
REPORT 3
(1215/53/IM)

ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 130 CHURCHILL DRIVE – CROFTON DOWNS

1. Purpose of Report

The purpose of this report is to obtain agreement to authorise officers to proceed with the road stopping and sale of an area of Council owned unformed legal road adjoining 130 Churchill Drive, Crofton Downs (shown highlighted red on Appendix 1), which is no longer required for Council's operational requirements.

As Council officers now wish to advance the road stopping, the further recommendations contained in this report are necessary.

2. Executive Summary

An application to stop this area of road was submitted by the owners of 130 Churchill Drive, Crofton Downs. This application was the subject of an earlier report to the Regulatory Processes Committee and Council.

Resolutions previously approved have been completed, and a section 40 report has been obtained. The section 40 PWA report, recommends that the unformed legal road, once stopped is exempt from any offer back obligations.

If the Chief Executive Officer (CEO) agrees with the recommendations of the section 40 report, and the additional resolutions contained in this report are approved, then officers will proceed with the road stopping and sale.

3. Recommendations

It is recommended that the Committee:

1. *Receives the information.*
2. *Recommends to Council that it:*
 - (a) *Approves the disposal of the Road Land described as approximately 1,301m² (subject to survey) of unformed legal road adjoining 130 Churchill Drive, Crofton Downs.*

- (b) *Delegates to the Chief Executive Officer the power to either offer the Road Land back to its former owner or their successor, or to approve the exercise of an exemption from offer back under section 40(2), 40(3) or 40(4) (if appropriate).*
 - (c) *Authorises Council officers to initiate the road stopping process for the Road Land in accordance with section 342 and the Tenth Schedule of the Local Government Act 1974.*
 - (d) *Delegates to the Chief Executive Officer the power to formally approve the road stopping and issue the public notice to declare the Road Land stopped as road, subject to all statutory and Council requirements being met and no objections being received.*
 - (e) *Delegates to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of the Road Land, either with the former owner or their successor, or the owner of the Adjoining Land, provided any such agreement is conditional upon the road being stopped.*
3. *Notes that if objections are received and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*

4. Background

The application to stop this area of road was submitted by the adjoining land owner at 130 Churchill Drive, Crofton Downs (Lot 1 DP 54008, being Computer Freehold Register WN 22D/220).

Under the LGA local authorities are permitted to sell portions of legal road which they no longer require for roading purposes or another public work.

This road stopping was the subject of an earlier report to Regulatory Processes Committee and Council (refer to the minutes in appendices 2 and 3). Council officers now wish to advance the road stopping of the unformed road adjoining 130 Churchill Drive, Crofton Downs to the eventual disposal of the land to the adjoining owners.

A section 40 report has been obtained recommending that the unformed legal road, once stopped, is exempt from any offer back obligations.

If the CEO agrees with the recommendations of the section 40 investigation report, officers will proceed with the road stopping and sale process prescribed under section 342 and section 345, and the Tenth Schedule of the LGA.

5. Discussion

The next steps in the road stopping and sale process are as follows:

- Obtain a valuation and prepare a sale and purchase agreement
- Undertake a survey and carry out public notification of the intent to stop the road
- Receive objections (if any) and attend to the Environment Court hearing (if required)
- Undertake public notification that road is stopped
- Attend to settlement and transfer of the stopped road

6. Conclusion

The unformed legal road adjoining 130 Churchill Drive, Crofton Downs is no longer required for a public work by Council. Completion of the road stopping process and sale of the unformed road to the adjoining owner should be progressed.

It is therefore requested that the Regulatory Process Committee recommends to the Council that officers proceed with the road stopping and sale process under the Local Government Act 1974.

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

Supporting Information

1) Strategic Fit / Strategic Outcome

In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold.

2) LTCCP/Annual Plan reference and long term financial impact

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 no adverse financial implications imposed on the Council arising from this road stopping proposal. All of the costs associated with this proposal will be met by the applicant including all survey, administration and legal costs. This proposal will benefit 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.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications

4) Decision-Making

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.

5) Consultation

a) General Consultation

Consultation with the relevant Internal Business Units, the Wellington Tenth and Ngati Toa has been carried out as part of this application. They have all advised that they have no objection to the proposed road stopping.

Neighbours and Service Authorities have been consulted and a number of conditions have been noted.

The applicants have agreed in writing to these conditions.

6) Legal Implications

Any legal implications were addressed in the previous report to Regulatory Process Committee meeting of 22 August 2007.

APPENDIX 1
Aerial photograph



130 Churchill Drive, Crofton Downs

1:1,000

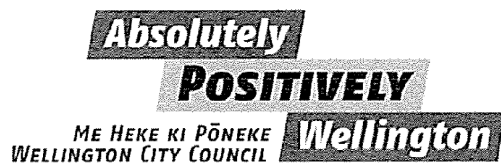


**Absolutely
POSITIVELY
Wellington**

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Scale 1:1,000
Wellington
1998

APPENDIX 2

Minutes – Regulatory Processes Committee meeting - 22 August 2007



REGULATORY PROCESSES COMMITTEE

MINUTES

WEDNESDAY 22 AUGUST 2007

1.01PM

Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

PRESENT:

Councillor Gill (Chair)
Councillor Cook
Councillor Goulden (1.04 – 1.10pm)
Councillor Morrison
Councillor Pepperell (1.02 – 1.10pm)
Councillor Wade-Brown

APOLOGIES:

Mayor Prendergast
Councillor Armstrong
Councillor Foster

074/07RP **APOLOGIES**
(1215/53/IM)

RESOLVED:

THAT the Regulatory Processes Committee:

- 1. Accept apologies for absence from Mayor Prendergast and Councillors Armstrong and Foster.*

6. *Note that if objections are received and the proponent wishes to continue with the road stopping, a further report will be presented to Committee for consideration.*
7. *Note that a condition will be placed in the road stopping agreement to place a covenant on the stopped road to protect existing vegetation and prevent any further development of the site.*
8. *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement, provided any such agreement is conditional upon the road being stopped.*

082/07RP **PROPERTY FOR DISPOSAL UNDER THE PUBLIC WORKS ACT 1981 AND THE LOCAL GOVERNMENT ACT 1974: LEGAL ROAD ADJOINING 130 CHURCHILL DRIVE – CROFTON DOWNS**

Report of Wendy O'Neill – Property Adviser, Parking and Property Services.

(1215/53/IM)

(REPORT 5)

RESOLVED AND RECOMMENDED TO COUNCIL:

THAT the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend that the Council, pursuant to section 40 of the Public Works Act 1981:*
 - (a) *Agree that the area of approximately 1301m² of unformed legal road adjoining 130 Churchill Drive, Crofton Downs is not required for a Public Work (refer Appendix 1).*

Note: 130 Churchill Drive, Crofton Downs is described as Lot 1 DP 54008, being Computer Freehold Register WN22D/220.
 - (b) *Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.*
3. *Note that once the section 40 report has been received, a report will be presented to the Chief Executive Officer for approval under delegated authority to either offer the land back to its former owner or their successor, or to approve the exemption from offer back.*
4. *Authorise Council officers to initiate the road stopping process in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.*

5. *Subject to all statutory and Council requirements being met with no objections to the road stopping being received, Council delegates to the Chief Executive Officer the power to formally approve the road stopping and issue the public notice to declare the road stopped.*
6. *Note that if objections are received and the proponent wishes to continue with the road stopping, a further report will be presented to Committee for consideration.*
7. *Note that a condition will be placed in the road stopping agreement to place an encumbrance on the stopped road that requires any future development plans be subject to Council consent.*
8. *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement, provided any such agreement is conditional upon the road being stopped.*

083/07RP **APPROVAL TO GRANT A NEW BUILDING AND A NEW RECREATIONAL LEASE TO THE WORSER BAY BOATING CLUB AND THE WORSER BAY LIFE SAVING CLUB**

Report of Peter Hemsley – Coastal Manager.
(1215/53/IM)

(REPORT 6)

RESOLVED:

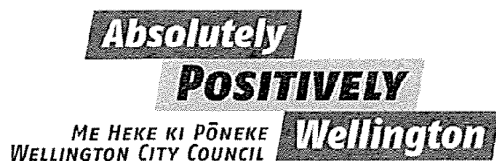
THAT the Regulatory Processes Committee:

1. *Receive the information.*
2. *Approve in principle:*
 - (a) *the construction of the new storage sheds subject to all necessary resource, building and ministerial consents being obtained*
 - (b) *the construction of a wooden walkway for access to the beach*
 - (c) *the granting of a fresh lease under the Reserves Act 1977 for Worser Bay Boating Club*
 - (d) *the extension of the Worser Bay Boating Club's lease to include their new building*
 - (e) *the extension of the Worser Bay Life Saving Club's lease to include their new storage facility and the adjoining land on the eastern and northern sides of their clubhouse*
 - (f) *a change to the lease footprint for the Scouts' current lease.*

Group	Type of Lease	Location	Term (years)	Annual Rent (GST exclusive)
Worser Bay Boating Club	Ground	Marine Parade, Seatoun	10 + 10	\$688

APPENDIX 3

Minutes – Council meeting -- 29 August 2007



COUNCIL

MINUTES

WEDNESDAY 29 AUGUST 2007
5.30 – 6.55PM

Council Chamber
First Floor, Town Hall
Wakefield Street
Wellington

PRESENT:

Mayor Prendergast
Councillor Ahipene-Mercer (6.25 – 6.55pm.)
Councillor Armstrong
Councillor Cook
Councillor Foster (5.37 – 6.55pm.)
Councillor Gill
Councillor Goulden
Councillor McKinnon
Councillor Morrison
Councillor Pepperell
Councillor Ritchie (5.35 – 6.55pm.)
Councillor Ruben
Councillor Shaw
Councillor Wade-Brown

APOLOGIES:

Councillor Ahipene-Mercer (for lateness)
Councillor Wain

121/07C **APOLOGIES**
(1215/11/IM)

Moved Mayor Prendergast, seconded Councillor Gill, the motion that apologies for absence be received from Councillor Wain.

The motion was put and declared CARRIED on voices.

RESOLVED:

THAT Council:

1. *Accept apologies for absence from Councillor Wain.*
2. *Accept apologies for lateness from Councillor Ahipene-Mercer.*

122/07C **CONFIRMATION OF MINUTES**
(1215/11/IM)

Moved Mayor Prendergast, seconded Councillor Goulden the motion that Council approve the minutes of the meetings held on Wednesday 27 June 2007 having been circulated, be taken as read and confirmed as an accurate record of that meeting.

The motion was put and declared CARRIED.

RESOLVED:

THAT Council

1. *Approve the minutes of the meeting held on Wednesday 27 June 2007 having been circulated, be taken as read and confirmed as an accurate record of those meetings.*

123/07C **PUBLIC PARTICIPATION**
(1215/11/IM)

NOTED:

1. Bernie Harris representing the Federation of Wellington Residents' and Progressive Associations addressed Report 3 regarding the submission on the Draft Regional Policy Statement and Report 4 regarding the Review of Water Bylaws. He queried the process of report 3 moving from the Strategy and Policy Committee to Council and highlighted his concerns in respect of property rights with regard to the Water Charter.

LEGAL ROAD ADJOINING 130 CHURCHILL DRIVE – CROFTON DOWNS

(1215/53/IM) (REPORT 5)

THAT Council:

1. Pursuant to section 40 of the Public Works Act 1981:

- (a) Agree that the area of approximately 1301m² of unformed legal road adjoining 130 Churchill Drive, Crofton Downs is not required for a Public Work (refer Appendix 4 of the report).

Note: 130 Churchill Drive, Crofton Downs is described as Lot 1 DP 54008, being Computer Freehold Register WN22D/220.

- (b) Authorise Council officers to commission a section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor, or whether an exemption from offer back applies.

132/06C **STRATEGY AND POLICY COMMITTEE**

Meeting of Thursday 2 August 2007 (reconvened Tuesday 7 August 2007).
(1215/11/IM) (REPORT 3)

1. **ITEM 178/07P SUBMISSION ON DRAFT REGIONAL POLICY STATEMENT**
(1215/52/IM) (REPORT 2)

NOTED:

At the Strategy and Policy Committee meeting on Thursday 2 August 2007 the Committee resolved to refer the submission to Council for further debate and final consideration.

Moved Councillor Wade-Brown, seconded Councillor Ruben the substantive motion from the Committee report as follows:

THAT Council:

1. Receive the information.
2. Agree that the attached submission be forwarded to the Greater Wellington Regional Council for their consideration.

Moved Councillor Foster, seconded Mayor Prendergast insert the following amendments into Appendix One (the submission on the Draft Regional Policy Statement):