opportunity to provide comments.

##### 5.1.1. Service authorities and Internal business units

Conditional consent has been obtained from:

Service Authorities / Internal Business Units	
WCC Road and Traffic Maintenance	Both areas Wants to retain approx 24 metres road width at this point
WCC Urban Development and Transport	Area 1 The existing vehicle crossing does not comply with the District Plan requirements as it is too close to the intersection. However as the proposed road stopped area will be used for

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	<p>landscaping rather than to construct a second household unit, the intensity of the crossing will not be increasing</p> <p>If the applicant wishes to construct further household units on the site and gain access from the existing crossing, then resource consent would be required for increasing the density of the existing non-complying vehicle crossing. Should the applicant wish to undertake further development on the site, then this would be subject to the rules of the District Plan</p> <p>Notice should be served on 105, 107 and 109 Beazley Ave as the road stopping will create a yard rule and sunlight access plane rule on these properties</p> <p>Area 2 Stopping may create access and legal frontage problems for 84 Bracken Road By stopping this area this would create sunlight access plane infringement on the school</p>
PowerCo Ltd.	<p>Both areas</p> <p>Records show a PowerCo gas pipe that supplies No 86 Bracken Road in the land to be purchased. The new boundary must leave Powerco gas pipes in road reserve. If applicable, relocation of any PowerCo gas pipes necessary to accommodate the land purchase. The costs associated with this will be the responsibility of the applicant in regards to Area 1, and Council in regards to Area 2.</p>
Capacity	<p>Area 1 There is an existing toby located at the existing boundary. It is a requirement that a new toby is located in road reserve at the proposed new boundary. WCC is responsible for the water service pipe up to and including the toby</p> <p>Area 2 A new toby needs to be located at the proposed new boundary of the land in front of Newlands College</p>

### 5.1.2 Service authorities and Internal business units

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Unconditional consent for both areas has been obtained from:

- WCC Treaty Relationships
- WCC Parks and Gardens
- WCC Street Lighting
- WCC Public Drainage
- Telstra Clear
- Transfield (Telecom)
- United Networks Ltd
- Nova Gas

Officers are satisfied that if the above Service Authority requirements and all statutory and Council requirements are met the two areas of legal road in Bracken Road, Paparangi can be stopped and sold.

### **5.1.3. Immediate neighbours**

Neighbours immediately next to the land proposed to be stopped were consulted. Included in that consultation were the owners of 101 – 109 Beazley Ave, that also being a condition imposed by WCC Urban Development and Transport. That specific condition was due to these five properties being cross leased, with three of them, numbers 105, 107 and 109, being affected by yard rule and sunlight access plane regulations if the stopping of Area 1 was successful.

The 'yard rule' concerns minimum width for access required to be retained to the rear of a lot. The 'sunlight access plane' concerns height of buildings relative to their distance from boundaries. These two regulations would be triggered if the application to stop Area 1 was successful, because one of the front boundaries shared by 105, 107 and 109 Beazley Ave would become a side boundary.

Three of the five properties at 101 – 109 Beazley Ave have the same owner which made consultation with them simpler. The owners of 103 Beazley Ave live overseas and had no concerns, however the owners of 101, 105-109 Beazley Ave do. Their concerns are not specifically related to the yard rule and sunlight access plane regulations, but concerned issues such as drainage and increased traffic.

These neighbours concerns were addressed by officers, and the applicant was also asked to prepare plans to show what they intended to do with Area 1. The applicant was requested to meet with these owners to go over their plans, for the purpose of obtaining their consent. Several meetings have taken place between these parties. The applicant modified their proposed plans for Area 1, to include

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fewer dwellings than originally planned, covenanted areas where there would be no buildings over one storey high, and other areas where there would be no buildings at all. These plans would still be subject to resource consent application, and compliance with the District Plan. While consent from these owners has still not been obtained, and standard WCC neighbours comments / consent forms signed, officers believe the concerns have been addressed by WCC internal business units and the applicant. While the written consent has not been received from these neighbours, should they want to further object they will have opportunity to do so when the wider public consultation takes place later in the road stopping process.

Newlands College has confirmed that they are not interested in the stopping and purchase of Area 2. They too expressed concerns on the proposal to road stop Area 1 and Area 2. While their concerns were addressed by officers in writing, a standard WCC neighbours comments / consent form has not been signed at the time of the preparation of this report. Like the owners of the Beazley Ave properties if Newlands College wanted to further object they will have opportunity to do so when the wider public consultation takes place later in the road stopping process. As the crown (Ministry of Education) are the owners of the land that the college occupies, details of the road stopping proposal has also been sent to them.

The applicant understands that there is still a further requirement for wider public consultation, and that if further objections are received then, that could result in their application ending up in the Environment Court to rule on whether to uphold any objection or not. The applicant has advised that they still want to proceed on that basis.

Refer to appendix 2 for summary of neighbours concerns and officers responses.

### **5.2 Financial Considerations**

All costs associated with road stopping the unformed legal road land adjoining 86 Bracken Road will be met by the applicant, while the costs associated with road stopping the unformed legal road land adjoining Newlands College will be met by Council. The proceeds of the sale of both areas of land will be received by Council

### **5.3 Climate Change Impacts and Considerations**

There are no climate change impacts.

### **5.4 Long-Term Council Community Plan Considerations**

This proposed road stopping has no overall impact on the LTCCP.

### **5.5 Significance Policy/ Strategic Assets**

Under Council's Significance Policy, the sale of these properties would not be deemed significant.

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### 6. Conclusion

For the reasons outlined in section 4 Background officers believe Council should progress the road stopping application by 86 Bracken Road to stop Area 1, and stop and sell Area 2 itself.

In considering our obligations under the LGA, Council officers believe that the approximately 793m<sup>2</sup> area of Council owned unformed legal road adjoining 86 Bracken Road, is no longer required for the Council's operational requirements, and could be declared surplus and sold to the applicant, and the approximately 650m<sup>2</sup> of unformed legal road adjoining Newlands College is no longer required for the Council's operational requirements, and could be declared surplus, stopped, and then put on the market for sale as a freehold residential section.

It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 86 Bracken Road is declared surplus, and that officers can proceed to initiate the road stopping procedure and sale to the adjoining land owner, and the land adjoining Newlands College also be declared surplus, stopped and sold.

Contact Officer: Paul Davidson, Property Advisor, Property Services

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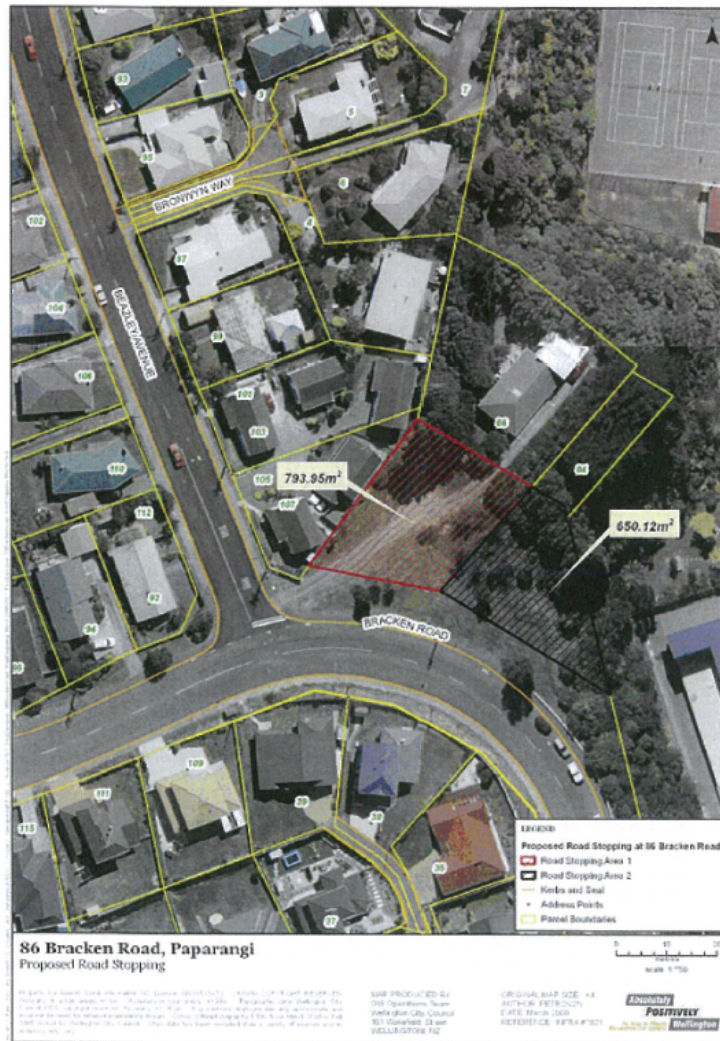
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<b>Supporting Information</b>	
<b>1) Strategic Fit / Strategic Outcome</b>	<i>In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold. The sale of legal road, where surplus to strategic requirements, is mandated under the Council's 2004 Road Encroachment and Sale Policy.</i>
<b>2) LTCCP/Annual Plan reference and long term financial impact</b>	<i>Provision for undertaking this work is contained within the overall organisational budget. This report is a step towards the possible sale of the legal road. At this stage, the expected income from the sale of the road to the applicant has not been quantified as valuations are carried out at a later stage in the road stopping process. Many applicants decide not to proceed further with the purchase of the legal road once they have received a valuation from the Council. There are also possible rejection stages throughout the process. There are no adverse financial implications imposed on the Council arising from this road stopping proposal. Most of the costs associated with this proposal will be met by the applicant including all survey, administration and legal costs. This proposal will benefit the Council in financial terms as the applicant will purchase the stopped road from the Council at market value, and will then pay rates on it in the future.</i>
<b>3) Treaty of Waitangi considerations</b>	<i>There are no Treaty of Waitangi implications.</i>
<b>4) Decision-Making</b>	<i>This is not a significant decision. This report sets out the Council's options under the relevant legislation and under the Council's 2004 Road Encroachment and Sale Policy</i>
<b>5) Consultation</b>	<p><b>a) General Consultation</b> <i>Consultation with the relevant internal business units has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping, with Urban Design, and Roading consent subject to certain conditions. Service Authorities have been consulted. Several adjoining landowners were required to have written notification sent to them and their approval sought, this was done and their concerns responded to.</i></p> <p><b>b) Consultation with Maori</b> <i>Local IWI have been consulted with.</i></p>
<b>6) Legal Implications</b>	<i>There are no significant legal implications arising from this matter. Compliance with the LGA and Section 40 PWA considerations will address relevant issues.</i>
<b>7) Consistency with existing policy</b>	<i>The recommendations of this report are consistent with WCC policy.</i>

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### APPENDIX 1





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## Appendix 2

### APPENDIX 2

Summary of neighbours consultation and officer's response.

Address	Issue	Officers response
97, 99, 101, 107, 109 Beazley Ave, and 100 Bracken Road	Area 1 and 2 Traffic / Parking. Limited vision and there is high demand at peak times given the school traffic	WCC Roading and Urban Development and Transport have considered both traffic volumes and parking requirements
97 Beazley Ave	Area 1 and 2 Any new driveways will further reduce parking and create traffic hazards	WCC Urban Development and Transport advise any new driveway will have to comply with the District Plan
97, 99 Beazley Ave, and Newlands Papanangi Progressive Association	Area 1 and 2 Area should be used for a bus stop	WCC Roading have made allowance for future bus stopping needs
97, 99, 101, 105, 107, 109 Beazley Ave, and Newlands College	Area 1 and 2 There are drainage problems	WCC Public Drainage believe future development will improve drainage situation by connection to public system or control of ground water
97 Beazley Ave	Area 1 and 2 The land is of interest to the wider community and their views should be sought	Public consultation will be undertaken as required by the 10 <sup>th</sup> Schedule of the Local Government Act 1974
99, 105, 107, 109 Beazley Ave, 100 Bracken Road, Newlands College, and Newlands Papanangi Progressive Association	Area 1 and 2 Applicant definitely intends developing properties, which won't fit in with existing properties, or could be 2 or 3 stories high	WCC Urban Development and Transport - Any future development will need to either comply with the provisions of the District Plan, or obtain a resource consent for any areas of non-compliance. WCC Property Projects – Applicant has agreed to limit the height to single story
101, 107, and 109 Beazley Ave	Area 1 Services in the area, ie power, water, drainage, have not been up graded from the original sub division of the area. This would then over load the systems, if the property was to be developed for housing	WCC Property Projects - All service providers are consulted with as part of the road stopping process, if there was any issue concerning the upgrading of services then these companies have opportunity to raise it, which they did not
38, 107, 109 Beazley Ave, and Newlands College	Area 2 No 84 Bracken Road Empty If the land in front is	WCC Property Projects - No 84 Bracken Road is owned by Newlands College. Officers have consulted with the college over

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	sold, how and where is the access for this property?	the proposed road stopping of land adjoining 86 Bracken Road, and also the land it is investigating stopping itself that adjoins 84 Bracken Road. In consultation with the college officers have proposed that a boundary adjustment be carried out so the schools land is amalgamated into the schools larger adjoining site. All costs associated with this would be borne by Council
100 Bracken Road	Area 1 and 2 The green area at present is a good entrance to further north, eg Granada Village	WCC Urban Development and Transport - As stated in Amy Spurdles original statement under 'Streetscape and Amenity' - It is not considered that the road stopping of this land would create adverse effects on streetscape and amenity
Newlands College	Area 2 WCC Urban Development Condition - In relation to the area of land highlighted black on the plan - By stopping the area highlighted black this would create a sunlight access plane requirement for Newlands College	WCC Property Projects - This is the same situation as with the properties at 105, 107 and 109 Beazley Ave as detailed above. The schools buildings are approximately 13 metres below the level of Bracken Road where the unformed legal road to be stopped is situated. Unless the school ever decided it wanted to increase the size of its buildings to approx 4+ stories high, then this is also not likely to ever be an issue for the school
Newlands College	Area 1 and 2 That any new house built on the unformed legal road land could be built too close to the edge of the property, and that the ground would be unstable given that some of it had been filled in the past	WCC Property Projects - The final positioning of any new house, and the stability of the land that it is built on, are both issues that are considered and addressed as required in the resource consent and building consent processes. These processes will ensure that there are no issues regarding ground stability

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## Appendix 3



29 June 2012

E & C Miller  
PO Box 13306  
Johnsonville  
Wellington 6440

Dear Eric and Christine

### **Proposed Road stopping – Bracken Road, Paparangi**

Further to our meeting on 11 June 2012 I write to confirm our discussion concerning your objection to the proposed road stopping at Bracken Road.

In considering whether road should be stopped or not, Council must be satisfied that the road is no longer required for roading purposes, ie road widening. As such, Council's Roading Unit has confirmed there is no need to retain this portion of road for future roading requirements. While your objection mainly relates to the development of the land and not to the actual stopping of the road itself, I believe your concerns are a matter that would be managed at the planning stage of the development.

Please find below Council's response to the issues you raised:

#### **1. Underground springs/water control**

Public Drainage advise that they are well aware of the underground springs and due to the natural ground contours water naturally drains towards 101-109 Beazley Ave. A field drain was recently installed as part of the subdivision and is adequately draining water into the storm water main. Provision for further storm water control (if needed) would be addressed as part of the building consent process with any future subdivision. This will only improve the situation and not make it worse. Should the road stopping proposal be successful information would be provided to the LIM team to ensure that the existence of the springs is noted on the LIM's for the two lots that are proposed to be created.

#### **2. Traffic affects from vehicles turning into the subject land**

Council's Transport Planning advise that prior to subdivision, the existing driveway did not comply with District Plan requirements as it was too close to the Bracken Road / Beazley Avenue intersection. After subdivision there are now four properties (84 – 90 Bracken Road) that have a complying driveway. Access to the two new lots proposed to be created from the road stopping would also be from this same shared driveway. Therefore, no additional driveway crossings on to Bracken Road would be required. Council's Vehicle Access Engineer has confirmed that the design/specifications of the new shared driveway meet the design criteria needed to serve six properties.

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## Appendix 3

### **3. Services in the area not upgraded from original subdivision and will be overloaded if the subject land was developed**

In the early steps of the road stopping process all service authorities and relevant internal Council business units are consulted and their approval sought. All gave their consent with standard conditions. None of the service authorities or internal Council business units raised any concerns that any infrastructure would be overloaded should the land be developed and built on. Public Drainage advise that in regards to the storm water and sewer services, work was carried out to these services as part of the recent subdivision. The two new lots proposed to be created from the road land would each be sold with storm water and sewer connections provided, and Public Drainage see no issues with having two more dwellings connected to them.

### **4. Impact if houses were built on the subject land 2 or 3 stories high**

The Council has agreed to impose several conditions on the road land to be stopped. These are:

- Any new dwelling built on the road land would be limited to only one storey.
- Only one dwelling to be built on each of the two lots proposed to be created from the road land.
- The style of fencing matches the style that is already bordering the common driveway.
- There is to be no blocking / parking on the common driveway.

### **5. Sunlight access plane and yard effects on your property**

Development Planning advise that if the road stopping proposal is successful then approximately 36 lineal metres of one of 101-109 Beazley Avenue's front boundaries would become a side boundary. This would trigger 'sunlight access plane' and 'side yard' requirements on that length of the boundary. Such new requirements would only affect those two townhouses which are situated next to the subject boundary. The sunlight access plane requirements would only need to be considered if second levels were proposed. Existing user rights apply in respect of the side and rear yard requirements.

The requirements triggered above are considered less than minor given the existing general requirements for the five cross leased properties, and therefore are not considered as likely to cause significant additional future expense or loss in value for any of the 101-109 Beazley Ave property owners.

In regards to the general positioning of any new dwelling being built on the land proposed to be stopped, that would be governed by the District Plan rules.

### **6. Land behind 107 and 109 has been backfilled, how long before it can be built on? This has now taken the height of a dwelling higher**

Development Planning advise that the backfill on the road land proposed to be stopped was a permitted activity related to the recent subdivision. The fill could be built on now but the design of any future foundation works would have to take the fill into consideration, and foundations would have to be to the satisfaction of the building consent and inspection process.

Should you wish your objection to remain in place then the process would be as follows:

1. Your objection would be referred back to Council's Regulatory Processes Committee and full Council for decision on whether to uphold it or not.

# Appendix One

## Appendix 3

2. You would have the opportunity to make an oral submission to the Regulatory Processes Committee in support of your objection. Oral submissions usually take 5 – 10 minutes.
3. I would prepare a committee report on the road stopping proposal and your objection for the Regulatory Processes Committee and full Council to consider. This would be finalised after any oral submission (if required)
4. If Council did not uphold your objection, and you still did not want to withdraw then this matter would have to be referred to the Environment Court. If this matter did progress to this state you are encouraged to obtain legal advice before deciding whether or not to withdraw to ensure that you were making an informed decision.

I trust your concerns have been addressed by the relevant Business Units above.

Please feel free to contact me if you need further clarification. Otherwise, could you please contact me by 13 July 2012 to advise whether you wish to withdraw your objection or present it to the Regulatory Processes Committee for their consideration.

Yours sincerely



Paul Davidson  
**Property Advisor - Property Services**  
Ph: (04) 803-8139  
Email: paul.davidson@wcc.govt.nz

# Appendix One

## Appendix 4

View of 101 - 109 Beazley Avenue site



View of 101 - 109 Beazley Avenue site showing townhouses originally being built



View of road land with subdivision of 86 Bracken Road at rear



# Appendix One

## Appendix 4

View of pavers at the rear of 107 Beazley Ave



View 1 of manhole with subsoil drain connections

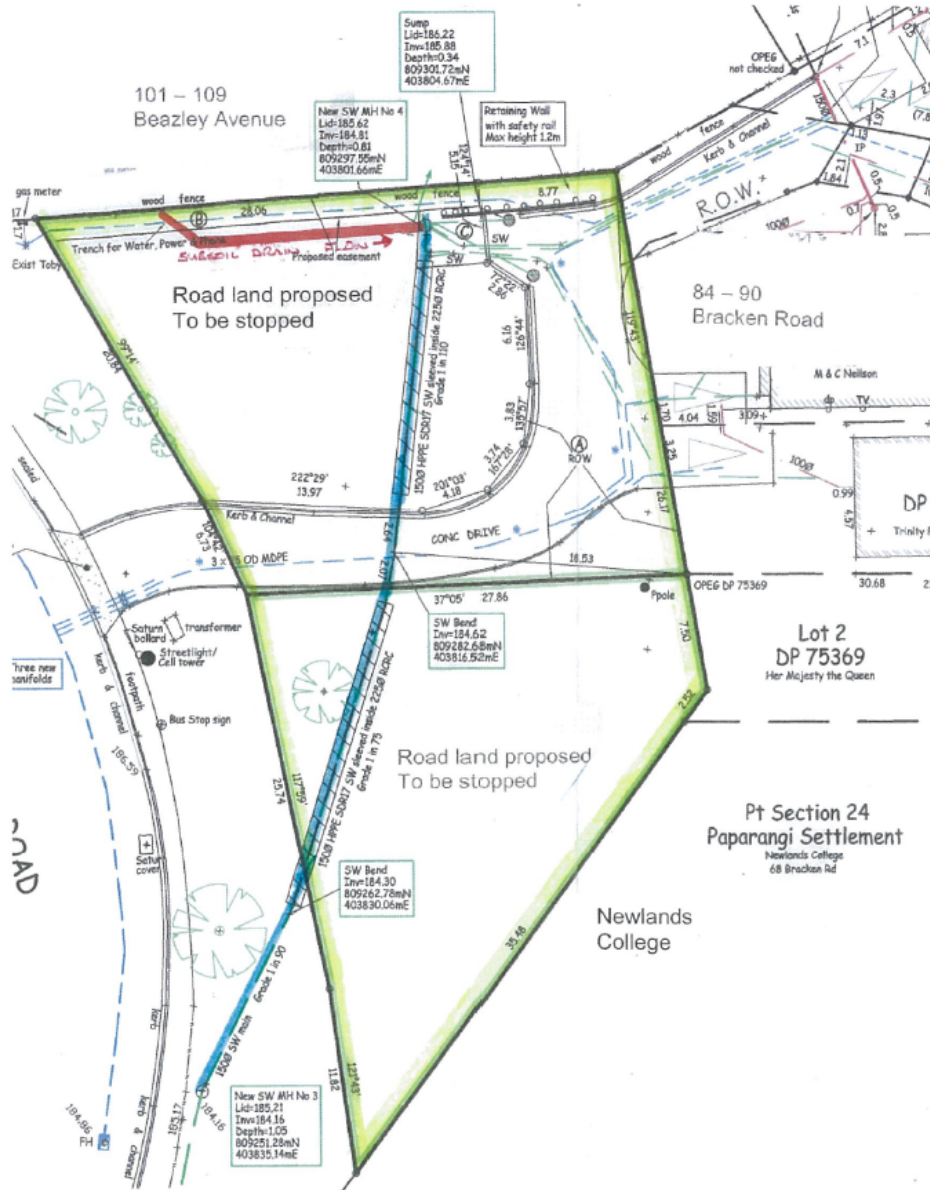


View 2 of manhole with subsoil drain connections



# Appendix One

## Appendix 5





# Appendix One

## Appendix 6

**Also Here**

**Wellington**

29 June 2012

P & L Smyth  
97 Beazley Ave  
Paparangī  
Wellington 6037

Dear Patrick and Lynn,

### Proposed Road stopping – Bracken Road, Paparangī

Further to our meeting on 13 June 2012 I write to confirm our discussion concerning your objection to the proposed road stopping at Bracken Road.

In considering whether road should be stopped or not, Council must be satisfied that the road land is no longer required for roading purposes, ie road widening. As such, Council's Roading Unit has confirmed there is no need to retain this portion of road for future roading requirements. I have received advice from several Council units which address most of your concerns, any remaining issues would be managed at the planning stage of any future development.

#### 1. Underground springs/Water control.

Public Drainage advise that they are well aware of the underground springs and due to the natural ground contours water naturally drains towards 101-109 Beazley Ave. A field drain was recently installed as part of the subdivision and is adequately draining water into the storm water man. Provision for further storm water control (if needed) would be addressed as part of the building consent process with any future subdivision. This will only improve the situation and not make it worse. Should the road stopping proposal be successful information would be provided to the LIM team to ensure that the existence of the springs is noted on the LIM's for the two lots that are proposed to be created.

#### 2. Traffic congestion.

Road stopping proposals are carefully considered by relevant Council business units when applications are first received to ensure that land is not required for Council's own use and/or there are any issues to be considered.

Bracken Road is classified as a 'Collector Road' requiring a minimum road reserve width of 22m needing to be retained. In this case Road and Traffic Maintenance has supported the proposal but conditional on a width of 24m being retained to allow for future road and traffic needs. Bronwyn Way is situated directly next to your property. Bronwyn Way provides access to five residential properties. It is reasonable to assume that visitors and some of the residents cars from these properties may park on Beazley Ave regularly which would create pressure on the available on street parking.

Before the former 86 Bracken Road property was subdivided its driveway did not comply with District Plan requirements as it was too close to the Bracken Road / Beazley Avenue intersection. After subdivision there are now four properties (84 – 90 Bracken Road). The subdivision resource consent allowed for a new shared driveway to be formed. This runs across road land and onto Bracken Road. The entrance to the new shared driveway is positioned away from Bracken Road / Beazley Avenue intersection and so now complies with the District Plan.

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# Appendix One

## Appendix 6

Access to the two new lots proposed to be created from the road stopping would also be from this same shared driveway that 84 – 90 Bracken Road use. Therefore no additional driveway crossings on to Bracken Road would be required. Council's Vehicle Access Engineer has confirmed that the design / specifications of the new shared driveway meet the design criteria needed to serve six properties.

It is proposed that Council will put a condition on the sale of the two lots so that only one single storey dwelling can be built so the increase in the volume of cars coming from those properties would be minimal. Advice from the Road and Traffic Unit is that the road stopping proposal will not affect the traffic congestion in the area

3. **I believe the area was gifted to the Council by the original developer as a green area.**  
The history of the lands acquisition has been researched by The Property Group Limited who are LINZ accredited consultants. The area of land proposed to be stopped was acquired from two private owners as part of the original subdivision for road purposes. This is consistent with the lands current 'unformed legal road' status.

4. **Land should be retained and developed for parking and buses.**  
The proposal retains a 24m road reserve width in Bracken Road. This is more than the Collector Road classification for Bracken Road requires, ie 22m and so provides for future options relating to buses if needed.

It is not Council policy to provide off street parking for general public use, except in situations where there is a Council centre of community interest and parking is then managed as part of the development of that centre.

Requirements are imposed where appropriate relating to parking and traffic issues, when changes are proposed to any adjoining property. Hence when Newlands College had additional facilities built in the past parking and traffic issues would have been considered at that time. Newlands College has been consulted with. They are not interested in purchase of the land and have not raised any issues related to parking / buses.

In regards to the situation where cars are now parking over the existing bus stop. I have passed that concern onto our Council traffic engineers to consider road markings for this bus stop.

Road and Traffic staff have advised that the road stopping proposal will not adversely affect the areas existing parking problems.

5. **Realignment of Bracken Road to reduce curvature and a roundabout at the Bracken Road / Beazley Avenue intersection.**  
Council's Road and Traffic staff have no present plans for the construction of a roundabout. They have advised though that if in future a roundabout is needed there is still sufficient road reserve land retained to be able to do that.

Should you wish your objection to remain in place then the process would be as follows:

1. Your objection would be referred back to Council's Regulatory Processes Committee and full Council for decision on whether to uphold it or not.
2. You would have the opportunity to make an oral submission to the Regulatory Processes Committee in support of your objection. Oral submissions usually take 5 – 10 minutes.
3. I would prepare a committee report on the road stopping proposal and your objection for the Regulatory Processes Committee and full Council to consider. This would be finalised after any oral submission (if required)

## Appendix One

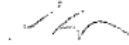
### Appendix 6

4. If Council did not uphold your objection, and you still did not want to withdraw then this matter would have to be referred to the Environment Court. If this matter did progress to this state you are encouraged to obtain legal advice before deciding whether or not to withdraw to ensure that you were making an informed decision.

I trust your concerns have been addressed by the relevant Business Units above.

Please feel free to contact me if you need further clarification. Otherwise, could you please contact me by 13 July 2012 to advise whether you wish to withdraw your objection or present it to the Regulatory Processes Committee for their consideration.

Yours sincerely



Paul Davidson  
Property Advisor - Property Services  
Ph: (04) 803-8139  
Email: paul.davidson@wcc.govt.nz

## Appendix One



COUNCIL

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### MINUTES

WEDNESDAY 28 APRIL 2010

5.30PM – 6.13PM

Council Chamber  
First Floor, Town Hall  
Wakefield Street  
Wellington

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**PRESENT:**

Mayor Prendergast (5.30pm – 6.13pm)  
Councillor Ahipene-Mercer (5.30pm – 6.13pm)  
Councillor Best (5.30pm – 6.13pm)  
Councillor Cook (5.30pm – 6.13pm)  
Councillor Coughlan (5.30pm – 6.13pm)  
Councillor Foster (5.30pm – 6.13pm)  
Councillor Gill (5.30pm – 6.13pm)  
Councillor Goulden (5.30pm – 6.13pm)  
Councillor McKinnon (5.30pm – 6.13pm)  
Councillor Morrison (5.30pm – 6.13pm)  
Councillor Pannett (5.30pm – 6.13pm)  
Councillor Pepperell (5.30pm – 6.13pm)  
Councillor Ritchie (5.35pm – 6.13pm)  
Councillor Wade-Brown (5.30pm – 6.13pm)  
Councillor Wain (5.30pm – 6.13pm)

**DEMOCRATIC SERVICES OFFICERS IN ATTENDANCE:**

Svea Cunliffe-Steel – City Secretary  
Fiona Dunlop – Committee Adviser  
Keegan Bartlett – Committee Adviser

1. **ITEM 019/10RP ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 86 BRACKEN ROAD AND NEWLANDS COLLEGE PAPARANGI (1215/53/IM) (REPORT 1)**

**Moved Councillor Gill, seconded Councillor Cook the substantive motion.**

**The substantive motion was put.**

Voting for: Mayor Prendergast, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Foster, Gill, Goulden, McKinnon, Morrison, Pannett, Pepperell, Ritchie, Wade-Brown and Wain.

Voting against: Nil.

Majority Vote: 15:0

**The substantive motion was declared CARRIED.**

**RESOLVED:**

*THAT Council:*

1. *See Part B.*
2.
  - (a) *Agree that the 793m<sup>2</sup> area of unformed legal road land adjoining 86 Bracken Road, Paparangi, and the approximately 650m<sup>2</sup> (both subject to survey) of unformed legal road land on Bracken Road adjoining Newlands College, Paparangi, are not required for a Public Work.*
  - (b) *Approve the disposal of the approximately 793m<sup>2</sup> of unformed legal road land adjoining 86 Bracken Road, Paparangi, to the owner of that property.*
  - (c) *Approve the disposal of the approximately 650 m<sup>2</sup> of unformed legal road land on Bracken Road, adjoining Newlands College, Paparangi, to be marketed publicly*
  - (d) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether both areas of unformed legal road land must be offered back to their former owner(s) or their successor(s), or whether exemptions from offer back applies.*
  - (e) *Delegate to the Chief Executive Officer the power to either offer both areas of unformed legal road land back to their former*

*owner(s) or their successor(s), or to approve the exercise exemptions from offer back under section 40(2), 40(3), or 40(4) (if appropriate)*

- (f) Authorise Council officers to initiate the road stopping process for both areas of unformed legal road in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*
- (g) Delegate to the Chief Executive Officer the power to formally approve both road stoppings, and issue the public notice to declare both areas of unformed legal road land stopped as road, subject to all statutory and Council requirements being met with no objections being received.*
- (h) Delegate to the Chief Executive Office the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining 86 Bracken Road, either with the former owner(s) or their successor(s), or the owner of 86 Bracken Road, provided any such agreement is conditional upon the road being stopped.*
- (i) Delegate to the Chief Executive Office the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the unformed legal road land adjoining Newlands College, either with the former owner(s) or their successor(s), or the successful purchaser following the land being marketed for sale, provided any such agreement is conditional upon the road being stopped.*

### **Reports from Committee - Part B – Committee decisions for Council to note.**

065/10C    **RECEIPT OF INFORMATION FOR NOTING FROM COMMITTEES**  
(1215/11/IM)

**Moved Mayor Prendergast, seconded Councillor Coughlan, the motion that Council receive the information for noting from the Strategy and Policy Committee meeting of Thursday 15 April 2010 (Report 6), Strategy and Policy Committee meeting of Thursday 22 April 2010 (Report 7) and Regulatory Processes Committee meeting of Wednesday 14 April 2010 (Report 8).**