

**REPORT 1**  
(1215/53/IM)

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**BACKGROUND TO ORAL SUBMISSIONS OBJECTING TO THE  
PROPOSED ROAD STOPPING AND DISPOSAL OF LEGAL  
ROAD ADJOINING 3 CUNLIFFE STREET, JOHNSONVILLE**

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**1. Purpose of report**

The purpose of this report is to provide the Committee with background information to four oral submissions opposing a road stopping proposal for unformed legal road adjoining 3 Cunliffe Street, Johnsonville.

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 at its next available meeting to make a decision on the objections.

Refer to Appendix 1 for an aerial photograph which shows the road land proposed to be stopped coloured red, and Appendix 2 for photos taken from street level.

**2. Executive summary**

On 24 May 2012 Council declared surplus approximately 411m<sup>2</sup> of road land (the Land) in Cunliffe Street. The land has now been surveyed which confirmed that it is 421m<sup>2</sup>. The proposal had been initiated after Council received a road stopping application from the owners of 3 Cunliffe Street which is directly adjoining.

Public consultation on the proposed road stopping, was undertaken during March, April and May 2013. Four written objections were received. Officers have met with most of the objectors, and all are taking the opportunity to present an oral submission to the Committee, in support of their written objection.

**3. Recommendations**

Officers recommend that the Regulatory Processes Committee:

- 1. Receive the information.*
- 2. Thank all the objectors for their oral submissions, and advise that it will consider the matter and make a decision on whether or not to uphold any objection, at the next available meeting of the Regulatory Processes Committee.*

## 4. Background

### 4.1 Road stopping consultation

The Regulatory Processes Committee meeting of 16 May 2012, and the Council meeting of 24 May 2012 agreed to proceed with the road stopping proposal from 3 Cunliffe Street, Johnsonville. Refer to Appendix 3 for a copy of the May 2012 committee report and Council minutes.

Public consultation on the proposed road stopping was undertaken during March, April and May 2013. Letters were sent to 14 owners and occupiers of properties situated immediately near the road stopping site, and the Johnsonville Community Association Incorporated. Public notices were placed in the Dominion Post on 26 March and 2 April 2013, and signage was placed on site for the required forty day period. Information was also made available on Council's website, the main library and service centre, 101 Wakefield Street.

The resolutions of the 24 May 2012 Council meeting were subject to all statutory and Council requirements being met and no objections being received. If objections were received these were to be referred back to the Committee for decision.

### 4.2 Objections received from public notice

Written objections following the public consultation were received from four objectors. Four objectors indicated that they also wanted to make an oral submission. The objectors are:

<b>Name</b>	<b>Address</b>
Maude Morrison	110 Ohariu Road
S M & L A Macintyre	7 Cunliffe Street
M & F Lindsay	26 Cunliffe Street
Johnsonville Community Association Inc	C/- Mr Graeme Sawyer, 10 Birch Street, Johnsonville, Wellington 6037

A summary of the key relevant grounds for the objections is listed in Section 5.1 of this report.

## 5. Discussion

### 5.1 Key relevant grounds for written objections

The key relevant grounds of the written objections are listed below:

1. Negative traffic safety outcomes, by removal of public space in which to improve traffic safety for the future.
2. Negative effects on streetscape.

3. That the subject land should be retained by Council and used for a community purpose such as a reserve, a playground, or for off street parking.
4. That the large trees bordering the subject land be replaced with native species typical of the area, as currently they are a liability to Council from a positioning and ecological perspective.

Given the grounds for the objections officers referred them back to Council's Transport Planning, Parks Sport and Recreation, and Policy and Planning business units. None of these units have supported the objections, or changed their positions in regards to support of the road stopping proposal. This has been communicated to the objectors, who have all chosen to continue.

Refer to Appendix 4 full details of the grounds of the written objections.

### **5.3 Next Steps**

The next steps for considering the objections to 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 any 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 any objector still wishes to pursue their objection, and the applicant wants to continue, then the road stopping proposal and the objection(s) will be referred to the Environment Court for a decision.

## **6. Conclusion**

This report provides background information for the Committee on the road stopping proposal and the oral submissions to be made by four objectors in support of their written objections.

After the oral submissions a final report will be prepared for the Regulatory Processes Committee with recommendations on whether or not Council should uphold any objection.

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) LTP/Annual Plan reference and long term financial impact

*This report is a step towards the possible sale of the legal road.*

*The costs associated with this proposal will be met by the proceeds of sale. This proposal will benefit the Council in financial terms as once sold into private ownership the owners would pay rates on them in the future.*

### 3) Treaty of Waitangi considerations

*There are no Treaty of Waitangi implications.*

### 4) Decision-making

*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.*

### 5) Consultation

#### a) General consultation

*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.*

*Public consultation has been carried out with four objections being received.*

#### b) Consultation with Maori

*The internal business unit consultation included Treaty Relations who consulted with local iwi. Both iwi confirmed that they have no interest in the land.*

### 6) Legal implications

*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.*

### 7) Consistency with existing policy

*The road stopping proposal and this report are consistent with WCC policy.*

# APPENDIX 1



## APPENDIX 2

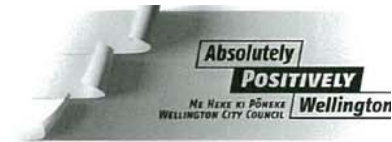


**Subject land**



**Subject land from Cunliffe Street**

## REGULATORY PROCESSES COMMITTEE 16 MAY 2012



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REPORT 1  
(1215/53/IM)

## ROAD STOPPING AND DISPOSAL - LEGAL ROAD ADJOINING 3 CUNLIFFE STREET, JOHNSONVILLE

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### 1. Purpose of Report

The purpose of this report is to obtain agreement that approximately 411 m<sup>2</sup> of Council owned unformed legal road land adjoining 3 Cunliffe Street, Johnsonville, Wellington, is no longer required for Council's operational requirements. Also to authorise officers to proceed with the offer back investigations and eventual road stopping and sale.

Refer to Appendix 1 for an aerial plan with the area of unformed legal road land concerned shown coloured red.

### 2. Executive Summary

An application has been made to Council by the owners of 3 Cunliffe Street, Johnsonville to stop a portion of unformed legal road adjoining their property. The owners currently have use of the land under an encroachment licence. They want to secure ownership of the subject land to give them certainty of tenure providing options for future development.

The key question for Council is whether this area of land is 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 1974 (LGA).

Internal business units and external service authorities have been consulted and all support the disposal, with minimal conditions requested to be imposed.

Immediate neighbours and the local residents association have been advised of this proposal, with no responses received to date. These parties will have an opportunity to comment on the proposal when full public consultation is carried out later in the process.

The area of unformed legal road land proposed to be stopped will be sold at current market valuation.

## 3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
  - (a) *Agree that approximately 411 m<sup>2</sup> (subject to survey) of unformed legal road land (Road Land) adjoining 3 Cunliffe Street, Johnsonville, is not required for a Public Work.*
  - (b) *Approve the disposal of the Road Land to the owners of 3 Cunliffe Street, Johnsonville.*
  - (c) *Authorise Council officers to commission a section 40 PWA report from suitably qualified consultants to identify whether the area of unformed legal road land must be offered back to its former owner or their successor, or whether exemptions from offer back applies.*
  - (d) *Delegate to the Chief Executive Officer the power to either offer the Road Land back to its former owner(s) or their successor(s), or to approve the exercise of exemptions from offer back under section 40(2), 40(3), or 40(4) PWA (if appropriate).*
  - (e) *Authorise 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.*
  - (f) *Delegate 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 with no objections being received.*
  - (g) *Delegate to the Chief Executive Office the power to negotiate the terms of sale, impose any reasonable covenants, 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 3 Cunliffe Street, 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 3 Cunliffe Street, from the owners of the property. The legal description of 3 Cunliffe Street is Lot 6 DP 22043 being held on Computer Freehold Register WN28D/543.

The total area of unformed legal road adjoining 3 Cunliffe Street proposed to be stopped is approximately 411 m<sup>2</sup> (subject to survey). The land is currently used



# APPENDIX 3

under an encroachment licence. The land contains lawn and garden bordered by large trees. The land is on the corner of Cunliffe Street and Ohariu Road.

## 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. All internal business units gave their unconditional approval, with the exception of Road and Traffic Maintenance and Development Planning and Compliance.

Road and Traffic Maintenance require that:

- a legal road width of 18 metres be retained on Cunliffe Street, and 20 metres on Ohariu Road.
- a covenant should be imposed on the property to prevent vehicle access over a 2 metre long extension of their side boundary where 3 Cunliffe St adjoins 7 Cunliffe Street. This is to ensure that it does not compromise Council's ability to ever sell similar road frontage to 7 Cunliffe Street.

Development Planning and Compliance require that:

- The owners of the properties at 1 Peter Button Place, 10 and 26 Cunliffe Street be consulted as a front yard set back of approximately 1 metre would apply should the proposal be successful.

All relevant service authorities have given their consent.

The immediate neighbours and the local residents association have been advised of the proposal, no responses have been received to date. The consent of those neighbours that would have new front yard rule requirements imposed on them will be sought when full public consultation is carried out later in the process.

Officers are satisfied that the above requirements can be met, and that the area of unformed legal road adjoining 3 Cunliffe Street, Johnsonville can be stopped and sold to the owners.

### 5.2 Financial Considerations

In August 2011 new cost sharing incentives for road stoppings were approved by Council. The cost sharing incentives mean that some costs paid by applicant's in the past are now deducted. In this case the value of the land proposed to be sold will be more than \$15,000, so the deduction will be the lesser of actual costs; or an amount calculated as 15 percent of the land value plus \$500; up to a maximum deduction of \$12,500. The amount of the deduction will be determined at the end of the road stopping process when all of the costs are known.

### 5.3 Climate Change Impacts and Considerations

There are no climate change impacts.

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

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

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

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

## **6. Conclusion**

Officers believe that approximately 411 m<sup>2</sup> of unformed legal road adjoining 3 Cunliffe Street is no longer needed for Council's operational requirements and could be declared surplus, stopped and sold to the owners subject to the conditions contained in the report.

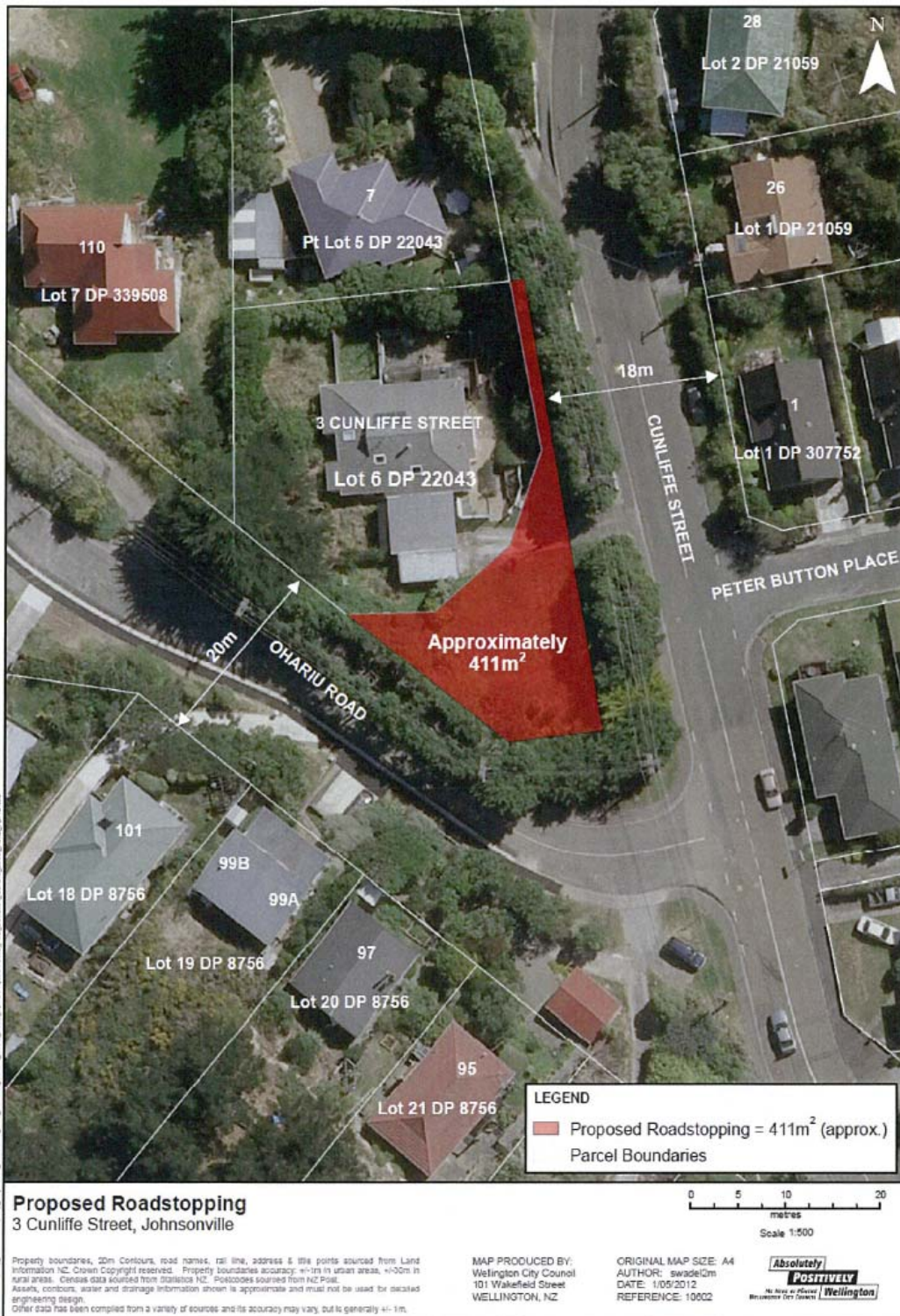
It is therefore recommended that the Regulatory Processes Committee recommends to Council that the land adjoining 3 Cunliffe Street, Johnsonville is declared surplus, and that officers can proceed to initiate the road stopping procedure, and eventual sale.

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

<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 2011 Road Encroachment and Sale Policy.</i>
<b>2) LTP/Annual Plan reference and long term financial impact</b>	<i>Provision for undertaking this work is contained within the overall organisational budget. There are no adverse financial implications imposed on the Council arising from this road stopping proposal. 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 2011 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. Road and Traffic Maintenance, and Development Planning and Compliance have given their consent subject to certain conditions. Service Authorities have been consulted.</i></p> <p><b>b) Consultation with Maori</b> <i>Local IWI have been consulted with and have given unconditional consent.</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>

# APPENDIX 3

## APPENDIX 1



COUNCIL



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## MINUTES

THURSDAY 24 MAY 2012

5.32PM – 6.02PM  
(6.00PM – 6.02PM – PUBLIC EXCLUDED)

Council Chamber  
First Floor, Town Hall  
Wakefield St  
Wellington

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**PRESENT:**

Mayor Wade-Brown  
Councillor Ahipene-Mercer  
Councillor Best  
Councillor Cook  
Councillor Coughlan (5.32pm – 6.01pm)  
Councillor Eagle  
Councillor Foster (5.33pm – 6.02pm)  
Councillor Gill  
Councillor Lester  
Councillor McKinnon  
Councillor Marsh (5.40pm – 6.02pm)  
Councillor Morrison  
Councillor Pannett  
Councillor Pepperell (5.32pm 5.44pm, 5.45pm – 6.02pm)  
Councillor Ritchie

**APOLOGIES:**

Councillor Marsh (for lateness)

151/12C **STRATEGY AND POLICY COMMITTEE**  
**Meeting of Thursday 17 May 2012**  
(1215/11/IM) (REPORT 3)

1. **ITEM 140/12P CLASSIFICATION OF LAND UNDER THE RESERVES ACT 1977, 178 – 180 OWHIRO BAY PARADE, HALFWAY HOUSE (GLENSIDE RESERVE), MAKARA PEAK MOUNTAIN BIKE PARK CAR PARK ON SOUTH KARORI ROAD**  
(1215/52/IM) (REPORT 2)

**Moved Councillor Ritchie, seconded Mayor Wade-Brown, the substantive motion.**

**The substantive motion was put:**

Voting for: Mayor Wade-Brown, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Eagle, Foster, Gill, Lester, McKinnon, Marsh, Morrison, Pannett, Pepperell and Ritchie.

Voting against: Nil.

Majority Vote: 15:0

**The substantive motion was declared CARRIED.**

**RESOLVED:**

*THAT Council:*

1. *Resolve to declare as reserve under section 14 of the Reserves Act 1977 and reclassify under section 24 of the Reserves Act 1977, as appropriate, the parcel's of land described in Appendix 1 of the minutes accordingly to reflect each parcels primary purpose as outlined in the recommended classification in Appendix 1 of the minutes, if no objections have been received once the period for submissions and objections has closed.*

152/12C **REGULATORY PROCESSES COMMITTEE**  
**Meeting of Wednesday 16 May 2012**  
(1215/11/IM) (REPORT 4)

1. **ITEM 033/12RP ROAD STOPPING AND DISPOSAL - LEGAL ROAD ADJOINING 3 CUNLIFFE STREET, JOHNSONVILLE**  
(1215/53/IM) (REPORT 1)

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

**The substantive motion was put:**

Voting for: Mayor Wade-Brown, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Eagle, Foster, Gill, Lester, McKinnon, Marsh, Morrison, Pannett, Pepperell and Ritchie.

Voting against: Nil.

Majority Vote: 15:0

**The substantive motion was declared CARRIED.**

**RESOLVED:**

*THAT Council:*

1. (a) *Agree that approximately 411m<sup>2</sup> (subject to survey) of unformed legal road land (Road Land) adjoining 3 Cunliffe Street, Johnsonville, is not required for a Public Work.*
- (b) *Approve the disposal of the Road Land to the owners of 3 Cunliffe Street, Johnsonville.*
- (c) *Authorise Council officers to commission a section 40 PWA report from suitably qualified consultants to identify whether the area of unformed legal road land must be offered back to its former owner or their successor, or whether exemptions from offer back applies.*
- (d) *Delegate to the Chief Executive Officer the power to either offer the Road Land back to its former owner(s) or their successor(s), or to approve the exercise of exemptions from offer back under section 40(2), 40(3), or 40(4) PWA(if appropriate).*
- (e) *Authorise 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.*
- (f) *Delegate 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 with no objections being received.*

- (g) *Delegate to the Chief Executive Office the power to negotiate the terms of sale, impose any reasonable covenants, 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 3 Cunliffe Street, provided any such agreement is conditional upon the road being stopped.*

153/12C **QUESTIONS**  
(1215/11/IM)

**NOTED:**

There were no questions.

154/12C **RESOLUTION TO EXCLUDE THE PUBLIC**  
(1215/11/IM)

**Moved Mayor Wade-Brown, seconded Councillor Ahipene-Mercer, the motion to exclude the public.**

**The motion to exclude the public was put:**

Voting for: Mayor Wade-Brown, Councillors Ahipene-Mercer, Best, Cook, Coughlan, Eagle, Foster, Gill, Lester, McKinnon, Marsh, Morrison, Pannett, Pepperell and Ritchie.

Voting against: Nil.

Majority Vote: 15:0

**The motion to exclude the public was declared CARRIED.**

**RESOLVED:**

*THAT Council:*

- Pursuant to the provisions of the Local Government Official Information and Meetings Act 1987, resolve that the public be excluded from the following part of the proceedings of this meeting namely:*

*Report 5 - Strategy and Policy Committee, Meeting of Thursday 10 May 2012*

*Grounds: Section 48(1) (a) that public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to*



## APPENDIX 4

<b>M Morrison -- 110 Ohariu Road</b>	<b>Officers comments in response</b>
<ul style="list-style-type: none"> <li>• The road land should be retained by Council and used for community purpose such as playground or off street parking</li> <li>• Effects if the road land is sold and then developed</li> <li>• Issues relating to rubbish and dog control</li> </ul>	<b>To be completed</b>

<b>S M &amp; L A Macintyre -- 7 Cunliffe Street</b>	<b>Officers comments in response</b>
<ul style="list-style-type: none"> <li>• Reducing the road width in Cunliffe St just for one property?</li> <li>• Plan to build a carport in the future and affected by 1m front yard set back.</li> <li>• Carparking for developments.</li> <li>• Reducing the width of Cunliffe St impeding future roading development.</li> <li>• Trust proposal to reduce the road reserve adjacent to number 3 is not part of plan to correct an illegal part of existing development. Section 2 (Isolation strip overlapping boundary).</li> <li>• Height plan bylaw.</li> <li>• Stormwater/sewage pipe, Asbestos, Carparking.</li> <li>• Pohutukawa trees need to be protected.</li> </ul>	<b>To be completed</b>

## APPENDIX 4

<b>M &amp; F Lindsay -- 26 Cunliffe Street</b>	<b>Officers comments in response</b>
<ul style="list-style-type: none"> <li>• If Council was reducing the width of the whole road this would be a different matter, but just for one residence?</li> <li>• Will impact on me as I wish to put up a car port in the next couple of years and to build within a metre of the boundary.</li> <li>• Since the 1970's the local progressive association always opposed developments unless two off street car parks per dwelling were provided.</li> <li>• Reducing the road reserve along the boundary of number 3 Cunliffe Street could impede future roading development.</li> <li>• Query whether proposal to reduce the road reserve adjacent to number 3 is not part of plan to correct an illegal part of existing development.</li> </ul>	<p><b>To be completed</b></p>

<b>Johnsonville Community Association Inc</b>	<b>Officers comments in response</b>
<ul style="list-style-type: none"> <li>• Negative effects on streetscape.</li> <li>• disproportionate reduction in 'buffer' between road and residential dwellings.</li> <li>• loss of potential for community based revitalisation of a significant public space.</li> <li>• inappropriate encouragement of disproportionately dense residential development.</li> <li>• negative traffic safety outcomes, and removal of public space in which to improve traffic safety.</li> <li>• negative ecological outcomes (removal of existing flora and (by selling off public space) abandoning the opportunity to develop an 'island' of native biodiversity.</li> <li>• Raising the public ire by ignoring overwhelming local public opposition to the proposal.</li> <li>• Propose hybrid designation.</li> <li>• Large trees maintenance cost.</li> </ul>	<p><b>To be completed</b></p>