
REPORT 3

**DECISION ON OBJECTIONS TO THE PROPOSED ROAD
STOPPING AND DISPOSAL OF LEGAL ROAD - FORRES
STREET, SEATOUN**

1. Purpose of report

To seek the Committee's recommendation to Council that none of the objections to the road stopping proposal are upheld. The road stopping proposal relates to 933m² of unformed legal road in Forres Street, Seatoun (the Land).

2. Executive summary

Council agreed to initiate the road stopping process during meetings held in 2010 and 2012. Public consultation was subsequently carried out.

Five objectors made oral submissions to the Regulatory Processes Committee on 5 December 2014 (please see the Committee Report dated 5 December 2013 at appendix 1 for the background to the oral submissions). In addition to the oral submissions made officers were approached at the meeting by a member of the public who requested that their objection also be included. Given that officers had previously been corresponding with this person on the matter their objection was accepted which increased the number of objections to six.

The primary ground for objection was that the objectors' property values would be negatively affected if the Land was sold and the site developed. Additional grounds related to retaining and creating a public pedestrian walkway to link Tio Tio Road and one objector challenged the validity of Council's road stopping process.

With regard to concerns around land values, any development of the Land would be subject to normal consenting requirements. It is officers' view that the Land does not need to be retained for access purposes. Officers sought legal advice which validated the current prescribed road stopping process.

3. Recommendations

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*

2. *Recommend to Council that it:*

- (a) *Agree to not uphold any objections in relation to the proposal to stop 933 m² unformed legal road at Forres Street, Seatoun (the Land);*
- (b) *Agree to register a right of way easement on the title of the Land in favour of unit 2 / 38 Ferry Road;*
- (c) *Delegate to the Chief Executive Officer the power to approve and conclude any action relating to Environment Court proceedings, if required;*
- (c) *Delegate to the Chief Executive Officer the power to negotiate and conclude all matters in relation to the disposal of the Land.*

4. Background

On 24 February 2010 Council declared approximately 454m² of unformed legal road in Forres Street, adjoining 91 and 93 Tio Tio Road. On 3 April 2012 Council declared a further 512m² surplus (next to Ferry Street).

Subsequent consultation has been carried out. This is detailed in previous committee reports attached as Appendix 1.

5. Discussion

5.1 Summary of objections

The dominant themes are as follows:

1. *Views and value of objectors' properties would be negatively affected if the Land was developed.*

The Environment Court has previously indicated that road stoppings might be favourably considered if the road in question is not used by the public for access purposes and is not reasonably likely to be used for that purpose in the future. Objections relating to amenity issues (such as impacts on views) are unlikely to be upheld by the Court.

2. *The Land should be retained by Council to enable a public pedestrian walkway to be built to link Tio Tio Road with Ferry Street.*

Council's Transport Planning team has confirmed that the Land is not an essential route required for roading purposes given nearby alternatives.

3. *The scout hall should be restored and used as a museum / information booth to document Seatoun's history and heritage.*

Decisions by the Committee and full Council in March and April 2013 accepted officer's recommendations that costs to repair the hall outweighed any economic benefits, furthermore given the halls heritage

status any future development requires the façade and as much of the undamaged part of the hall as possible to be retained.

The specific objections, along with officer responses, are detailed in Appendix 2.

5.2. Council process

One objector indicated that officers had not followed due process. However, subsequent legal advice obtained confirms that officers have satisfied legislative requirements.

5.3 Financial considerations

Should this matter need to be referred to the Environment Court, approval to take that course of action would be sought from the Chief Executive Officer. The likely costs to do that would be discussed at that time.

Part of the Land is proposed to be sold to an adjoining owner at 91 Tio Tio Road (who would be partly responsible for Council costs reimbursement). If referral to the Environment Court was required, the owner of that property would be consulted.

5.4 Climate change impacts and considerations

There are no climate change impacts.

5.5 Long-term plan considerations

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

5.6 Next Steps

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

- The Committee considers the submissions, and officer responses, and makes a recommendation to Council on whether or not to uphold the objections.
- If the Committee's decision is to uphold any objection, and the Council agrees, then the road stopping proposal is effectively ended and the Land will not be stopped and sold.
- If the decision is to not uphold (ie reject) the objections and to proceed with the road stopping process, and any of the objectors do not withdraw, then the CEO will decide on whether to refer the matter to the Environment Court.

6. Conclusion

The Land is not required for road and has been declared surplus.

The fire damaged scout hall was seldom used and there are suitable alternative venues in the area for the local community to use. Representatives from Scouts NZ have previously advised Council that they are keen to see clubs sharing buildings such as sports clubs and schools.

Estimated repair costs are between \$150,000 (restoration) and \$270,000 (rebuild). There are also ongoing maintenance costs to consider.

The hall is listed on the heritage schedule of the operative District Plan. Council's Heritage advisors are keen to preserve the façade and as much of the hall as possible.

The relevant Council business units that supported this road stopping proposal initially have considered the objections and have reconfirmed their positions.

Officers therefore recommend that the Committee and Council do not uphold the objections.

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 are being met by the applicant.

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.

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 the six objections received.

b) Consultation with Maori

The internal business unit consultation included Treaty Relations who consulted with local iwi who had no interest in the land.

6) Legal implications

All legal implications relevant to this road stopping (including public consultation requirements) are considered in this report.

7) Consistency with existing policy

The road stopping proposal and this report are consistent with Council policies.

REGULATORY PROCESSES COMMITTEE

5 December 2013



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BACKGROUND TO ORAL SUBMISSIONS OBJECTING TO THE PROPOSED ROAD STOPPING AND DISPOSAL OF LEGAL ROAD - FORRES STREET, SEATOUN

1. Purpose of report

The purpose of this report is to provide the Committee with background information to five oral submissions opposing a road stopping proposal for 933m² unformed legal road land (the Land) at Forres Street, Seatoun.

The Land is shown shaded green in Appendix 1.

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 whether or not to uphold any objection.

2. Executive summary

On 24 February 2010 Council declared surplus approximately 454m² of unformed legal road land in Forres Street, adjoining 91 and 93 Tio Tio Road. Then on 3 April 2012 Council declared surplus a further approximately 512m² road land in Forres Street, Seatoun, next to Ferry Street.

Forres Street runs between Tio Tio Road and Ferry Street. The two decisions concerned the Land shown shaded light green on the aerial in Appendix 1. The size of the Land has now been confirmed by survey as being 933 m².

Public consultation on the proposed road stopping, was undertaken during June and July 2013. Five written objections were received. The objectors are all 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. *Receives the information.*
2. *Thanks 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 objections, at the next available meeting of the Regulatory Processes Committee.*

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4. Background

4.1 Road stopping consultation

At Regulatory Processes Committee meetings on 10 February 2010 and 21 March 2012, and Council meetings on 24 February 2010 and 3 April 2012 it was agreed to proceed with the proposal to stop the Land in Forres St, Seatoun.

Refer to Appendix 2 for a copy of the February 2010 and March 2012 committee reports and related Council minutes.

The proposal to stop the Land nearer to Tio Tio Road was initiated after Council received application from the owners of 91 and 93 Tio Tio Road. The proposal to stop the Land nearer to Ferry Road was then initiated by officers given the scout hall is surplus to requirements and there are suitable alternative facilities for the local community to use.

Public consultation on the proposed road stopping was undertaken during June and July 2013. Letters were sent to 15 owners and occupiers of properties situated immediately near the road stopping site, and the Seatoun and Bays Progressive Association. Public notices were placed in the Dominion Post on 4 and 11 June 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.

In addition, officers consulted on the proposed disposal of the scout hall, in December 2011. The results of this indicated there was some public interest in the hall and the land, but limited support for a hall for community purposes.

The resolutions of the 24 February 2010 and 3 April 2012 Council meetings 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 five objectors. These objectors all indicated that they also wanted to make an oral submission. The objectors are:

Name	Address
Kevin Estey and Haejin Cho	Unit 1 / 38 Ferry Street, Seatoun
Matthias and Mafumi Zeller	Unit 2 / 38 Ferry Street, Seatoun
Jo Watson	Unit 3 / 38 Ferry Street, Seatoun
Living Streets Aotearoa	C/- Paula Warren level 7 ANZAC House, 181-183 Willis Street, Wellington
Chris Horne	28 Kaihuia Street, Northland

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

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5. Discussion

5.1 Key relevant grounds for written objections

The key grounds of the written objections are:

1. Views and value of objectors properties would be affected if the unformed legal road land that the scout hall is built on was stopped, and the site developed.
2. The unformed legal road land should be retained by Council to enable a public pedestrian walkway to be built to link Tio Tio Road with Ferry Street.

Officers referred the objections back to Council's Transport Planning and Parks Sport and Recreation business units. Neither of these units supported the objections, or changed their positions in regards to support of the road stopping proposal. This was communicated to the objectors, but all have chosen to continue.

Refer to Appendix 3 full details of the grounds of the written objections.

5.2 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, objections, 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 (ie owner of 91 Tio Tio Road in relation to the part of the Land they want to purchase) wants to continue, then the road stopping proposal and the objection(s) will be referred to the Environment Court for a decision.
- If the objectors withdraw or on referral to the Environment Court, the Court does not agree with the objectors, then:
 - (a) Stop and sell 96 m² land to 91 Tio Tio Road, and
 - (b) Stop and sell 768 m² land containing the scout hall building by sale on the open market, as there are no outstanding section 40 Public Works Act 1981 matters.

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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 five objectors in support of their written objections.

After the oral submissions are heard 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

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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 unformed legal road land.

The costs associated with this proposal will be met by the proceeds of sale, and by the owner of 91 Tio Tio Road. 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 five 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

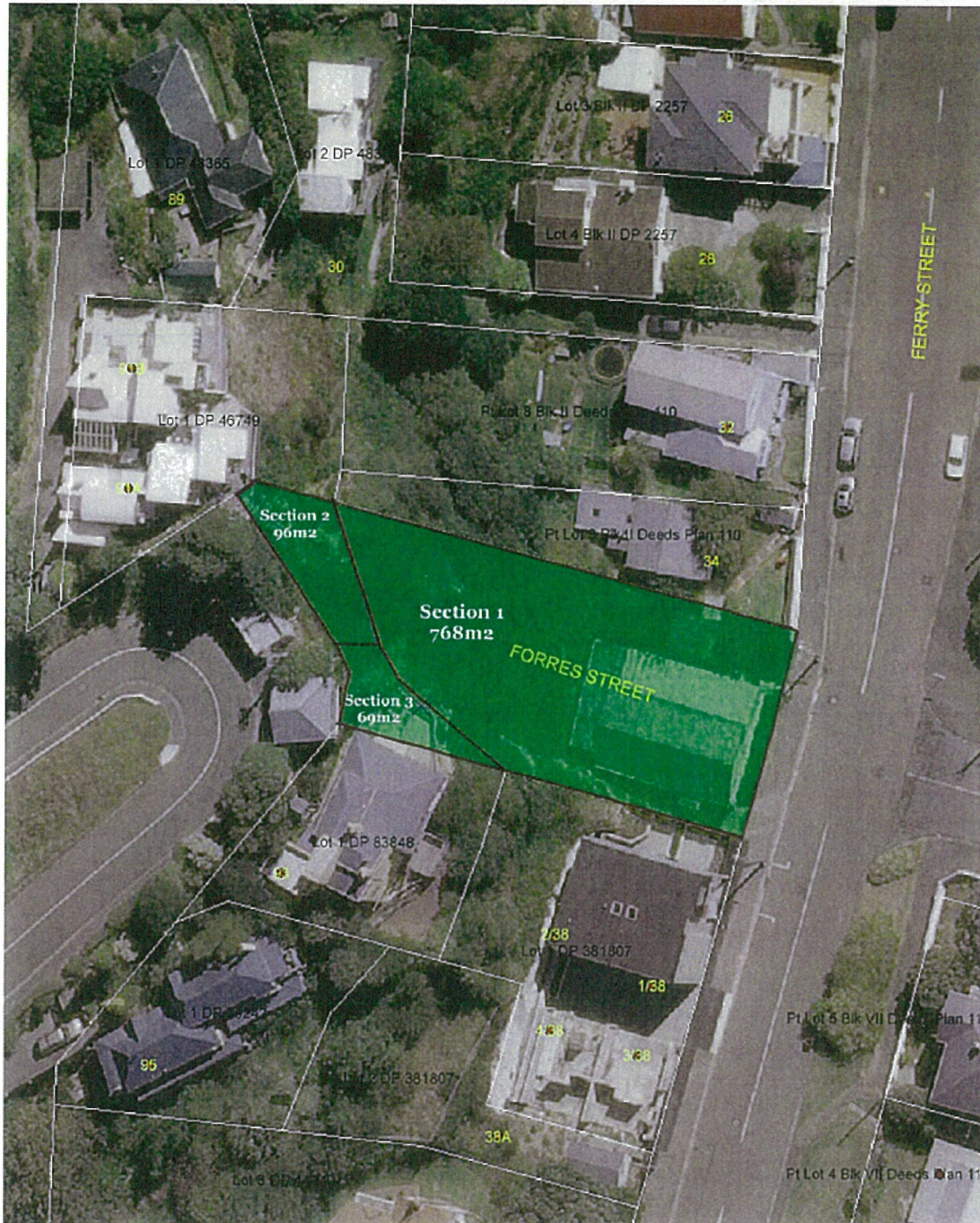
This report is for the purpose of providing background to the objections. Any legal implications relating to the objections will be considered and addressed in the final report to decide on the objections.

7) Consistency with existing policy

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

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ROAD STOPPING AND DISPOSAL – LEGAL ROAD
ADJOINING 91 TIO TIO ROAD – SEATOUN

1. Purpose of Report

The purpose of this report is to obtain agreement to authorise officers to proceed with the road stopping of an area of Council owned unformed legal road that adjoins numbers 91 and 93 Tio Tio Road, Seatoun (shown highlighted green and orange 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 approximately 454m² area of unformed legal road was originally submitted by the owners of 93 Tio Tio Road, Seatoun. That application was the subject of an earlier report to the Regulatory Processes Committee and Council, and was for both the land shown green and orange on the aerial in Appendix 1.

Council officers now wish to advance the road stopping of the unformed road adjoining 91 and 93 Tio Tio Road, with the disposal of the area shown green now to the adjoining owners of 91 Tio Tio Road.

A section 40 report has been obtained. Officers are currently obtaining legal advice in respect of that report.

If the Chief Executive Officer (CEO) agrees with the legal advice, 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.*

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2. *Recommends to Council that it:*
 - (a) *Approves the disposal of the Road Land described as approximately 454m² (subject to survey) of unformed legal road adjoining 91 and 93 Tio Tio Road, Seatoun.*
 - (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(s) 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

An application to stop a 454m² area of unformed legal road was submitted by the adjoining land owner at 93 Tio Tio Road, Seatoun. 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).

While that application was progressing, the owners of 91 Tio Tio Road whose property is located on the opposite side of the subject unformed legal road indicated that they too would like to purchase part of the land. The owners of these two properties reached agreement that 91 Tio Tio Road would pursue the purchase of the land shown green, while 93 Tio Tio Road would pursue the purchase of the land shown orange. The owners of 93 Tio Tio Road subsequently advised that they had decided to sell their property, and withdrew their road stopping application.

As the original application by 93 Tio Tio Road had already progressed through several of the early steps of the road stopping process, this meant that the

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subsequent application from 91 Tio Tio Road did not need to repeat those steps, so could commence where the other had concluded.

While the current application by 91 Tio Tio Road relates to only the land shown green, being approximately 350m² in size, as the land shown orange had already been declared surplus as well, officers recommend that both areas are still stopped rather than leave the orange area remaining as an odd shaped area of unformed legal road. While the current owners of 93 Tio Tio Road are no longer interested in stopping and purchasing the land shown orange, there is still a deck and part garage belonging to their property built on it. When the 93 Tio Tio Road property is sold, the new owners may be interested in purchasing the land shown orange to guarantee their long term use of it rather than continue with an encroachment licence. If that is the case, if it has been stopped and vested as fee simple, it would be a straightforward process to proceed with a sale, rather than have to commence a further road stopping process for just that area.

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.

A section 40 report has been obtained. Officers are to seek legal advice on some aspects of the section 40 report, particularly relating to having to offer land back where internal business units had wanted to impose significant conditions, as in the no build condition that Urban Development has requested. Prior to obtaining this information, officers will firstly confirm whether there are any former owners or their successors still alive.

If the CEO agrees that the matter can proceed,, 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 legal advice on the section 40 offer back requirements, and proceed based on that advice.
- If any section 40 offeree does not wish to purchase the land, then prepare a sale and purchase agreement with the adjoining owner.
- 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

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6. Conclusion

The unformed legal road adjoining 91 and 93 Tio Tio Road, Seatoun is no longer required for a public work by Council. Completion of the road stopping process for the whole area should be progressed. Once stopped the sale of the unformed road should be progressed, to either the former owner, or their successors. If no former owners or their successors are alive or are interested in a re-purchase, then approximately 350m² should be sold to the adjoining owner at 91 Tio Tio Road now, with the balance to be sold at a later date.

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
<p>1) Strategic Fit / Strategic Outcome <i>In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold.</i></p>
<p>2) LTCCP/Annual Plan reference and long term financial impact <i>Provision for undertaking this work is contained within the overall organisational budget.</i></p> <p><i>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.</i></p> <p><i>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.</i></p>
<p>3) Treaty of Waitangi considerations <i>There are no Treaty of Waitangi implications</i></p>
<p>4) Decision-Making <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></p>
<p>5) Consultation a) General Consultation <i>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.</i></p> <p><i>Neighbours and Service Authorities have been consulted and a number of conditions have been noted.</i></p> <p><i>The applicants have agreed in writing to these conditions.</i></p>
<p>6) Legal Implications <i>Any legal implications were addressed in the previous report to Regulatory Process Committee meeting of 22 August 2007.</i></p>

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Aerial photograph



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**REGULATORY PROCESSES
COMMITTEE**

MINUTES

WEDNESDAY 10 FEBRUARY 2010

**1.05PM – 3.04PM
(1.07PM – 2.07PM PUBLIC EXCLUDED)
(2.25PM – 3.04PM PUBLIC EXCLUDED)**

**Committee Room 2
Ground Floor, Council Offices
101 Wakefield Street
Wellington**

PRESENT:

Councillor Gill (Chair) (1.05pm – 3.04pm)
Councillor Best (1.05pm – 3.04pm)
Councillor Cook (1.05pm – 3.01pm)
Councillor Goulden (Deputy Chair) (1.05pm – 3.04pm)
Councillor Pannett (1.05pm – 3.04pm)
Councillor Wain (1.05pm – 3.04pm)

APOLOGIES:

Mayor Prendergast

IN ATTENDANCE:

Councillor Foster (1.05pm – 2.44pm, 2.46pm – 2.59pm, 3.00pm – 3.04pm)

001/10RP **APOLOGIES**
(1215/53/IM)

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

The motion was put and declared CARRIED.

RESOLVED:

THAT the Regulatory Processes Committee:

- 1. Accept apologies for absence from Mayor Prendergast.*

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008/10RP ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING
91 TIO TIO ROAD – SEATOUN (2.20PM – 2.21PM)
Report of Paul Davidson – Property Adviser.
(1215/53/IM) (REPORT 4)

Moved Councillor Gill, seconded Councillor Goulden the substantive motion.

The substantive motion was put and declared CARRIED.

RESOLVED:

THAT the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend to Council that it:*
 - (a) *Approve the disposal of the Road Land described as approximately 454m² (subject to survey) of unformed legal road adjoining 91 and 93 Tio Tio Road, Seatoun.*
 - (b) *Delegate 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) *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.*
 - (d) *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 and no objections being received.*
 - (e) *Delegate 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(s) of the Adjoining Land, provided any such agreement is conditional upon the road being stopped.*
3. *Note 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.*

MINUTES

WEDNESDAY 24 FEBRUARY 2010

5.30PM – 6.17PM

6.16PM – 6.17PM (Public Excluded)

**Council Chamber
First Floor, Town Hall
Wakefield Street
Wellington**

PRESENT:

Mayor Prendergast (5.30pm – 6.17pm)
Councillor Ahipene-Mercer (5.30pm – 6.17pm)
Councillor Best (5.30pm – 6.17pm)
Councillor Cook (5.30pm – 6.17pm)
Councillor Coughlan (5.30pm – 6.17pm)
Councillor Foster (5.30pm – 6.17pm)
Councillor Gill (5.30pm – 5.36pm, 5.40pm – 5.47pm, 5.49pm – 6.17pm)
Councillor Goulden (5.30pm – 6.17pm)
Councillor McKimmon (5.30pm – 6.17pm)
Councillor Morrison (5.30pm – 6.17pm)
Councillor Pannett (5.30pm – 6.17pm)
Councillor Pepperell (5.30pm – 6.17pm)
Councillor Ritchie (5.32pm – 6.17pm)
Councillor Wade-Brown (5.30pm – 6.17pm)
Councillor Wain (5.30pm – 6.17pm)

DEMOCRATIC SERVICES OFFICERS IN ATTENDANCE:

City Secretary – Svea Cunliffe-Steel
Senior Committee Advisor – Fiona Dunlop
Committee Advisor – Hanna Stephen
Committee Advisor – Keegan Bartlett

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ITEM 008/10RP ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 91 TIO TIO ROAD – SEATOUN (1215/53/IM) (REPORT 4)

THAT Council:

1. *See Part B.*
2.
 - (a) *Approve the disposal of the Road Land described as approximately 454m² (subject to survey) of unformed legal road adjoining 91 and 93 Tio Tio Road, Seatoun.*
 - (b) *Delegate 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) *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.*
 - (d) *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 and no objections being received.*
 - (e) *Delegate 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(s) of the Adjoining Land, provided any such agreement is conditional upon the road being stopped.*
3. *See Part B.*

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REGULATORY PROCESSES COMMITTEE 21 MARCH 2012

REPORT 3
(1215/53/IM)

ROAD STOPPING AND DISPOSAL – LEGAL ROAD – SEATOUN SCOUT HALL, 36 FERRY STREET, SEATOUN (FORRES STREET)

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 unformed legal road of Forres Street that is no longer required for Council's operational requirements. Actual address is 36 Ferry Street, Seatoun, shaded green on Appendix 1.

2. Executive Summary

This portion of unformed legal road is approximately 512m² and is currently the site of the Seatoun Scout Hall (the "**Hall**"), which is a heritage listed building.

The Hall was built in the 1930s on unformed road land. The local scouts group owned and used the Hall until they gifted it to the Council in 2000. The Hall was then used and maintained by the neighbouring RSA, until they moved to new premises in 2007. City Arts then leased out the hall (mainly as a rehearsal space) between 2008 and 2011. Usage during this period averaged around 16%.

The Hall was badly damaged by fire in June 2011 and is now untenable. The cost to repair has been estimated at between \$150,000 (restoration) and \$270,000 (rebuild). Demolition would be approximately \$8,500.

Planning Transport Assets, Infrastructure has confirmed the land is no longer required for road.

In December 2011, officers carried out public consultation with neighbouring properties and advertised the proposed disposal in the DominionPost (on the "*Our Wellington*" page). The results of this indicated some public interest in the Hall and the land, but limited support for a hall for community purposes.

The very limited use of the Hall prior to the fire indicates that there is little or no community need for this building. Officers consider the cost of repairing the Hall cannot be justified in these circumstances.

Internal business units and external service authorities have been consulted and all support the disposal, with some conditions requested to be imposed to preserve the heritage value of the Hall.

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An investigation pursuant to s40 of the Public Works Act 1981 has not been undertaken, but an investigation into an adjacent site (with a similar ownership history) indicates that offer back may be required in respect of this property.

If the recommendations contained in this report are approved by Council, then officers will proceed with the road stopping and sale, subject to public consultation in accordance with the Local Government Act 1974.

3. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Recommend that Council:*
 - (a) *Agree that the area of approximately 512m² (subject to survey) of unformed legal road land at 36 Ferry Street, Seatoun is not required for a Public Work.*
 - (b) *Subject to public consultation, approves the disposal of the Road Land described as approximately 512m² (subject to survey) of unformed legal road at 36 Ferry Street, Seatoun, including disposal of the building on the site known as the Seatoun Scout Hall "as is", subject to conditions (to be imposed on any development of the site) in recognition of and for the purpose of preserving its heritage status.*
 - (c) *Delegate 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).*
 - (d) *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.*
 - (e) *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 and no objections being received.*
 - (f) *Delegate 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 and Hall, either with the former owner or their successor, or on the open market, provided any such agreement is conditional upon the road being stopped.*
3. *Note that if objections are received and the Council wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*

4. Background

The land is legal road as delineated in SO 2948 and was proclaimed as street by Proclamation 2350 (NZ Gazette 1934 p2996). As unformed legal road, it is currently not zoned. If the road is stopped, it would take on the adjoining Outer Residential zoning.

The Hall was built by the local Scouts group in 1934. In 2000, due to dwindling scout numbers, the local group merged with the Worsler Bay Scouts to form Eastern Bays Scout Group. Scouts New Zealand then gifted the Hall to the Council.

Following transfer, the neighbouring RSA was granted use of the Hall. They took responsibility for insurance and maintenance during their tenure between 2000 and 2007. In the latter part of 2007, the RSA relocated to new premises, their land adjacent to the Hall was sold and redeveloped. Responsibility for the Hall reverted to the Council.

Between August 2008 and February 2011, City Arts leased the Hall to groups for use as a rehearsal space. Bookings during this period totalled 149 days (approximately 16% usage). Usage peaked in 2010, at 27.9%.¹ The fire in June 2011 severely damaged the Hall and it was rendered untenable. As a result, there has been no use of the Hall since June 2011.

The Hall was listed with heritage status following District Plan Change 58 in 2008. A copy of the heritage assessment carried out in June 2007 is attached at Appendix II. The Hall was listed on the basis of its social value, as it was considered to have local historic and representative significance. The heritage assessment noted that the building was unremarkable architecturally and the townscape impact of the Hall and the neighbouring RSA building was considerably enhanced by their proximity to each other. The RSA building has since been demolished and replaced with a modern multi-unit townhouse development.

In its current state, there is a real risk that the Hall could be the subject of vandalism, which would not only endanger the heritage-listed Hall, but might also put neighbouring properties at risk.

5. Discussion

5.1 Consultation and Engagement

Following internal business unit consultation in February 2011, consultation with owners of neighbouring properties was carried out. A notice requesting feedback regarding the possible disposal of the land and the Hall was also published on the "Our Wellington" page of the DominionPost on 29 November 2011. In total, eight responses were received as a result of consultation, raising the following issues:

¹ Usage figures are based on whole days as records of usage by the hour are not available. The figures in this report represent the maximum usage time during the relevant periods.

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- The Hall is a listed heritage building and should be preserved, or there should be some recognition of this on the site by way of a plaque;
- The possible archaeological value of the site (a Maori village is believed to have existed once near the site);
- The impact on the road circulation network if the road is stopped;
- Use of the site for pedestrian access to Tio Tio Road above;
- The impact on neighbours' views and light shafts in the event of development of the site;
- In the event the Hall is demolished, return to Scouts New Zealand of the Scouts sign ("1st SEATOUN SCOUT HALL") affixed to the front of the Hall; and
- Application of the proceeds of any sale of the land back into the Seatoun community.

Council officers have responded substantively to each submission as follows:

a) Heritage and archaeological concerns

Officers believe that the best way to preserve the heritage value of the Hall, given its current state, is to enable some development of the site that incorporates (at least) the existing 1932 frontage. This will be carefully considered at the planning stage of any future development. With regard to the archaeological value of the site, it will be necessary to obtain the authority of the Historic Places Trust in the event any earthworks are planned for the site. This will depend on what work is proposed for the site.

b) Roading / access concerns

The site is part of the unformed legal road of Forres Street. Immediately behind the site, where Forres Street continues up to Tio Tio Road, is a very steep rock face, making the construction of a road on the site impractical. Tio Tio Road meets Ferry Street slightly further south of Forres Street (closer to the Seatoun Tunnel). Accordingly, adequate vehicle and pedestrian access to Tio Tio Road already exists and the stopping would have no impact on traffic circulation.

Planning Transport Assets have considered the construction of a pedestrian access on the site, leading up to Tio Tio Road, between 91 and 93 Tio Tio Road. However, not only is the cost of such work prohibitive and considered unnecessary given that access to Tio Tio Road already exists, but the land directly behind the site has recently been declared surplus by Council. Accordingly, there is no place to construct such access such that it could adjoin Tio Tio Road.

c) Impact on neighbours of any new development

In the event the land is declared surplus and the road is stopped, it would be offered for sale on the open market. The new owner proposing to develop the site would have to comply with the planning rules of the area and restrictions relating to the inclusion of Heritage elements of the Hall in any new building. In the circumstances, officers believe neighbours will have sufficient protection under the District Plan. Additional restrictions could also be imposed at the

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resource consent stage, if necessary. At present, there is nothing in this respect noted on the property title.

d) Scouts sign ("1st SEATOUN SCOUT HALL")

While officers appreciate that the sign, like the Hall, represents an important part of Scouts New Zealand's history, it is possible that Heritage would require the sign to be retained as part of the preservation of the building's heritage value in any future development of the site. As the sign forms part of the hall, it is tied to that heritage listing. As such, the removal of the sign would require resource consent. Scouts New Zealand have responded to these comments noting that their request was to ensure the preservation of the sign and they consider this would be achieved in the event the sign formed part of any new development.

e) Proceeds from disposal of the property

All proceeds from sales of Council property (other than sales of reserve land) are normally earmarked for the Consolidated Fund.

5.2 Insurance

The Hall is covered by the Council's insurance policy.

In June 2011, officers obtained through Council's insurer approximate costs with regard to the restoration, rebuild or demolition of the Hall, as follows:

- Restoration – approximately \$150,000;
- Rebuild - approximately \$270,000 (including the cost of demolition); or
- Demolition – approximately \$8,500.

These figures are estimates only and a full assessment and tender process would have to be undertaken to get a final costing.

Of the above options, only demolition or restoration would be met by insurance. The excess payment required under the Council's insurance policy is \$100,000. The demolition costs would be significantly less than the excess, and restoration \$50,000 higher (on the current estimate). Officers in Financial Accounting with responsibility for the Council's insurance would look to cover these costs out of the Self Insurance Reserve Fund on the basis that making a claim on the Council's insurance policy would impact on the premium. A payment out of the Self Insurance Reserve Fund is available, but as this fund is maintained at the cost of ratepayers, Officers do not consider that it would be prudent to incur this cost and call on this fund in light of the very limited public need for this land and the Hall.

5.3 Best future use of the site

The damage to the Hall is severe and extensive. The interior is almost entirely gutted (only one small front room suffered minimal damage) and part of the roof at the rear of the Hall was destroyed. It is not considered practicable or necessary to retain or restore the Hall for a community purpose on the basis of heritage value alone. Given the very limited use made of the Hall by the community prior to June 2011, officers consider that the Hall is unnecessary for future community use. There are a number of other facilities in the area for

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the community to use, including St Georges Hall (at 44 Ferry Street) and the Miramar Community Centre in Chelsea Street, Miramar. Moreover, officers consider the cost of restoring or rebuilding the Hall to enable future community use to be unnecessary in light of the very limited use of the building since Council resumed responsibility for the Hall from the RSA in 2007.

Council's Heritage team have no objection to the disposal of the site along with the Hall in its current state, provided that any redevelopment of the site protected the building's heritage features, possibly by restoring and maintaining the original 1932 frontage of the Hall. A picture of the Hall showing this frontage is at Appendix III. In 1963 the Hall was extended with a lean-to to its north elevation (see right hand side of Hall, as pictured in Appendix III) - it is not envisaged that any future development would be required to preserve this lean-to.

5.4 Options

Officers have considered four options:

1. Retain the land and restore the Hall for community use. This option is not supported by officers for the reasons set out above, namely, the cost associated with restoration and the poor public utilisation of this asset prior to the fire in June 2011.
2. Stop the road, demolish the existing Hall and retain the land for some other Council purpose. No other business unit has shown an interest in retaining this land for Council use. Furthermore, this option would not preserve the heritage value of the building. Accordingly, this option is not recommended by officers.
3. Stop the road and offer the land for sale, removing the Hall or part thereof for preservation elsewhere. This option is not recommended by officers because the heritage value of the Hall is primarily associated with its current location. Relocating the Hall or part thereof for preservation elsewhere would damage a large part of its heritage value. Moreover, no appropriate place to relocate the Hall has been identified.
4. Stop the road and offer the land for sale "as is" (with the Hall on site). This is the preferred option of officers, as planning and resource consent restrictions can be put in place to sufficiently protect the Hall's heritage value in the event of redevelopment of the site. Officers believe that the site would be attractive to developers, as it is a flat site near the main Seatoun shopping centre and the potential value of the site would be high when considering its locality, despite the heritage restrictions.

5.5 Procedural and Financial Considerations

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

- Investigation into section 40 offer back
- 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)
- Public notification declaring the road stopped

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- Negotiate a sale
- Attend to settlement and transfer of the stopped road

All costs in relation to the disposal of the property would be deducted from the final settlement price. Accordingly, provided the sale of the property goes ahead, these will be covered by the settlement price for the property.

6. Conclusion

It is officers' view that neither the unformed legal road at 36 Ferry Street nor the Hall is required for a public work by Council. Completion of the road stopping process for the site should be progressed, including public consultation (which forms part of that process). If the stopping proceeds, the sale of the unformed road should be progressed, to either the former owner, or their successors. If no former owners or their successors are alive or are interested in a re-purchase, then the property should be offered for sale on the open market.

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 LGA.

Contact Officer: *Rosalind Luxford, Property Advisor, Property Services*

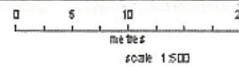
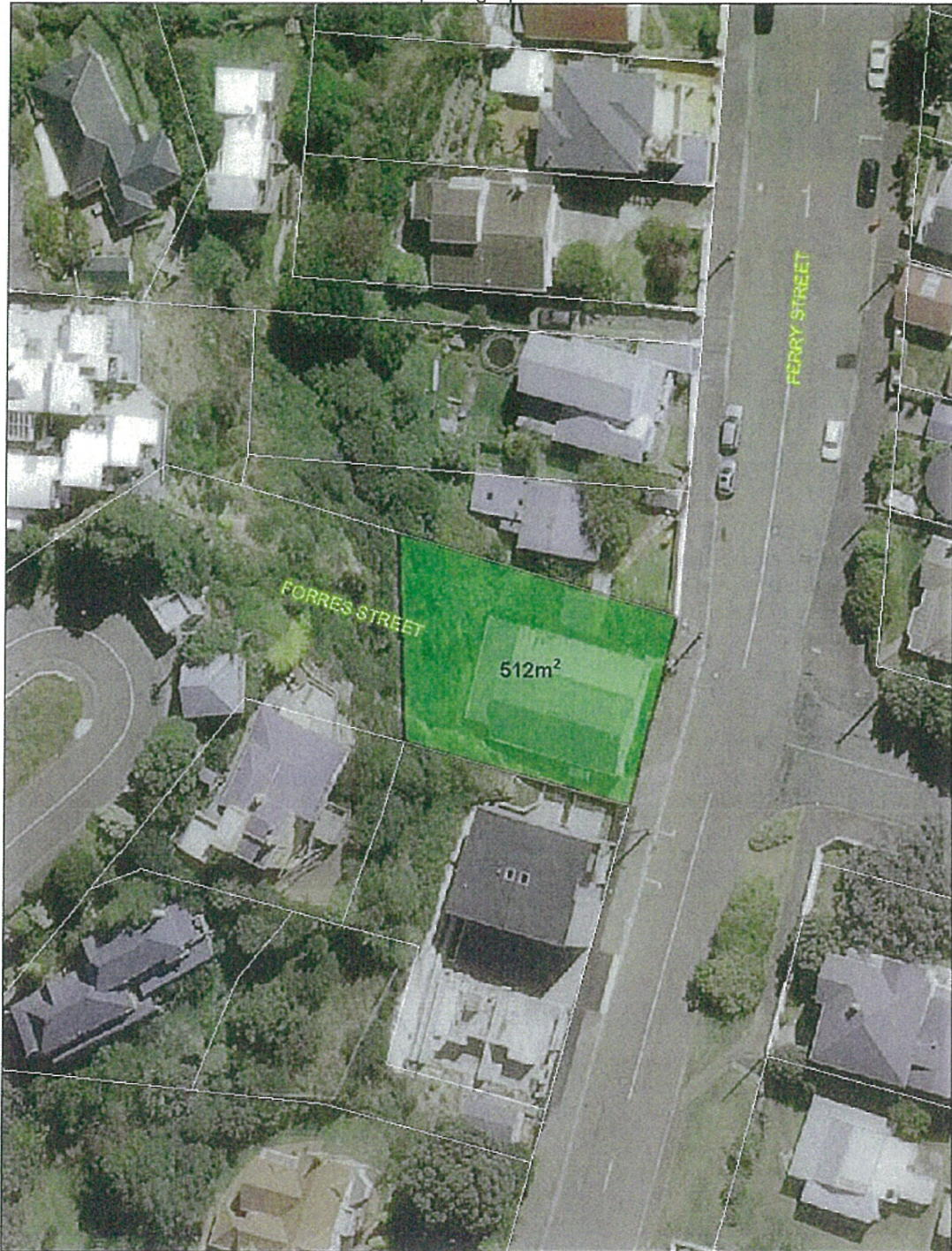
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Supporting Information
<p>1) Strategic Fit / Strategic Outcome <i>In line with the Council's financial principles, assets that are declared surplus to strategic or operational requirements are sold.</i></p>
<p>2) LTCCP/Annual Plan reference and long term financial impact <i>Provision for undertaking this work is contained within the overall organisational budget.</i></p> <p><i>This report is a step towards the possible sale of the legal road and the Seatoun Scout Hall. At this stage, the expected income from the sale of the road has not been quantified as valuations are carried out at a later stage in the road stopping process.</i></p> <p><i>This proposal will benefit Council in financial terms as the stopped road will be sold by the Council at market value, and the new owner will then pay rates on it in the future.</i></p>
<p>3) Treaty of Waitangi considerations <i>There are no Treaty of Waitangi implications.</i></p>
<p>4) Decision-Making <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></p>
<p>5) Consultation a) General Consultation <i>Consultation with the relevant Internal Business Units has been carried out. They have all advised that they have no objection to the proposed road stopping.</i></p> <p><i>Neighbours have been consulted and the proposed disposal has been advertised in the Dominion Post. A further public consultation will be carried out.</i></p>
<p>6) Legal Implications <i>There are no significant legal implications arising from this matter. Compliance with the LGA and Section 40 PWA considerations will address relevant issues. Any Sale and Purchase Agreements will be prepared by the Council's solicitors. A solicitor's certificate will be obtained before any documentation is executed.</i></p>
<p>7) Consistency with existing policy <i>The recommendations of this report are consistent with WCC policy for the disposal of surplus property.</i></p>

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Aerial photograph



Plot boundaries, 20m contour, road names, and the nature of the plot are shown with care
© Crown Copyright reserved. Property boundaries shown in this plan are not to be used for any purpose other than to show the location of the plot.
No liability is accepted for any loss or damage arising from the use of this plan for any purpose other than that for which it was prepared.
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MAP PRODUCED BY:
Mr Wayne C. Brown
101 Walker Street
WELLINGTON, NZ

ORIGINAL MAP SHEET: A4
AUTHOR: s14652a
DATE: 27/11/2011
REFERENCE:



**APPENDIX 1
APPENDIX 2**



**REGULATORY PROCESSES
COMMITTEE**

MINUTES

WEDNESDAY 21 MARCH 2012

**9.17AM - 10.20AM
(10.00AM - 10.11AM - PUBLIC EXCLUDED)**

**Committee Room One
Ground Floor, Council Offices
101 Wakefield Street
Wellington**

PRESENT:

Councillor Gill (Chair) (9.17am - 10.20am)
Councillor Best (9.17am - 10.20am)
Councillor Foster (9.20am - 10.20am)
Councillor Lester (9.17am - 10.20am)
Councillor Pepperell (9.24am - 9.28am, 9.29am - 10.20am)

APOLOGIES:

Mayor Wade-Brown
Councillor Morrison

IN ATTENDANCE:

Councillor Pannett (9.21am - 9.56am, 9.57am - 10.15am)

DEMOCRATIC SERVICES OFFICERS IN ATTENDANCE:

Fiona Dunlop - Committee Advisor

- (b) *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 and no objections being received.*
 - (c) *Approve the disposal of the Road Land (subject to the proposed road stopping being successful).*
 - (d) *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of Road Land situated between 9 and 25 Voltaire Street, Karori, either with the former owner, or their successor, or the Port Nicholson Block Settlement Trust, or Ngati Toa, or the successful purchaser following the Road Land being marketed for sale.*
4. *Note that if objections are received to the road stopping public notice, a further report will be presented to the Committee for consideration.*

020/12RP **ROAD STOPPING AND DISPOSAL - LEGAL ROAD SEATOUN
SCOUT HALL, 36 FERRY STREET, SEATOUN (FORRES STREET)**
Report of Rosalind Luxford, Property Advisor, Property Services.
(1215/53/IM) (REPORT 3)

Moved Councillor Foster, seconded Councillor Lester, the substantive motion.

The substantive motion was put and declared CARRIED.

RESOLVED:

THAT the Regulatory Processes Committee:

1. *Receive the information.*
2. *Recommend that Council:*
 - (a) *Agree that the area of approximately 512m² (subject to survey) of unformed legal road land at 36 Ferry Street, Seatoun is not required for a Public Work.*
 - (b) *Subject to public consultation, approves the disposal of the Road Land described as approximately 512m² (subject to survey) of unformed legal road at 36 Ferry Street, Seatoun, including disposal of the building on the site known as the Seatoun Scout Hall "as is", subject to conditions (to be imposed*

on any development of the site) in recognition of and for the purpose of preserving its heritage status.

- (c) Delegate 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) of the Public Works Act 1981 (if appropriate).*
 - (d) 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.*
 - (e) 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 and no objections being received.*
 - (f) Delegate 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 and Hall, either with the former owner or their successor, or on the open market, provided any such agreement is conditional upon the road being stopped.*
3. *Note that if objections are received and the Council wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.*

NOTED:

TABLED INFORMATION: Appendices 2 and 3 of the report.
Reference 020/12RP(a).

021/12RP ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 2 LOWER WATT STREET, WADESTOWN

Report of Rosalind Luxford, Property Advisor, Property Services.
(1215/53/IM) (REPORT 4)

Moved Councillor Gill, seconded Councillor Best, the substantive motion.

The substantive motion was put and declared CARRIED.

RESOLVED:

THAT the Regulatory Processes Committee:

- 1. *Receive the information.*

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COUNCIL

MINUTES

TUESDAY 3 APRIL 2012

9.20AM - 10.28AM, 10.51AM - 11.47AM, 11.52AM - 12.19PM,
1.05PM - 3.31PM, 3.42PM - 4.08PM

Council Chamber
First Floor, Town Hall
Wakefield Street
Wellington

PRESENT:

Mayor Wade-Brown
Councillor Alhipene-Mercer
Councillor Best
Councillor Cook
Councillor Coughlan
Councillor Eagle (9.20am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.05pm - 3.02pm, 3.07pm - 3.31pm, 3.42pm - 4.08pm)
Councillor Foster (9.22am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.05pm - 3.31pm, 3.42pm - 4.08pm)
Councillor Gill (9.20am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.10pm - 1.11pm, 1.28pm - 3.31pm, 3.42pm - 4.08pm)
Councillor Lester
Councillor McKinnon (9.20am - 10.28am, 10.52am - 11.47am, 11.52am - 12.19pm,
1.05pm - 3.31pm, 3.42pm - 4.08pm)
Councillor Marsh (9.20am - 10.28am, 10.52am - 11.47am, 11.52am - 12.19pm,
1.09pm - 3.31pm, 3.42pm - 4.08pm)
Councillor Morrison (9.20am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.05pm - 3.03pm, 3.07pm - 3.31pm)
Councillor Pannett (9.20am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.05pm - 1.07pm, 1.09pm - 2.10pm, 2.13pm - 3.31pm,
3.42pm - 4.08pm)
Councillor Pepperell (9.20am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.05pm - 3.31pm)
Councillor Ritchie (9.20am - 10.28am, 10.51am - 11.47am, 11.52am - 12.19pm,
1.19pm - 1.29pm, 1.30pm - 1.31pm, 1.38pm - 2.51pm,
2.53pm - 2.55pm, 3.00pm - 3.06pm, 3.08pm - 3.31pm)

DEMOCRATIC SERVICES OFFICERS IN ATTENDANCE:

Anusha Guler - Manager Democratic Services
Fiona Dunlop - Committee Adviser
Luka Dujmovic - Committee Adviser
Sophie Rapson - Committee Adviser
Antoinette Bliss - Committee Adviser

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from offer back under section 40(2), 40(3), or 40(4) of the Public Works Act 1981 (if appropriate).

2. (a) *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.*
- (b) *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 and no objections being received.*
- (c) *Approve the disposal of the Road Land (subject to the proposed road stopping being successful).*
- (d) *Delegate to the Chief Executive Officer the power to negotiate the terms of sale and enter into a sale and purchase agreement in respect of Road Land situated between 9 and 25 Voltaire Street, Karori, either with the former owner, or their successor, or the Port Nicholson Block Settlement Trust, or Ngati Toa, or the successful purchaser following the Road Land being marketed for sale.*

2. **ITEM 020/12RP ROAD STOPPING AND DISPOSAL - LEGAL ROAD SEATOUN SCOUT HALL, 36 FERRY STREET, SEATOUN (FORRES STREET)
(1215/53/IM) (REPORT 3)**

Moved Councillor Gill, seconded Councillor Foster, 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 and Pannett.

Voting against: Nil.

Majority Vote: 12:0

The substantive motion was declared CARRIED.

RESOLVED:

THAT Council:

1.
 - (a) *Agree that the area of approximately 512m² (subject to survey) of unformed legal road land at 36 Ferry Street, Seatoun is not required for a Public Work.*
 - (b) *Subject to public consultation, approves the disposal of the Road Land described as approximately 512m² (subject to survey) of unformed legal road at 36 Ferry Street, Seatoun, including disposal of the building on the site known as the Seatoun Scout Hall "as is", subject to conditions (to be imposed on any development of the site) in recognition of and for the purpose of preserving its heritage status.*
 - (c) *Delegate 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) of the Public Works Act 1981 (if appropriate).*
 - (d) *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.*
 - (e) *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 and no objections being received.*
 - (f) *Delegate 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 and Hall, either with the former owner or their successor, or on the open market, provided any such agreement is conditional upon the road being stopped.*

3. **ITEM 021/12RP ROAD STOPPING AND DISPOSAL – LEGAL ROAD ADJOINING 2 LOWER WATT STREET, WADESTOWN (1215/53/IM) (REPORT 4)**

Moved Councillor Gill, seconded Councillor Marsh, the substantive motion.

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This appendix has not been included.

It contained grounds of the written objections and officers comments but was in draft form only, it was finalised after the oral submissions had been heard on 5 December 2013.

Please refer Appendix 2 of the report – Decision on objections to the proposed road stopping and disposal of legal road – Forres Street, Seatoun for the finalised version.

APPENDIX 2

Kevin Estey & Haejin Cho – 1/38 Ferry Road	Officers comments in response
<ul style="list-style-type: none"> • Purchased property understanding Scout Hall was a heritage site. 	<ul style="list-style-type: none"> • The Seatoun Scout Hall remains listed on Council's Operative District Plan as a site with heritage status, so it is protected by the rules of the District Plan. Included in the resolutions recommended on 21 March 2012 by the Regulatory Processes Committee, and approved by full Council on 3 April 2012, was that the road stopping proposal could progress subject to conditions to be imposed on any development of the site in recognition of and for the purpose of preserving its heritage status. <p>Council's Urban Design heritage advisors require that should the road stopping be successful, that any future development preserves the street façade and as much of the Scout Hall as possible. If all or a part of the Scout Hall building was ever proposed to be demolished, the process in the rules of the District Plan would need to be followed. It is likely that any proposed demolition to remove all or part of the Scout Hall building from the District Plan would require public notification.</p> <p>(Note – The objectors purchased their property late 2000's, with the hall being listed as a heritage building in the District Plan a couple of years prior)</p>
<ul style="list-style-type: none"> • The value of their property would be affected by the construction, disruption and outcome of the development of scout hall site. 	<ul style="list-style-type: none"> • The Scout Hall had very limited use prior to the fire in June 2011 so its future needed to be considered irrespective of that event. The fire just made reviewing the Scout Halls future more urgent. A hall occasionally used may have meant that neighbouring properties enjoyed long periods of privacy, but the overall situation did not benefit the wider community, and now with the fire damage even less so. Council therefore considered what would be in the best interests of the cities ratepayers, deciding that the Scout Hall site should not be retained, and that it could be sold, pending the outcome of the road stopping public consultation. If the road stopping proposal is successful, and the Scout Hall site sold into private ownership, then any future development would be subject to the rules of Council's operative District Plan. <p>So while it is acknowledged that any change to an adjoining property may have some affect on immediate neighbours, selling and developing the site is considered to be a more appropriate use of an unused damaged public asset, which would enhance the area.</p>

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Kevin Estey & Haejin Cho – 1/38 Ferry Road (Con't)	Officers comments in response
<ul style="list-style-type: none"> Views would be affected if scout hall site developed. 	<ul style="list-style-type: none"> Concerns over views being altered are not uncommon for residentially zoned areas. If the road stopping proposal is successful and the Scout Hall site is sold into private ownership then given the heritage requirements, and the need to comply with the rules of the operative District Plan. <p>Council officers are confident that the outcome will carefully consider affects on neighbours, and will result in a positive outcome sympathetic to the site and the immediate area.</p>
<ul style="list-style-type: none"> The addition of direct neighbours would drastically change the privacy that the homes at 38 Ferry St have. 	<ul style="list-style-type: none"> The past situation of your property having an occasionally used hall next door was unusual, and is even more so now that the hall is not used at all because of its fire damage. As the current situation is unusual for a built up residential area, it is reasonable to expect that any change to the status quo will have some affect.
<ul style="list-style-type: none"> Community would lose Heritage Site of great significance, and community building that has served the greater community keeping them connected. 	<ul style="list-style-type: none"> The heritage value of the Scout Hall site has been considered in the decisions made to date, and should the road stopping proposal be successful and the site sold into private ownership, any future development will have restrictions over what is built. The fact that the street façade and as much of the Scout Hall as possible is required to be retained are significant factors. <p>The very limited use made of the Scout Hall prior to June 2011, was noted in the committee report prepared for the Regulatory Processes Committee meeting of 21 March 2012. It was further noted that there are a number of other facilities in the area that the community could use, including the St Georges Hall (at 44 Ferry Street), and the Miramar Community Centre I Chelsea Street, Miramar.</p>
<ul style="list-style-type: none"> Disposal / sale serves no greater purpose for the community, and only benefit the council at the expense of the community. 	<ul style="list-style-type: none"> The proposal to dispose and sell the Scout hall site has been made after considering how seldom the hall was used prior to the fire, the cost of repairing the fire damage, and what is in the best interests of the cities ratepayers given that there are alternative community facilities available. Officer's view therefore is that the interests of community and cities ratepayers have been considered.
<ul style="list-style-type: none"> Health and safety concerns if site was developed. 	<ul style="list-style-type: none"> If the Scout Hall site was sold into private ownership and developed, the development works would have to comply will all relevant rules and regulations, so officers are confident that there would not be any danger posed to neighbours. In regards to toddlers or children playing on or near a public road or a private driveway, the risks and dangers of such situations are obvious and are always going to be the responsibility of the parent or caregiver.
<ul style="list-style-type: none"> Council is choosing to forgo rebuilding and repairs after the fire that could greatly benefit the community, in exchange for financial gain. 	<ul style="list-style-type: none"> The greater good of the community is not being overlooked. The Scout Hall was seldom used prior to the fire, and significant costs would have to be incurred to repair that damage. Retaining and repairing the Scout Hall does not make economic sense, particularly given that there are alternative facilities in the area that the community could use.

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Matthias & Mafumi Zeller - 2/38 Ferry Road	Officers comments in response
<ul style="list-style-type: none"> Development plans financially damaging. Sea views and sun light would be severely affected, especially for our Unit 2/38 Ferry St as we are set against the hill and a higher structure on the site of the Scout Hall would completely block us in. In addition. 	<ul style="list-style-type: none"> The Scout Hall is situated in a built up residential area, having very limited use prior to the fire in June 2011. Its future needed to be considered irrespective of that event. If the road stopping proposal is successful, and the Scout Hall site sold into private ownership, any future development would be subject to the rules of Council's operative District Plan, so issues such as affects on neighbours resulting from a development would be appropriately considered in that process. While you live next to an unused fire damaged Scout Hall, by default you will be enjoying some privacy, but generally I would not expect the current situation to positively affect property values in the area.
<ul style="list-style-type: none"> Access to our unit would be an issue as we share the footpath with the Seatoun Scout Hall. This shared path is our only access to the front door. 	<ul style="list-style-type: none"> I have reviewed your properties original development file. Indeed it appears the consent was granted incorporating pedestrian access to your property over the unformed legal road that is proposed to be stopped. Accordingly should the road stopping proposal be successful it would appear appropriate for your existing access to be protected. This would probably be by way of a Right of Way easement that would need to be registered on the titles of your property, and the title that would be issued for the stopped road land.
<ul style="list-style-type: none"> Loss of a heritage site, instead of the restoration of it. 	<ul style="list-style-type: none"> The Seatoun Scout Hall remains listed on Council's Operative District Plan as a site with heritage status, so it is protected by the rules of the District Plan. Included in the resolutions recommended on 21 March 2012 by the Regulatory Processes Committee, and approved by full Council on 3 April 2012, after it was decided that given the previous low use of the Scout Hall, and the cost to repair, that the road stopping proposal could progress subject to conditions to be imposed on any development of the site in recognition of and for the purpose of preserving its heritage status. <p>So following these resolutions being passed, and in consideration of how badly fire damaged the Scout Hall is, Council's Urban Design heritage advisors require that should the road stopping be successful, the Scout Hall site could be sold, but as part of any future development the street façade and as much of the Scout Hall as possible should be retained.</p> <p>If all or a part of the Scout Hall building was ever proposed to be demolished, the process in the rules of the District Plan would need to be followed. It is likely that any proposed demolition to remove all or part of the Scout Hall building from the District Plan would require public notification.</p>

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Matthias & Mafumi Zeller - 2/38 Ferry Road (continued)	Officers comments in response
<ul style="list-style-type: none"> • These plans are not needed for roading or infrastructure purposes. 	<ul style="list-style-type: none"> • You are correct the unformed legal road land proposed to be stopped and sold is not needed for roading or infrastructure purposes. As part of Council's disposal and road stopping process, service authorities and all relevant Council business units are consulted with. The only condition of any note to come out of that is that the heritage value of the Scout Hall was required to be protected.
<ul style="list-style-type: none"> • Plans by Council to sell the hall and land started after an arson attack on the community, which led to the loss of a heritage building. A better plan needs to be made that takes into account the residents and community interests. 	<ul style="list-style-type: none"> • The proposal to stop the areas of unformed legal road nearer to Tio Tio Road had been in progress for a couple of years prior to the fire in the Scout Hall. In regards to the unformed legal road land that the Scout Hall occupies, as the Scout Hall was getting used only very occasionally its future was due for review anyway. The fire only brought that review forward. <p>The key factors for Council were how often was the Scout Hall used prior to the fire, how much would it cost to repair the fire damage, and what alternative facilities are there for the community? In this case the prior low use of the Scout Hall did not justify the cost to repair, particularly as there are a number of other facilities in the area that the community could use. These include the St Georges Hall (at 44 Ferry Street), and the Miramar Community Centre I Chelsea Street, Miramar.</p>
<ul style="list-style-type: none"> • Development of the site would be stressful and force us to move. 	<ul style="list-style-type: none"> • The current situation of an unused fire damaged hall is unusual for a built up residential area, it is reasonable to expect that any change to the status quo is going to have some affect. If the Scout Hall site was sold into private ownership and developed, the development works would have to comply will all relevant rules and regulations, including those required by it heritage status.

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Jo Watson - 3/38 Ferry Road	Officers comments in response
<ul style="list-style-type: none"> • Concern over what will be built on the land. How big and how high as it will impact on the view from 38 Ferry Street of the sea and surrounding area and also light and sun. • Effect of development of road stopped land on the value of my property. 	<ul style="list-style-type: none"> • Should the proposal to stop and sell the unformed legal road land where the Scout Hall is situated, any future development of the site will generally be governed by the rules of the operative District Plan which includes consideration of potential affects on neighbours. <p>In addition to those requirements the Scout Hall is not intended to be removed, it remains listed on Council's Operative District Plan as a site with heritage status.</p> <p>Included in the resolutions recommended on 21 March 2012 by the Regulatory Processes Committee, and approved by full Council on 3 April 2012, was that the road stopping proposal could progress subject to conditions to be imposed on any development of the site in recognition of, and for the purpose of, preserving its heritage status. So in consideration of how badly fire damaged the Scout Hall is, Council's Urban Design heritage advisors subsequently confirmed that the Scout Hall site could be sold, but as part of any future development the street façade and as much of the Scout Hall as possible should be retained. (Referring to that part not fire damaged)</p> <p>If all or a part of the Scout Hall building was ever proposed to be demolished, the process in the rules of the District Plan would need to be followed. It is likely that any proposed demolition to remove all or part of the Scout Hall building from the District Plan would require public notification.</p>

Living Streets Aotearoa	Officers comments in response
<p>• Council should retain the land to provide future options to create a zig-zag pedestrian walkway to link Tio Tio Road with Ferry Road.</p> <p>This would provide a shorter walking route than existing between Beacon Hill and Seatoun Heights via Tio Tio Rd and Fettes Crescent, and Seatoun Beach/Seatoun Wharf/Te Kura Kaupapa Maori o Nga Mokopuna/St Christopher's Presbyterian Church and Church Hall/ J.G Churchill Park, including the play area and the Wahine Memorial.</p>	<p>• Comprehensive assessment is undertaken for every road stopping proposal. At the start of the road stopping process as the proposal could affect services running through, over or near the land, all service authorities are consulted with and requested to provide statements. Officers then consult with the following Council business units, requesting them consider the proposal, and provide statements as to whether the subject land is required to be retained for Council's own operational requirements, or if it is not required to be retained are there any conditions that need to be imposed.</p> <p>These business units are:</p> <ul style="list-style-type: none"> ○ Road and Traffic Maintenance ○ Parks, Sport and Recreation ○ Development Planning ○ Policy ○ Urban Design ○ Transport Planning ○ Vehicle Access ○ Treaty Relations <p>When this proposal was initially considered by the Road and Traffic Maintenance / Transport Planning business units, they advised that they did not require the subject road land to be retained. They had considered whether or not the site should be used to construct pedestrian steps, deciding that it wasn't.</p> <p>Your objection has been referred back to these business units for further comment. Please note their comments as follows:</p> <ul style="list-style-type: none"> ○ <i>Consideration is continuously given as to what opportunities there are to improve pedestrian access throughout the city.</i> ○ <i>Should anyone want access to Ferry Street from between 91 and 93 Tio Tio Road, that being the proposed road stopping area, it is only a very short distance down Tio Tio Road to the intersection of those two roads. So given this situation in addition to how difficult and costly it would be to build steps, these can not be justified.</i> ○ <i>There is another site which is reasonably close to the proposed road stopping area where if any new steps were to be built in the future they would be of more use and benefit to the local community. This site is owned by Council and is between and would link Beacon Hill Road with Ferry Street / Ludlum Street.</i>

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Living Streets Aotearoa (Con't)	Officers comments in response
<p data-bbox="225 371 453 398">Additional comments</p> <ul style="list-style-type: none"> <li data-bbox="225 506 639 600">• While there may not be funding now, it is not infeasible and funding could become available. <li data-bbox="225 607 639 701">• The route (if developed) would add considerable value to the pedestrian network. <li data-bbox="225 707 639 837">• While a pedestrian could walk down the existing road, that walk is longer, so be a shortcut which are in demand. <li data-bbox="225 844 639 974">• If developed the walking experience would be different, ie steps with no traffic rather than a steeply inclined, narrow side street footpath. <li data-bbox="225 981 639 1111">• Parent sending their child to school or the beach could easily walk to the top and watch them walk the rest of the route. <li data-bbox="225 1117 639 1400">• Do not consider the alternative route identified by the Council staff would be alternative, as is some distance away and serves different catchment, that said we consider it would also be a highly valuable addition to the pedestrian network in the area, and would like to discuss with you how this can be achieved. 	<p data-bbox="683 371 1345 465">The additional comments were referred back to Transport Planning and Parks, Sport and Recreation for further comment.</p> <ul style="list-style-type: none"> <li data-bbox="683 506 1315 600">• Transport Planning - Do not agree that the subject road land should be retained to create a public walkway. Initial comments stand. <p data-bbox="683 640 1345 869">Parks, Sport and Recreation - Confirm they have no interest in the subject road land. Noted that the public walkway proposed by Living Streets Aotearoa for the Forres Street land would technically be an 'access way' i.e. road to road, and not a reserves walkway. Confirm they have no objection to the proposal and Council's current position.</p>

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Chris Horne	Officers comments in response
<ul style="list-style-type: none"> • Council should retain the land to provide future options to create a pedestrian walkway to link Tio Tio Road with Ferry Road. <p>If this part of Forres Street were to be stopped, and privatised, Wellingtonians would lose, forever, the chance to benefit from the construction of a flight of steps, between Tio Tio Rd and Ferry St, to complement the existing zigzag between Fettes Crescent and Tio Tio Rd. Building a flight of steps, similar to the excellent flight of about 130 steps built by WCC c 2010, from near 131 Seatoun Heights Rd, down to Townsend Rd, would provide a wonderful addition to walking opportunities in the Seatoun – Miramar area. This would benefit residents of the suburb, and visitors, alike.</p> <p>Additional recommendations made to the Regulatory Processes Committee on 5 December 2013.</p> <ul style="list-style-type: none"> • The Cape ivy and other weeds be removed from the unformed legal road by Council. <ul style="list-style-type: none"> • Consideration be given to building a lookout, with a seat, at the top of the unformed legal road. 	<ul style="list-style-type: none"> • Officer's response to Mr Horne's objection are the same as given to Living Streets Aotearoa. <p>The objectors additional recommendations were referred back to Transport Planning and Parks, Sport and Recreation for comment:</p> <ul style="list-style-type: none"> • Parks, Sport and Recreation (Illona Keenan) advised that Cape Ivy is listed as a key native ecosystem weed in WCC Pest Management Plan 2004. Given the Land in question is not part of our ecological sites layer and wasn't deemed to be ecologically important from a Park's perspective, the presence of Cape ivy is not a concern from my perspective. • Parks, Sport and Recreation (David Halliday) Do not support proposal as there are already numerous adequate lookouts in this area. Noted that the subject land is unformed legal road and not reserve. <p>Transport Planning (Neil Johnstone) the site has several aspects detracting from any potential of a look out being site there.</p> <ul style="list-style-type: none"> ○ Overhead power lines detract from view ○ No immediate kerb-side parking space ○ From a Crime Prevention Through Environmental design perspective there may not be good visibility from the street and hence security for people using the lookout. This is due to the close adjoining presence of the substation and encroachment garage.

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Rosamund Averton	Officers comments in response
<ul style="list-style-type: none">• Council should retain the land as it would make a useful zig zag shortcut, but not at the cost of removing the building which I believe should be restored.• The Scout Hall once restored would make an ideal local museum/information booth to commemorate the well documented history and heritage of Seatoun.	<ul style="list-style-type: none">• Officer's response to Ms Averton's objection are the same as given to Living Streets Aotearoa.• Council's Heritage Advisor (Vanessa Tanner) is positive about anything that recognises history and heritage, that view being dependent on Council's policy and funding. Property Officers opinion is that the hall is not suitable for use as a museum. Museums in suburban areas is not usual practise, and the objector's suggestion is made as an individual, so Council would therefore have to wholly fund all related works and on going management.