

REPORT 5
(1215/53/IM)

**ROAD STOPPING AND DISPOSAL – 30A SEATOUN
HEIGHTS ROAD, SEATOUN**

Please note that at the Regulatory Processes Committee meeting on Monday 19 November 2012, the Committee resolved the following:

**095/12RP ROAD STOPPING AND DISPOSAL – 30A SEATOUN
HEIGHTS ROAD, SEATOUN**

Report of Rosalind Luxford, Property Advisor, Property Services.
(1215/53/IM) (REPORT 3)

RESOLVED:

THAT the Regulatory Processes Committee:

- 1. *Lie the paper on the table until the next meeting of the Committee and ask officers to work with the parties to resolve the application and any conditions that might be agreed.***

The recommendation from the report of the 19 November 2012 meeting is before the Committee for consideration and approval:

Officers recommend that the Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
 - (a) *Agree not to uphold the objections (the “Objections”) from the L and R Family Trust, the Salandos Family Trust, the Hinuera Trust, Mr Luigi Muollo and Mr and Mrs Graham and Valerie Parish to the proposal to the proposal to stop 77m² of road land adjoining 30A Seatoun Heights Road, Seatoun.*
 - (b) *Authorise officers to refer the proposal to stop 77m² of road land adjoining 30A Seatoun Heights Road, Seatoun and one or more of the Objections to the Environment Court, if needed.*
 - (c) *Delegate to the Chief Executive Officer the power to approve and conclude any action relating to Environment Court proceedings, if needed.*

REPORT 3
(1215/53/IM)

ROAD STOPPING AND DISPOSAL – 30A SEATOUN HEIGHTS ROAD, SEATOUN

1. Purpose of report

The purpose of this report is to seek the Committee's recommendation to Council that it does not uphold any of the objections received in relation to a proposal to stop and sell approximately 77m² of unformed legal road adjacent to 30a Seatoun Heights Road, Seatoun (the "Land").

Refer to Appendix 1 for an aerial plan of the subject land.

2. Executive summary

Officers have been progressing this proposal to stop and sell the subject land adjacent to the Land.

The road stopping proposal was approved by the Regulatory Processes Committee at its meeting of 9 November 2011, and the Council meeting of 23 November 2011. Refer to Appendix 2 for a copy of the 2011 committee report.

After public consultation in June and July this year, five objections were received. A decision is now required on whether to uphold any of them. The objections were received from the L and R Loizou Family Trust, Mr Luigi Muollo, the Salandos Family Trust, the Hinuera Trust and Mr and Mrs Graham and Valerie Parish.

The committee heard oral submissions from Lewis Loizou and Luigi Muollo on 24 October 2012, as well as a submission from Richard Kemp, the applicants' lawyer, in support of their application. Points raised in the oral and written submissions are summarised in Section 5 of this report. A copy of the report to the Regulatory Processes Committee introducing the oral submissions is at Appendix 3.

If the Council upholds any of the objections then the proposal to stop and sell the Land will come to an end. If Council does not uphold any of the objections and the applicants still wish to continue, then the matter would be referred to the Environment Court for final decision unless all objectors withdraw their objections.

Officers recommend that the Committee:

- 1. Receive the information.*

2. *Recommend to Council that it:*

- (c) *Agree not to uphold the objections (the "Objections") from the L and R Family Trust, the Salandos Family Trust, the Hinuera Trust, Mr Luigi Muollo and Mr and Mrs Graham and Valerie Parish to the proposal to the proposal to stop 77m² of road land adjoining 30A Seatoun Heights Road, Seatoun.*
- (d) *Authorise officers to refer the proposal to stop 77m² of road land adjoining 30A Seatoun Heights Road, Seatoun and one or more of the Objections to the Environment Court, if needed.*
- (c) *Delegate to the Chief Executive Officer the power to approve and conclude any action relating to Environment Court proceedings, if needed.*

4. Background

4.1 Public consultation

Between 12 June and 24 July 2012, officers undertook public consultation on the proposal. An advertisement was placed in The Dominion Post, letters were sent to neighbouring properties and details were listed on the Council's website with links to the first Report to the Regulatory Processes Committee on the proposal and related documents. Copies of the report and documents were also made available in the Central Library and the Council Service Centre.

Five written objections were received from the public consultation. These were from:

- Mr and Mrs Parish, 21 Seatoun Heights Road;
- The L and R Loizou Family Trust (Lou Loizou), 32 Seatoun Heights Road;
- The Salandos Family Trust, 34 Seatoun Heights Road;
- Mr Luigi Muollo, 3 Stormanstown Way; and
- The Hinuera Trust, 5 Stormanstown Way.

Officers provided a detailed written response to each objector on 17 August 2012. Copies of each objection and the corresponding response from officers are at Appendix 4.

Mr Loizou and Mr Muollo each made oral submissions in support of their objections at the Regulatory Processes Committee meeting on 17 October 2012. These are discussed in more detail below.

5. Discussion

5.1 Summary of objection grounds

The objections raised concerns that:

- there was no evidence that Council's Roading and Traffic team supported the proposal;
- the Land may be required for future road use, including parking and footpath;
- if the proposed new boundary were fenced, this may decrease visibility when exiting nearby driveways or Stormanstown Way;
- a pedestrian crossing may be required on this section of Seatoun Heights Road;
- if the Land is sold and developed, it may have a negative impact on neighbouring properties (through loss of sunlight);
- the Land is a green area with visual amenity value that would be lost to the public if the applicants purchased and developed the Land;
- if the Land is sold, the applicants may construct new access to their property, interfering with the existing access to neighbouring properties; and
- the amalgamation of the Land with 30A Seatoun Heights Road may facilitate future development at 30A Seatoun Heights Road and such development could adversely affect existing traffic conditions.

5.2 Oral submissions

Mr Loizou and Mr Muollo each made oral submissions in support of their objections. A copy of the report to the Committee introducing their submissions is attached at Appendix 3. Mr Kemp, the applicants' solicitor, also made a submission on their behalf in support of the proposal.

Mr Muollo's oral submission

Mr Muollo raised two main points of objection. First, he maintained that the Land had an amenity factor that should be preserved. Mr Muollo also noted that Seatoun Heights Road is narrow where it meets Stormanstown Way, which leads to accidents along this stretch of road. He argued that it should be widened and believes that selling the Land would prevent this. Mr Muollo also provided a picture of the land showing the possible impact of a fence built along the new boundary. This is attached at Appendix 5.

Officers' comments on Mr Muollo's oral submission

The points raised by Mr Muollo reflect those made in his written submission and are dealt with in detail in Appendix 7. Officers have reviewed the picture showing the possible impact of a new fence. The fence in this picture is not drawn along the line of the proposed new boundary but considerably lower. The new boundary would be between a metre and two metres above the level of the carriageway at all times. Officers do not consider the picture provided is an accurate representation. Officers also note that the applicants have stated they intend to plant the boundary, rather than fence it.

Mr Loizou's oral submission

Mr Loizou stated he had three key concerns. The first of these was that he believed the public notification process had not been properly undertaken. He noted that the letter he received at the outset of the process stated that he would have an opportunity to object later in the process and would receive another letter at this time. He believed that statement in the initial report on this proposal (prior to public notification) that “no objections had been received” was misleading and untrue. He also did not receive a letter during the public notification period. He indicated that no one received a letter during the public notification process and others he had spoken to would have objected if they had been so notified.

Mr Loizou then reiterated concerns contained in his written objection that sale of the Land would adversely affect the splay at the intersection of Townsend and Seatoun Heights Roads. He pointed to a picture taken by officers from a car exiting the driveway showing the view to the left along to Townsend Road, which in his view must have been taken at a point where the car protruded onto the road and was therefore in danger of being hit by traffic approaching from its right. He supported this with a diagram showing the road boundary and a car in this position. He also provided photographs showing the splay and current views available, which in his view would be adversely affected if the land is stopped and sold. The diagram and photos are all at Appendix 6.

Mr Loizou noted that the driveway opposite gave access to eight units. In addition, as the footpath ends on the corner adjacent to the Land and only recommences on Seatoun Heights Road opposite the exit to his driveway, pedestrians were required to cross the road right next to his driveway to continue along the footpath. The exit from the shared driveway was in his view dangerous due to the heavy pedestrian and vehicle traffic at this point.

Officers' comments on Mr Loizou's oral submission

- *Notification process*

Officers acknowledge Mr Loizou's concerns regarding the initial road stopping report. While no objections had then been received, the initial letter had not called for these. The report stated that formal public notification would be carried out later in the process. Officers have taken steps to ensure that future reports make clear the advice given to neighbours at that stage of the application.

Officers confirm that Mr Loizou did not receive a letter at the commencement of public notification. This was an oversight which officers remedied by allowing Mr Loizou additional time to prepare and submit his objection after the deadline for objections had passed and by arranging a meeting for Mr Loizou with officers (including a Vehicle Access Engineer and Development Planner) at which he could discuss his concerns prior to lodging his objection.

Officers confirm that letters were sent to the owners and occupiers of all other properties considered to be “adjacent” to the Land. In addition, when the public notification period commenced, signs were erected at each end of the Land and advertisements were placed in the Dominion Post's Our Wellington page on two

occasions one week apart advising of the road stopping proposal. Officers believe that members of the public have had sufficient opportunity to object to this proposal.

- *Visibility from driveway to 30a, 32 and 34 Seatoun Heights Road*

In relation to Mr Loizou's comments on the busy intersection of Townsend and Seatoun Heights Roads and the exit from his driveway, officers acknowledge that the position of Mr Loizou's driveway so close to the intersection is not ideal. However, in officers' view the sale of the Land does not negatively impact on the busyness of the intersection, the position of Mr Loizou's driveway or the visibility upon exiting it. This is dealt with in detail in Appendix 7.

Officers have reviewed the diagram provided by Mr Loizou showing a car protruding onto the road to obtain a view to the left (of the intersection of Seatoun Heights and Townsend Roads) when exiting the driveway. This diagram is based on the survey plan provided during public notification. The placement of the car on this diagram is misleading in that it shows the road boundary, but not the boundaries of the footpath and carriageway. Officers have included a diagram in Appendix 7 showing the position of the footpath and carriageway. A car in this position is clearly off the carriageway.

While the photographs provided by Mr Loizou showed the splay as cleared of vegetation, officers would note that on five other occasions when they attended the site across several months, the vegetation was overgrown and did not allow a view through to Seatoun Heights Road to the west. This is also how it appears in other pictures provided by Mr Loizou. In any event, the area cleared in these pictures would remain road reserve under this proposal (extending approximately 5 metres back from the carriageway) and this view would therefore be preserved – see the photographs in Appendix 7 showing this same view with the survey peg showing where the new boundary of 30A Seatoun Heights Road would be.

Mr Kemp's oral submission

Mr Kemp began by acknowledging concerns raised around the amenity value of the Land and noting that the applicants did not intend to fence this boundary but to plant it in a manner commensurate with other plants around their property. If the applicants were able to purchase the Land as proposed, he said they would have an added incentive to keep it tidy than if it remains in Council hands, especially as they will have paid market price for the land plus the costs of the road stopping process. Mr Kemp's opinion, having attended at the site, was that the road stopping would not lead to detrimental effects on traffic conditions or neighbouring properties. He understood there were no plans to widen the footpath in the future and noted that Council officers did not oppose the proposal as it stood.

Officers' comments on Mr Kemp's oral submission

Officers do not have any comments on Mr Kemp's submission.

5.3 Summary of officers' views on objections

In brief, officers believe all of the above issues are appropriately mitigated. Our roading engineers believe Seatoun Heights Road will more than adequately manage traffic if the Land is stopped and sold. Council's Parks and Gardens team has confirmed that it is comfortable with the remaining level of vegetation on road reserve if the proposal goes ahead. Any future development on the Land must comply with rules in Council's operative District Plan and the construction of new vehicle access must be approved by Council's vehicle access engineers, who consider that the stopping will not affect the existing access to any neighbouring properties, even if the new boundary is fenced.

This road stopping will have no effect on the formed road (including the footpath) in Seatoun Heights Road and will not prevent future widening of the road / footpath. Clearly any form of development is a change but any adverse effects of future development would be addressed appropriately through the resource consent process.

Full details of the objections, along with officers' comments on each of these, are set out in Appendix 7.

5.5 Financial considerations

There are no significant financial considerations to be considered in the decision on objections to this road stopping proposal.

5.6 Climate change impacts and considerations

There are no climate change impacts.

5.7 Long-term plan considerations

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

5.8 Next Steps

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

- The Committee will now decide on the objections, and will make a recommendation to Council on whether or not to uphold any of them.
- If the Committee's decision is to uphold any of the objections, and the full Council agrees, then the road stopping application is effectively terminated.
- If it is decided to not uphold (i.e. reject) all of the objections and to proceed with the road stopping process, and one or more of the objectors still wish to pursue their objections, and the applicant also wants to continue, then the road stopping proposal and the objection will be referred to the Environment Court for a decision.

6. Conclusion

No internal business units have any requirement for the Land including Roothing and Traffic, the 'asset owner'. Council declared the Land surplus on 23 November 2011 subject to public consultation and any objections being reported back to Council.

Public consultation was completed on 24 July 2012 with five written objections received. Two objectors made oral submissions to the Regulatory Processes Committee meeting on 24 October 2012.

Officers have responded to all the objections and believe any concerns are appropriately mitigated. Any possible adverse effects of future development will be appropriately dealt with under the Council's operative District Plan rules and the Resource Management Act process. Council's officers do not consider that the objectors have raised any concerns that override their views that the Land is surplus to Council requirements.

Officers therefore believe that the committee should recommend to Council that all objections to the road stopping proposal in Seatoun Heights Road not be upheld.

Contact Officer: *Rosalind Luxford, Property Projects*

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

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

This paper supports Council's strategic direction for managing growth through the provision of adequate infrastructure.

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 a large new lot will be created, sold at market value, with future owners then paying rates on it 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 making a decision on whether objections should be upheld or not.

This is not a significant decision. The report reflects the views and preferences of those with an interest in this matter who have been consulted with.

5) Consultation

a) General consultation

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 proposal.

Public consultation has been carried out. Five objections were received and this report outlines and comments on these.

b) Consultation with Maori

Consultation with Iwi has been carried out and they have advised that they have no objections to the proposal.

6) Legal implications

Council's lawyers are being consulted on this proposal. All legal implications relevant to this proposal have been considered and are contained in this report.

7) Consistency with existing policy

The recommendations of this report are consistent with WCC policy and reflect the Council's proposals as per the Long Term Plan 2012 – 2022.

APPENDIX 1

Aerial plan of proposed road stopping

