

ORDINARY MEETING

OF

REGULATORY PROCESSES COMMITTEE

AGENDA

Time: 9:30 am
Date: Tuesday, 4 February 2020
Venue: Ngake (16.09)
Level 16, Tahiwī
113 The Terrace
Wellington

MEMBERSHIP

Mayor Foster
Councillor Condie
Councillor Free
Councillor Matthews
Councillor O'Neill
Councillor Sparrow (Chair)
Councillor Woolf

Have your say!

You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 04-803-8334, emailing public.participation@wcc.govt.nz or writing to Democracy Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number, and the issue you would like to talk about.

AREA OF FOCUS

The Regulatory Processes Committee has responsibility for overseeing the Council's regulatory functions, including responsibility for:

- Approving the list of Resource Management Act Commissioners and the associated Appointment Guidelines
- Objections to classifications under the Dog Control Act
- Fencing of swimming pools
- Road stopping
- Naming places in accordance with the Naming Policy, except for significant naming decisions, which are considered by the Strategy and Policy Committee.
- Traffic resolutions which are not considered by the Strategy and Policy Committee.
- Suburb boundaries
- Development Contributions remissions.
- Approving leases pursuant to Council policies.

To read the full delegations of this Committee, please visit wellington.govt.nz/meetings.

Quorum: 3 members

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1. Meeting Conduct

1.1 Karakia

The Chairperson will open the meeting with a karakia.

Whakataka te hau ki te uru,	Cease oh winds of the west
Whakataka te hau ki te tonga.	and of the south
Kia mākinakina ki uta,	Let the bracing breezes flow,
Kia mātaratara ki tai.	over the land and the sea.
E hī ake ana te atākura.	Let the red-tipped dawn come
He tio, he huka, he hauhū.	with a sharpened edge, a touch of frost,
Tihei Mauri Ora!	a promise of a glorious day

At the appropriate time, the following karakia will be read to close the meeting.

Unuhia, unuhia, unuhia ki te uru tapu nui	Draw on, draw on
Kia wātea, kia māmā, te ngākau, te tinana,	Draw on the supreme sacredness
te wairua	To clear, to free the heart, the body
I te ara takatū	and the spirit of mankind
Koia rā e Rongo, whakairia ake ki runga	Oh Rongo, above (symbol of peace)
Kia wātea, kia wātea	Let this all be done in unity
Āe rā, kua wātea!	

1.2 Apologies

The Chairperson invites notice from members of apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

1.3 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

1.4 Confirmation of Minutes

The minutes of the meeting held on 4 December 2019 will be put to the Regulatory Processes Committee for confirmation.

1.5 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows.

Matters Requiring Urgent Attention as Determined by Resolution of the Regulatory Processes Committee.

The Chairperson shall state to the meeting:

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

The item may be allowed onto the agenda by resolution of the Regulatory Processes Committee.

Minor Matters relating to the General Business of the Regulatory Processes Committee.

The Chairperson shall state to the meeting that the item will be discussed, but no resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Regulatory Processes Committee for further discussion.

1.6 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 3.23.3 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

Requests for public participation can be sent by email to public.participation@wcc.govt.nz, by post to Democracy Services, Wellington City Council, PO Box 2199, Wellington, or by phone at 04 803 8334, giving the requester's name, phone number and the issue to be raised.

2. General Business

PROPOSED ROAD STOPPING AND LAND EXCHANGE - LAND ADJOINING 64 MAIDA VALE ROAD, ROSENEATH

Purpose

1. This report asks the Regulatory Processes Committee to recommend that the Council:
 - a. Stops and sells approximately 67m² of Council-owned unformed legal road in Maida Vale Road, adjoining 64 Maida Vale Road, Roseneath, Wellington (the Land); and
 - b. Acquires approximately 2m² of the applicants' land for the purposes of road.

Summary

2. The owners of 64 Maida Vale Road have applied to purchase part of the unformed legal road adjoining their property. Refer Attachment 1 for location plan.
3. Council's transport planners have taken this opportunity to acquire approximately 2m² of the owners' property (the Applicants' Land) in partial exchange for the above to increase future road improvement options.
4. The Land is outlined red on the aerial in Attachment 2, with the Applicants' Land outlined green.
5. Utility providers and relevant Council business units have been consulted. All support the proposal, subject to conditions (where relevant).
6. Initial consultation letters were sent to four adjoining or adjacent neighbours. At the time of writing this report no responses have been received. Note the owners of the adjoining 56 Maida Vale Road are currently progressing their own road stopping application.
7. If the Council agrees with the recommendations of the Regulatory Processes Committee the road stopping will then be publically notified. At that time any neighbours, organisations, or any other members of the public will have the opportunity to make a submission.

Recommendation/s

That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to the Council that it:
 - a) Agrees that approximately 67m² (subject to survey) of unformed legal road on Maida Vale Road, Roseneath, (the Land) adjoining 64 Maida Vale Road (being Lot 6 DP 5344, ROT WN291/69), is not required for a public work and is surplus to requirements.
 - b) Agrees to dispose of the Land by sale or partial exchange for approximately 2m² of the owners adjoining land currently part of 64 Maida Vale Road (being Lot 6 DP

- 5344, ROT WN291/69), (the Applicant's Land).
- c) Agrees to dispose of the Land.
 - d) Agrees to acquire the Applicant's Land.
 - e) Delegates to the Chief Executive Officer the power to conclude all matters in relation to the road stopping and disposal of the Land, including all legislative matters, issuing of relevant public notices, declaring the road stopped, negotiating the terms of sale or exchange, imposing any reasonable covenants and anything else necessary.
3. Notes that if objections are received to the road stopping, and the applicant wishes to continue with the process, a further report will be presented to the Regulatory Processes Committee for consideration.

Discussion

8. The Land proposed to be stopped extends along the entire front boundary of 64 Maida Vale Road, being used for garden (lawn, vegetation and low trees) and access.
9. The applicants have an encroachment licence to use 14m² legal road land for their access steps.
10. Should the road stopping proposal be successful the Land would be amalgamated with 64 Maida Vale Road, with its current use is not proposed to change.
11. 64 Maida Vale Road is situated approximately 6 – 7 metres above the formed carriageway. Refer to Attachment 3 for views from street level.
12. Road Stopping is provided for under Sections 319(1)(h) and 342(1)(a) and the Tenth Schedule of the Local Government Act 1974 (LGA).
13. The Council, under section 40 of the Public Works Act 1981 (PWA), 'shall endeavour' to dispose of any land not required for the public work for which it was taken, and which is not required for any other public work. Section 345(1)(a)(i) of the Local Government Act 1974 provides council with the statutory power to dispose of stopped road.
14. Advisors from Council's Transport and Infrastructure unit (Transport) have confirmed the Land is not required for future road widening or public access purposes.
15. As part of considering this road stopping proposal Council's transport planners have taken the opportunity to acquire a small area of the applicant's existing property. Widening the legal road width on this corner of the street increases options for future road improvements.
16. Transport required an isolation strip on the extension of the 56/64 Maida Vale Road legal side boundary, shown blue on Attachment 2. If the road stopping proposals by 56 and 64 Maida Vale Road are both successfully completed then it will not be needed.
17. Given the topography Transport also require a batter easement to be registered on the applicant's title. Purpose of this is to reduce risk to Council from having to provide support to the applicant's property. The private property owner is responsible for the stability of the embankment, even though the embankment lies within road reserve land.
18. Relevant other Council business units have been consulted and none wish to retain the Land.
19. As is normal practise in the early stages of the road stopping process officers have written to the four adjoining or adjacent neighbours notifying them that Council had

received this road stopping application. All of these owners will be consulted again when the formal public consultation is carried out later in the road stopping process.

20. The owners of 56 Maida Vale Road are pursuing their own road stopping application, that proposal does not conflict with the one from the owners of 64 Maida Vale Road.
21. Officers recently commenced giving the Walking Access Commission the opportunity to comment on roads stopping proposals early in the process. The Commission supports the proposal by 64 Maida Vale Road, without condition.
22. If Council approves the above, officers will establish whether any offer back obligations under section 40 of the Public Works Act 1981 exist.

Options

23. The alternative to undertaking the road stopping is to retain the Land in Council ownership as unformed legal road. In the long term this will incur maintenance and retaining costs on land that Council no longer requires or intends to use.
24. An encroachment licence could be issued for the Land if it is not stopped. This would provide less certainty of tenure for the adjacent landowner, limiting the scope for better utilisation of the land.

Next Actions

25. Conclude a section 40 PWA acquisition history investigation.
26. Prepare a survey legalisation plan and agreement for the Land.
27. Initiate the public notification process.

Attachments

Attachment 1.	Location plan ↓	Page 11
Attachment 2.	Aerial ↓	Page 12
Attachment 3.	Views at street level ↓	Page 13

Author	Paul Davidson, Property Advisor
Authoriser	Leah Hearn, Manager Property Siobhan Procter, Manager, Transport and Infrastructure Moana Mackey, Acting Chief City Planner

SUPPORTING INFORMATION

Engagement and Consultation

In December 2019 letters were sent to four adjoining or adjacent neighbours of the land proposed to be stopped. At the time of writing this report no responses have been received.

All of these owners will be consulted again when the formal public consultation is carried out later in the road stopping process.

Treaty of Waitangi considerations

Iwi groups have not been consulted. The proposal does not conflict with the principles of the Treaty of Waitangi nor is the land located within a Māori Precinct or an area identified as significant to Māori.

As sale to, and amalgamation with, the adjacent parcel is a condition of the stopping the Land is unlikely to be made available for purchase by iwi or the public in general.

Financial implications

Costs associated with the disposal of the Land will be recovered from the applicant, and the proceeds of the sale are directed towards the general fund.

As of August 2011 a new cost sharing initiative for road stoppings was approved by the Council. The rebate amount is a percentage of the sale price, so is determined at the end of the process when these costs are known.

Policy and legislative implications

The recommendations of this report are consistent with the policies of the Council. The road stopping is also undertaken in accordance with relevant legislation.

This is not a significant decision. This report sets out the Council's options under the relevant legislation and under the Council's Road Encroachment and Sale Policy 2011.

Risks / legal

The road stopping process will be undertaken in accordance with legislative and Council, requirements. Any legal agreement, or action in the Environment Court, will be overseen by the Council's lawyers.

Climate Change impact and considerations

There are no climate change implications arising from this road stopping.

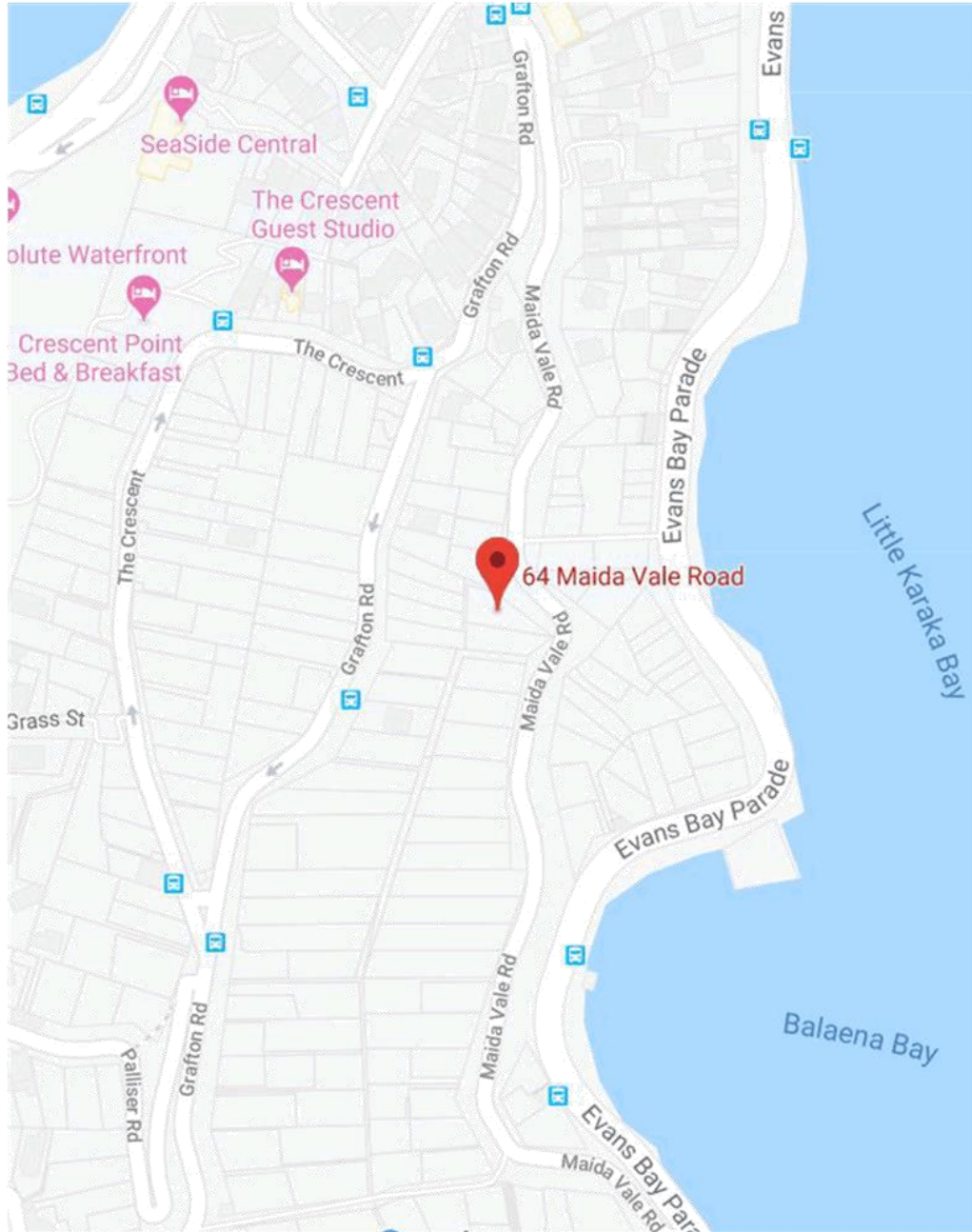
Communications Plan

Public consultation in accordance with the Tenth Schedule of the LGA will be carried out later in the road stopping process.

Health and Safety Impact considered

The road stopping is a minimal risk to health and safety. The work is almost entirely administrative and a normal operational function of Council Officers.

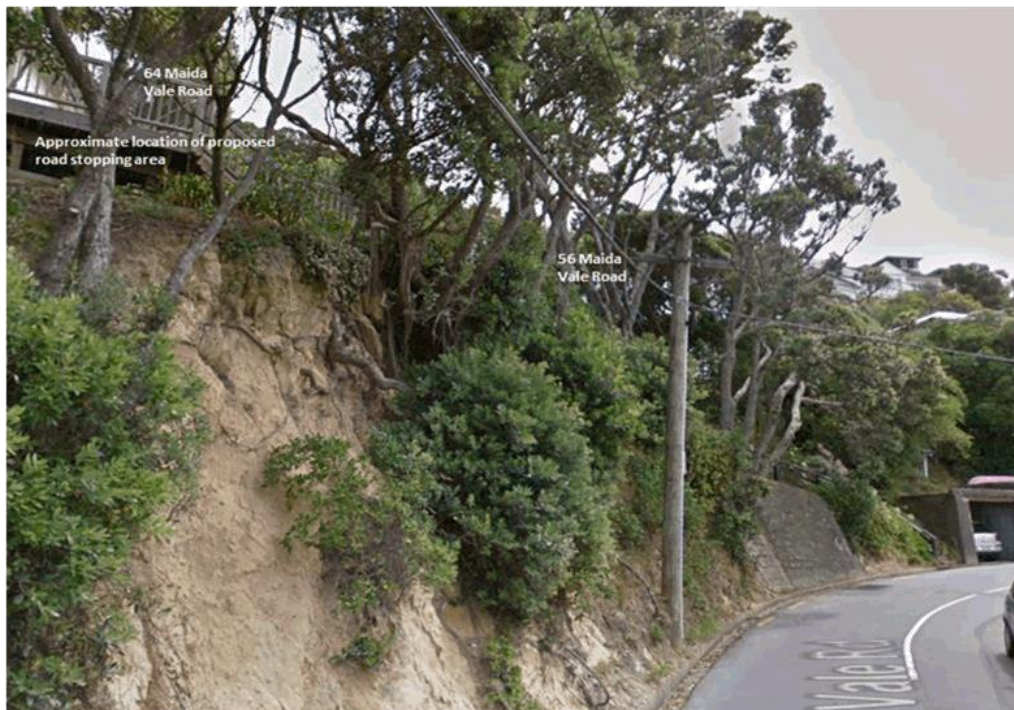
Location Plan



Aerial



Views at street level



WITHDRAWAL OF OBJECTIONS: PROPOSED ROAD STOPPING AND LAND EXCHANGE - LEGAL ROAD TO MINISTRY OF EDUCATION ADJOINING 16- 24 TURNBULL STREET, THORNDON (THORNDON SCHOOL)

Purpose

1. This report is to advise the Regulatory Processes Committee that the last five remaining objections to the road stopping and land exchange proposal at the end of Turnbull Street with Thorndon School have been withdrawn and no further action or decision is required.

Summary

2. On 26 April 2018 Council declared the Land surplus subject to the road stopping process being successfully completed, and the outcome of public notification.
3. Public notification was undertaken between 21 August and 2 October 2018. Written submissions were received with nine objections and 83 submissions in favour of the proposal.
4. On 21 November 2018 the Regulatory Processes Committee heard seven oral submissions with three in support and four of those objecting to the Turnbull Street land exchange/road stopping proposal. This was a hearing only with no decision necessary.
5. Informal discussions immediately followed the closure of the above Committee meeting and led to further meetings between all the stakeholders and further dialogue was encouraged by Ward and Committee Councillors present.
6. In November 2019 the remaining five objections were formally withdrawn (refer to Attachment 1) on the basis of an agreed easement agreement & instrument and a Memorandum of Understanding (MOU), copies of which are in Attachment 2.
7. As all objections to the proposal have now been withdrawn there is no decision for the Committee or Council to make on whether or not to uphold any objection.
8. The road stopping and land exchange approved by Council on 26 April 2018 can now proceed along with the construction of a vehicle turning area in Turnbull Street and an easement footpath connecting Hobson Crescent to Turnbull Street.

Recommendation/s

That the Regulatory Processes Committee:

1. Receives the information.
2. Notes that Council approved the road stopping and land exchange adjoining 16–24 Turnbull Street, Thorndon, on 26 April 2018 subject to the outcome of public notification.
3. Notes that, following the public notification, nine objections were received, four of which were withdrawn prior to an oral hearing conducted by the Regulatory Processes Committee on 21 November 2018.

4. Notes that the remaining five objections have been formally withdrawn following agreement between the objectors and the Ministry of Education for a pedestrian easement (outside of school hours) to be registered over the Thorndon school property and a memorandum of understanding with the Board of Trustees for access during school hours.
5. Notes that the withdrawal of the remaining objections in November 2019 means that the road stopping and land exchange can proceed and that there are no further decisions required of Council with respect to this matter.

Background

9. The Regulatory Processes Committee meeting of 18 April 2018 and the Council meeting of 26 April 2018 agreed to proceed with the road stopping proposal, subject to the outcome of public notice.
10. Public notification on the proposed road stopping was undertaken during 21 August and 2 October 2018. Written submissions were received with nine against and 83 in favour of the proposal.
11. Four of those (9) objectors withdrew their objections after the Ministry of Education (MOE) advised them that the school did not intend to prevent the informal access through the school grounds currently enjoyed by local residents.
12. On 21 November 2018 the Regulatory Processes Committee heard seven oral submissions – three in favour and four against the proposal. (Refer to Attachment 3 for the Background report and its attachments).
13. Informal discussions immediately followed the closure of the above Committee meeting between all the stakeholders and the Ward and Committee Councillors present.
14. There were then three further meetings on 27 November 2018, 4 February 2019 and 29 April 2019 between the stake holders and chaired by Councillor Malcolm Sparrow.
15. At the last of the above meetings it was determined that access through the school was then left as a matter for the Objectors and School Board of Trustees (BOT) and Ministry of Education (MOE) to negotiate a mutually acceptable pedestrian access agreement over school grounds between Turnbull Street and Hobson Crescent (refer Attachment 2).
16. The negotiations between BOT & MOE and the Objectors were successfully concluded in November 2019 when we received all five of their formal objection withdrawals (refer Attachment 1).

Discussion

17. As all objections to the proposal have been withdrawn there is no decision for the Committee or Council to make on whether or not to uphold any objection.

Options

18. As the objections have now been withdrawn there is no need for the Committee and Council to consider the matter further as there is no decision required on whether or not to uphold the objections.

Next Actions

19. Road stopping and land exchange to proceed.
20. Construction of a vehicle turning area at new street end of Turnbull Street, Thorndon.
21. Redevelopment of the stopped road (carriageway) by MOE into paving and creating level access to Kimi Ora field.
22. As part of the MOE capital works, construction of a defined footpath for the easement area between Hobson Crescent and Turnbull Street on the alignment shown in the easement instrument in Attachment 2.

Attachments

Attachment 1.	Withdrawal of Objections ↓	Page 19
Attachment 2.	Easement and MOU over Thorndon School ↓	Page 24
Attachment 3.	RPC report of 21 November 2018 & attachments ↓	Page 44

Author	John Vriens, Principal Property Advisor
Authoriser	Leah Hearn, Manager Property Siobhan Procter, Manager, Transport and Infrastructure Moana Mackey, Acting Chief City Planner

SUPPORTING INFORMATION

Engagement and Consultation

Public notification for the road stopping proposal was undertaken between 21 August and 2 October 2018. Nine written objections were received against the proposal and 83 submissions in favour of the proposal.

On 21 November 2018 the Regulatory Processes Committee heard seven oral submissions – three in favour and four against the proposal.

As mentioned in this report, subsequent meetings and negotiations have led to the final five objections being withdrawn.

Treaty of Waitangi considerations

No Iwi consultation specific to the road stopping proposal was undertaken. The land is not located in a Māori precinct, or other area identified as significant to Māori. The land is not being disposed on the open market, and will not become a standalone allotment (amalgamation is required).

Financial implications

There are no significant financial considerations in this proposal as the applicant, MOE, is responsible for all of its related process costs and the cost of construction of a vehicle turning area and footpath construction in the school grounds and related easement costs.

Policy and legislative implications

The recommendations of this report are consistent with policies of the Council, and in accordance with the legislative requirements for the road stopping.

Risks / legal

The road stopping process is consistent with relevant legislation, and the Council's requirements.

The withdrawal of all objections has avoided any possible action in the Environment Court and there is no further decision for Council to make. The easement instrument and agreement has been reviewed by the Council's lawyers and the Ministry's lawyers.

Climate Change impact and considerations

There are no climate change implications for this road stopping.

Communications Plan

Officers have kept all parties fully informed after the oral submissions were heard by Committee on 21 November 2018 and coordinated subsequent meetings between stakeholders, Chaired by Councillor Sparrow.

Health and Safety Impact considered

The successful conclusion of the road stopping land exchange between Council and MOE will finalise construction of a vehicle turning area which will improve traffic and pedestrian safety in this street and provide a safer environment for the school users. In addition access between Hobson Crescent and Turnbull Street has been mutually agreed between the former Objectors and School/Ministry on a safer route (separated from school car park).

John Vriens

From: Marion Cowden <marion.cowden@thorndon.org.nz>
Sent: Tuesday, 26 November 2019 11:01 AM
To: John Vriens
Cc: principal@thorndonprimary.school.nz; deb.taylor@education.govt.nz; Councillor Nicola Young; Richard Murcott; Lance Gunderson; [REDACTED]
Subject: Thorndon School - Turnbull Road Land Swap

I write to inform you that, having sighted the proposed agreement regarding an easement through the Thorndon School to provide for pedestrian access and having agreed the basis of a Memorandum of Agreement to cover access during school hours over the same property with the School Board of Trustees, the Thorndon Residents' Association Incorporated formally withdraws its objection to the proposed land swap.

We expect that the various agreements will be given effect to in the near future and we thank all parties for their cooperation in reaching this point.

I anticipate that the other objectors will formally advise you of the withdrawal of their objections very soon.

--

The logo for the Thorndon Residents Association, featuring the word 'THORNDON' in a large, serif font above the words 'RESIDENTS ASSOCIATION' in a smaller, sans-serif font.

Marion Cowden
Chair
Thorndon Residents Association
m: 021 142 7993 w: thorndon.org.nz

John Vriens

From: Marilyn Powell [REDACTED]
Sent: Tuesday, 26 November 2019 11:44 AM
To: Marion Cowden
Cc: John Vriens; Alistair du Chatenier; Deb Taylor; Councillor Nicola Young; Richard Murcott; Lance Gunderson; Richard Powell; Natalie Ferner
Subject: Re: Thorndon School - Turnbull Road Land Swap

Dear concerned parties,

On the understanding that the easement and MoE, as proposed and the drafts of which circulated among the parties in October, are complied with, then I withdraw my objection to the Turnbull Street WCC/MoE land transaction going ahead.

Thank you to all involved in achieving agreement in what was a fraught situation.

It is a good outcome for both Thorndon School and the wider community; as it formalises the walkway situation for the future.

Yours sincerely,
Marilyn Powell

On Tue, 26 Nov 2019 at 11:01, Marion Cowden <marion.cowden@thorndon.org.nz> wrote:
I write to inform you that, having sighted the proposed agreement regarding an easement through the Thorndon School to provide for pedestrian access and having agreed the basis of a Memorandum of Agreement to cover access during school hours over the same property with the School Board of Trustees, the Thorndon Residents' Association Incorporated formally withdraws its objection to the proposed land swap.

We expect that the various agreements will be given effect to in the near future and we thank all parties for their cooperation in reaching this point.

I anticipate that the other objectors will formally advise you of the withdrawal of their objections very soon.

--



Marion Cowden
Chair
Thorndon Residents Association
m: 021 142 7993 w: thorndon.org.nz

John Vriens

From: Richard Powell [REDACTED]
Sent: Tuesday, 26 November 2019 4:34 PM
To: Marilyn Powell
Cc: Marion Cowden; John Vriens; Alistair du Chatenier; Deb Taylor; Councillor Nicola Young; Richard Murcott; Lance Gunderson; Natalie Ferner
Subject: Re: Thorndon School - Turnbull Road Land Swap

This is to inform all parties that on the understanding that the easement and MoE, as proposed and the drafts of which circulated among the parties in October, are complied with, then I withdraw my objection to the Turnbull Street WCC/MoE land transaction going ahead.

Thank you to all involved in achieving this most agreeable outcome.

Yours sincerely,
Richard Powell

On Tue, Nov 26, 2019 at 11:43 AM Marilyn Powell [REDACTED] wrote:
Dear concerned parties,

On the understanding that the easement and MoE, as proposed and the drafts of which circulated among the parties in October, are complied with, then I withdraw my objection to the Turnbull Street WCC/MoE land transaction going ahead.

Thank you to all involved in achieving agreement in what was a fraught situation.

It is a good outcome for both Thorndon School and the wider community; as it formalises the walkway situation for the future.

Yours sincerely,
Marilyn Powell

On Tue, 26 Nov 2019 at 11:01, Marion Cowden <marion.cowden@thorndon.org.nz> wrote:
I write to inform you that, having sighted the proposed agreement regarding an easement through the Thorndon School to provide for pedestrian access and having agreed the basis of a Memorandum of Agreement to cover access during school hours over the same property with the School Board of Trustees, the Thorndon Residents' Association Incorporated formally withdraws its objection to the proposed land swap.

We expect that the various agreements will be given effect to in the near future and we thank all parties for their cooperation in reaching this point.

I anticipate that the other objectors will formally advise you of the withdrawal of their objections very soon.

--

John Vriens

From: richard.murcott [REDACTED]
Sent: Wednesday, 27 November 2019 12:16 PM
To: John Vriens
Cc: marion.cowden@thorndon.org.nz; Alistair du Chatenier; deb.taylor@education.govt.nz; Councillor Nicola Young; lance.gunderson@thorndon.org.nz; Marilyn Powell; Richard M Powell; Natalie Ferner; Councillor Malcolm Sparrow
Subject: Re: Thorndon School - Turnbull Road Land Swap

John Vriens
Principal Property Advisor
Wellington City Council

Hello John

I wish to advise in good faith that I withdraw my objection to the proposal to stop part of Turnbull St being a legal road in Thorndon, given the understanding reached on walking access which has been encapsulated in the draft easement and the draft MoU with the Thorndon Primary School.

I wish to express my appreciation to everyone who has actively participated in the process that has helped us arrive at this positive point. I appreciate the enhanced relationship between the Thorndon Primary School and the local community, especially with locals in the immediate vicinity of the school, and look forward to us enjoying an enduring relationship that continues to enhance the shared sense of community and care for our place, the pupils of the school and residents.

I look forward to the landscaping being enabled for the school ASAP and especially wish the school success with these improvements. There are benefits for all.

Kind regards
Richard Murcott
[REDACTED] Thorndon
[REDACTED]

From: **John Vriens** <John.Vriens@wcc.govt.nz>
Date: Tue, 26 Nov 2019 at 14:35
Subject: RE: Thorndon School - Turnbull Road Land Swap
To: Marion Cowden <marion.cowden@thorndon.org.nz>
Cc: principal@thorndonprimary.school.nz <principal@thorndonprimary.school.nz>, deb.taylor@education.govt.nz <deb.taylor@education.govt.nz>, Councillor Nicola Young <Nicola.Young@wcc.govt.nz>, Richard Murcott <richard.murcott@thorndon.org.nz>, Lance Gunderson <lance.gunderson@thorndon.org.nz> [REDACTED], Councillor Malcolm Sparrow <Malcolm.Sparrow@wcc.govt.nz>

Hi Marion

John Vriens

From: Martin Ferner, [REDACTED]
Sent: Sunday, 1 December 2019 2:28 PM
To: John Vriens
Cc: marion.cowden@thorndon.org.nz; principal@thorndonprimary.school.nz;
deb.taylor@education.govt.nz; Councillor Nicola Young;
richard.murcott@thorndon.org.nz; lance.gunderson@thorndon.org.nz;
[REDACTED]
Subject: Thorndon School - Turnbull Road Land Swap. Objection Withdrawal - Martin Ferner

John Vriens
Principal Property Advisor
Wellington City Council

Kia ora John

I wish to advise in good faith that I withdraw my objection to the proposal to stop part of Turnbull St being a legal road in Thorndon, given the understanding reached on walking access which has been encapsulated in the draft easement and the draft MoU with the Thorndon Primary School.

I also wish to express my appreciation to everyone who has actively participated in the process that has helped us arrive at this positive point. I appreciate the enhanced relationship between the Thorndon Primary School and the local community, especially with locals in the immediate vicinity of the school, and look forward to us enjoying an enduring relationship that continues to enhance the shared sense of community and care for our place, the pupils of the school and residents.

Kind regards
Martin Ferner
[REDACTED] Thorndon

Memorandum of Agreement Pursuant to the Public Works Act 1981

File Reference:

Agreement made this day of 2019

Between Her Majesty the Queen (“the Grantor”)

And Wellington City Council (“the Grantee”)

BACKGROUND

- A. The Crown is the registered owner of those parts of the land being:
- (i) 0.0347 hectares more or less being Lot 20 Deeds Plan 27 set apart for a special school in NZGZ 1971 p 2373; and
 - (ii) 0.0347 hectares more or less being Lot 22 Deeds Plan 27 set apart for a special school in NZGZ 1971 p 488; and
 - (iii) 0.0435 hectares more or less being Lot 24 Deeds Plan 27 set apart for a special school in NZGZ 1971 p 488; and
 - (iv) 4080 square metres more or less being Lot 1 Application Plan 2947 and Lot 11 Deeds Plan 27 and Part Lot 13 Deeds Plan 27 and Lot 17 Deeds Plan 27 and Lot 1 Deposited Plan 4659 and Lot 1 Deposited Plan 5443 and Part Lot 1 Application Plan 648 and Lot 1 Deposited Plan 808 and Lot 1 Deposited Plan 76023 and Part Lot 15 Deposited Plan 861 and Lot 2 Deposited Plan 352333 and Lot 1 Deposited Plan 5859 being all of the land contained in Record of Title 782453;
- together referred to as the “Crown Land”.
- B. Pursuant to a Land Exchange Agreement dated 6 November 2018 between Wellington City Council (“Council”) and Her Majesty the Queen acting by and through the Ministry of Education (“Crown”) (“the Land Exchange Agreement”), the Council agreed to the Crown acquiring that part of Turnbull Street shown approximately coloured orange and marked “Land to MoE” on the plan attached as Schedule B (“the Stopped Road Land”), conditional upon the following:
- (i) The Council completing the stopping of the Stopped Road Land under the Local Government Act 1974; and
 - (ii) The Crown vesting the Exchange Land (as that term is defined in the Land Exchange Agreement) in the Council as road; and
 - (iii) Completion of a vehicle turning area on the Exchange Land.
- C. Council has undertaken public consultation as part of the road stopping process at B(i) above, following which consultation certain objections were received to the road stopping. The persons making objections have separately agreed with Council and the Crown that their objections to the road stopping will be withdrawn on certain grounds, including that the Crown grants a permanent right for pedestrian access over the Crown land.
- D. The Grantor has agreed to grant a pedestrian access in gross over the Crown Land as approximately shown highlighted in green on the plan attached as Schedule C (“Easement”).
- E. The Crown has the power to grant the Easement under section 48 of the Public Works Act 1981 (“PWA”).

- F. The parties have entered into this agreement to record the terms and conditions on which the Easement is granted, and the rights and powers attaching to it, noting that these terms and conditions represent the result of negotiation between the parties and the Thorndon School Board of Trustees, Ministry of Education, and Thorndon residents who have made objections to the road stopping process.

AGREEMENT

1. In consideration of the grant of the Easement, the Grantee agrees to pay the Grantor the sum of one dollar (\$1.00) plus GST (if any) ("**Compensation**"), if demanded.
2. The Grantor agrees to:
 - a. grant the Easement over the Burdened Land pursuant to section 48 of the PWA on the terms set out in this agreement;
 - b. obtain the consent of any mortgagee, Caveator, or other person having a prior registered interest in respect of the Servient Land to the Easement or to authorise the Grantee to obtain such consent; and
 - c. accept the Compensation in full and final settlement of compensation for the grant of the Easement.
3. This agreement will not be binding on either party until signed on behalf of each party.
4. The parties further agree to comply with the requirements set out in Schedule A.

Signed for and on behalf of
Wellington City Council
By its duly Authorised Officer

in the presence of:

Signature of Authorised Officer

Signature of witness

Name of witness

Address of witness

Occupation of witness

Signed by:

in the presence of:

Signature of Authorised Officer

Signature of witness

Name of Authorised Officer
for and on behalf of Her Majesty the Queen and
acting pursuant to delegated authority from the Chief
Executive of Land Information New Zealand pursuant
to section 41 of the State Sector Act 1988.

Name of witness

Address of witness

Occupation of witness

Schedule A – Terms and conditions relating to this transaction

Grant of Easement

1. The Easement will contain the rights and powers as set out in the easement instrument attached to this agreement as Schedule D (“**Easement Instrument**”).
2. The parties acknowledge that the Easement will be granted pursuant to Section 48 of the Public Works Act 1981 and that the right of revocation on three months’ notice for no compensation is specifically excluded.

Construction of the Easement

3. Once this agreement has been signed by both parties and the Stopped Road Land has been vested in the Crown, the Grantor will at its sole cost construct a 1.2 metre wide sealed pedestrian path along the area defined as the Easement (“**the Construction Works**”).
4. Following completion of the Construction Works the Grantee may enjoy the Easement having the rights and powers set out in the Easement Instrument notwithstanding that the Easement may not be registered.

GST

5. GST will only be payable on production of a valid tax invoice prepared in accordance with section 24 of the Goods and Services Tax Act 1985 (“**GST Act**”).
6. The parties agree that the supplies made pursuant to this agreement are subject to the provisions of the Goods and Services Tax Act 1985 (“**Act**”), as amended by the Taxation (“**GST**”) and Remedial Matters Act 2010, and zero rated by virtue of section 11(1)(mb) of the Act.
7. The Crown warrants that it is a registered person as required by the Act.
8. The Grantee warrants that:
 - (a) it is a registered person as required by the GST Act;
 - (b) it is acquiring the Easement for the purpose of making taxable supplies; and
 - (c) the Easement will not be used as a principal place of residence,

and that will also be its intention at the Settlement Date.
9. Each party reserves its rights to seek compensation from the other party and reserves all its remedies at common law and equity if the other party breaches any warranty granted in clauses 7 and 8 respectively.

Survey and Registration of Easement

10. Upon completion of the Construction Works, the Grantor will, at the Grantors cost, arrange for survey of the Easement and for the survey plan to be approved by Land Information New Zealand (“**LINZ**”).
11. The Easement is to be granted by Easement Instrument under the Land Transfer Act 2017 upon approval of the survey plan by LINZ.
12. Registration of the Easement will be effected by:
 - (a) the Grantee’s solicitor preparing the Easement Instrument in a Landonline Workspace created for the transaction;
 - (b) The Grantee’s solicitor certifying, signing, and pre-validating the Easement Instrument in such Landonline workspace; and
 - (c) the Grantor’s solicitor certifying and signing and releasing the Easement Instrument so that the Easement Instrument can be submitted thereafter for registration.

13. The Grantor covenants with the Grantee, on receipt of a request to do so, to:
- (a) procure the Grantor's solicitor to certify, sign and release the Easement Instrument to enable the Easement to be registered;
 - (b) execute any documentation and do such things as may be necessary to register the Easement Instrument creating the Easement or otherwise required in connection with this agreement; and
 - (c) forthwith sign and produce any other plans and documents and formalise all mortgagee or other consents necessary to enable the Easement Instrument to be registered against the title to the Burdened Land.
14. The Grantee covenants with the Grantor when called upon to do so, to:
- (a) accept the grant of the Easement over the Easement Land by way of Easement Instrument which is to be created in a Landonline workspace;
 - (b) procure the Grantee's solicitor to certify, sign and pre-validate the Easement Instrument in such Landonline workspace to enable the Easement to be registered; and
 - (c) complete all actions required to register the Easement Instrument with all reasonable expediency.
15. The Grantor will pay the LINZ fees for the registration of the Easement Instrument.

Costs

16. The parties acknowledge that the Grantor will meet all the costs of the grant and registration of the Easement including, without limitation, the obtaining of any resource consents and all legal, registration and survey costs.
17. The Grantor will reimburse the Grantee's actual and reasonable legal and valuation costs associated with the negotiation, preparation, and execution of this agreement and the Easement Instrument.

Dispute Resolution

18. Any dispute which may arise between the parties concerning the interpretation of this agreement or relating to any other matter arising under this agreement will be actively and in good faith negotiated by the parties with a view to a prompt resolution of such disputes.
19. If the parties cannot agree on any dispute resolution technique within fifteen (15) Working Days of any dispute being referred in writing by one party to the other, then the dispute shall be settled by reference to arbitration in accordance with the Arbitration Act 1996 and the substantive law of New Zealand.
20. Except as otherwise expressly provided in the agreement the reference will be to a single arbitrator:
- (a) to be agreed on by the parties; or
 - (b) in the absence of any agreement within five (5) Working Days of either party first nominating an arbitrator (or such longer period as the parties may agree in writing), nominated by the President for the time being of the New Zealand Law Society.
21. The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for settling terms of reference, interlocutory matters and generally all steps preliminary and incidental to the hearing and determination of the proceedings.

General

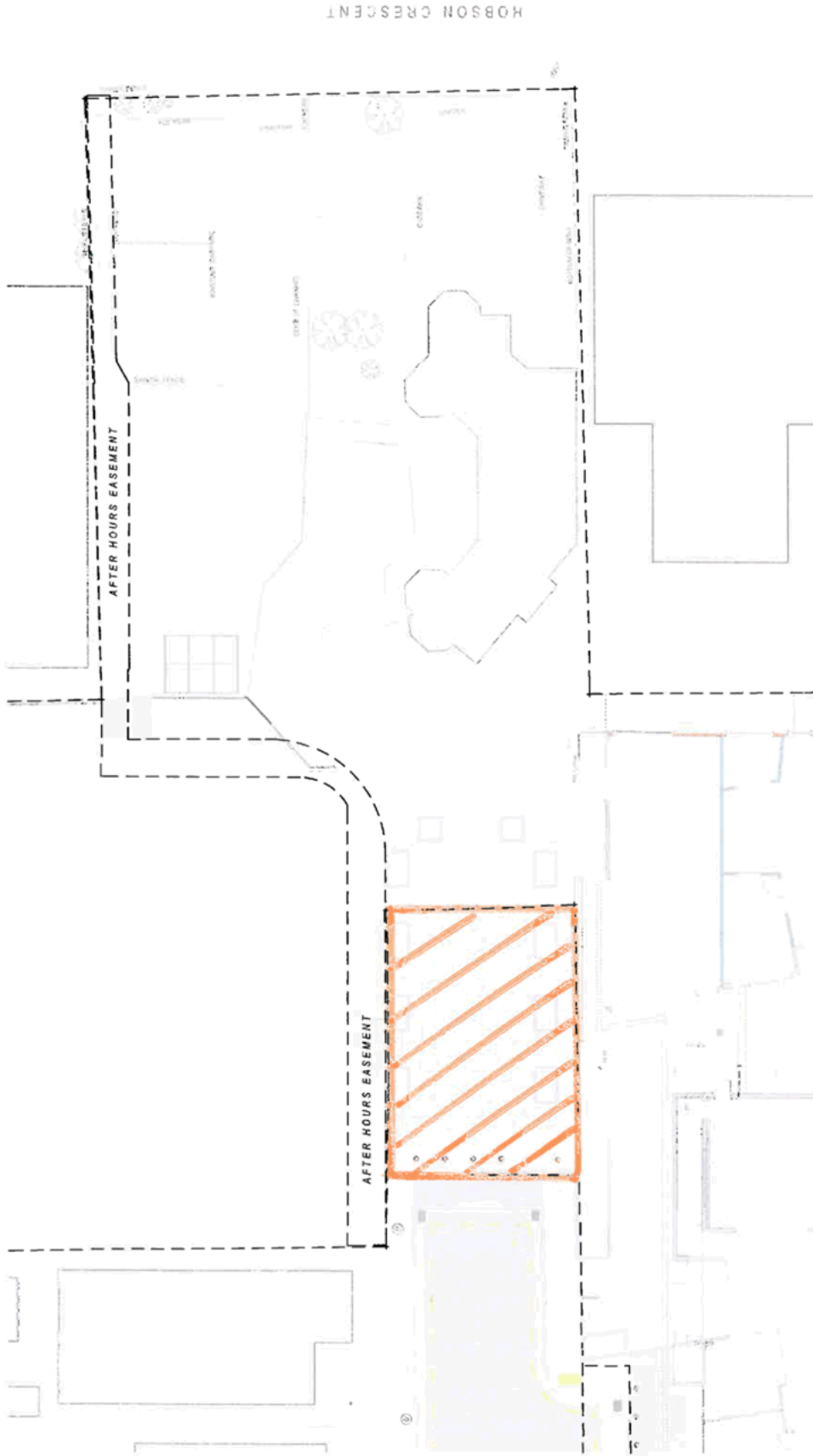
22. This agreement will not be binding on the parties until signed on behalf of each party. Any variation of this agreement will not be binding unless signed on behalf of each party.
23. The parties agree and acknowledge that where the context requires, references in this agreement to the Crown includes the Ministry of Education and vice versa.

24. Except to the extent that the provisions contained in this agreement are reproduced in, or substantially provided for in the Easement Instrument, the provisions of this agreement will not merge in or be extinguished by the registration of the Easement Instrument, but will remain in full force and effect and operative and enforceable according to their tenor provided however that should the provisions of this agreement conflict with the provisions of the Easement Instrument the latter will prevail.
25. The parties agree that:
- (a) the execution and transmission of a faxed (or a scanned and emailed) copy of this agreement by each of them to the other of them shall constitute a valid binding offer or acceptance (as the case may require); and
 - (b) the production of a facsimile (or scanned and emailed) copy or copies of the agreement signed by all parties shall be deemed to be sufficient to satisfy the requirements of the Property Law Act 2007.

DRAFT

SCHEDULE B: STOPPED ROAD LAND

DRAFT



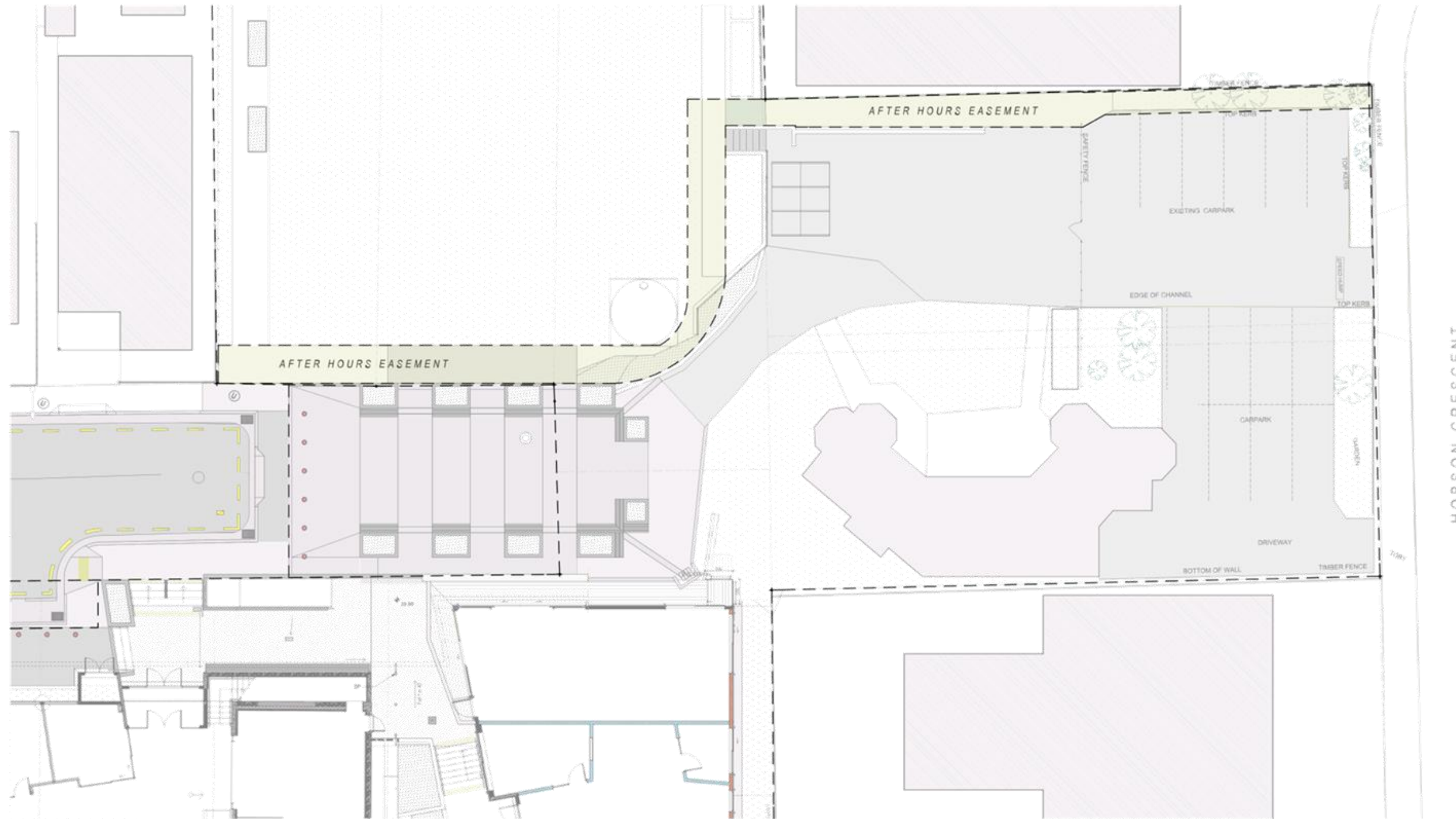
**MCKENZIE
HIGHAM
ARCHITECTS**
Level 1, 111 Wakefield St, Auckland
Phone 021 384 8192

TH20 Rev A After School Hours Easement Plan
Scale: 1:100 at A1 Printed 3/25/2019 Project No. 17141

THORNDON SCHOOL for Ministry Of Education
20 Tumbull St, Thorndon WELLINGTON

SCHEDULE C – EASEMENT

DRAFT



THORNDON SCHOOL for Ministry Of Education

20 Turnbull St, Thorndon WELLINGTON

TH20 Rev A After School Hours Easement Plan

Scale: 1:100 at A1 Printed 9/25/2019 Project No.17141

**MCKENZIE
HIGHAM**
ARCHITECTS

Level 1, 171 Vivian Street, Te Aro, Wellington 6011
Phone 04 284 8192

SCHEDULE D – EASEMENT INSTRUMENT

DRAFT

Schedule 3 – Easement Instrument

Easement instrument to grant easement or *profit à prendre*
(Section 109 Land Transfer Act 2017)

Easement instrument to grant easement or *profit à prendre*
(Section 109 Land Transfer Act 2017)

Grantor

Her Majesty the Queen

Grantee

Wellington City Council

Grant of Easement or *Profit à prendre*

The Grantor being the registered owner of the burdened land set out in Schedule A **grants to the Grantee** (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A
Schedule, if required

Continue in additional Annexure

Purpose of Easement, or <i>profit</i>	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Pedestrian Right of Way	Tbc	Tbc	In gross

Annexure Schedule

Insert type of instrument

Easement

Dated

Page

2

of

Pages

Continue in additional Annexure Schedule, if required.

Easements or *profits à prendre* rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2018 and/or Schedule 5 of the Property Law Act 2007

The implied rights and powers are hereby **[varied]** ~~**[negatived]**~~ ~~**[added to]**~~ or ~~**[substituted]**~~ by:

[Memorandum number _____, registered under section 209 of the Land Transfer Act 2017]

[the provisions set out in Annexure Schedule]

Annexure Schedule

Insert type of instrument

Easement

Dated

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of

Pages

*Continue in additional Annexure Schedule, if required.***SCHEDULE A - Rights and Powers of the Easement**

The Easement will contain the rights and powers implied by the Fifth Schedule to the Land Transfer Regulations 2018 varied as set out below.

Interpretation:

1. In this Easement, unless the context requires otherwise:

easement means the rights hereby granted;

easement facility means the pedestrian, and wheelchair pathway constructed on the Easement Land to facilitate access between Hobson Crescent and Turnbull Street;

Grantee means the Wellington City Council and where applicable includes its successors and its agents, employees, contractors, tenants, licensees and invitees (including members of the public);

Grantor means Her Majesty the Queen and includes her successors, agents, employees, contractors, tenants, licensees and invitees;

Grant of Pedestrian Right of Way

2. The Grantor grants to the Grantee the right for the Grantee and the general public as invitees of the Grantee, in common with the Grantor at all times, to go over and along the easement area at any time, outside of school hours (before 8.30am and after 3.30pm Monday to Friday on the days that the school is open for instruction) on foot or any other form of human powered transportation and includes the right to go over and along the easement area with or without any kind of:

- (a) pram, un-motorised scooter, wheelchair or disability vehicle; or
- (b) domestic animal on a lead.

PROVIDED HOWEVER, that nothing in this easement grants the Grantee the right to interfere with the use by the Grantor, the Grantor's invitees and all other persons to whom the Grantor has or may grant rights.

3. For the avoidance of doubt the right to go over and along the easement area does not include the right to go over and along the easement area with any type of powered motor vehicle including but not limited to cars, trucks, vans, quadbikes and motorbikes.
4. The easement is granted under Section 48 of the Public Works Act 1981 and the right of termination in section 48 is hereby expressly excluded. The easement created by this instrument will continue until surrendered by the Grantee and the Grantor has no power to terminate this easement.

Grantor's Rights and obligations

5. Despite anything to the contrary in this instrument or at law, the Grantor may, at its sole discretion, close or permit the closure of the easement facility:
- (a) in the event of an emergency for the duration of that emergency;
 - (b) if it reasonably considers that a serious threat exists to the safety of the public, or for maintenance purposes.
6. The Grantor may also at its sole discretion limit, restrict, or close off access to all or any part of the easement facility in the event of a public or school event or for security reasons.

Annexure Schedule

Insert type of instrument

Easement

Dated

Page

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of

Pages

Continue in additional Annexure Schedule, if required.

7. No error or omission in the content or absence of any such notice of restriction or limitation to the use of the Easement as referred to in clauses 5 or 6 will affect the validity of the notice or the Grantor's entitlement to exercise the rights.
8. In addition, the Grantor may restrict access to and revoke the invitation to any member of the public at its sole discretion if the security and/or safety of the school or any person may be compromised, or for any reason if other reasonable grounds exist.
9. Subject to clauses 5, 6 and 8, the Grantor covenants with the Grantee that it will not at any time do or permit to be done anything on the easement area which may damage or obstruct the easement facility or which may interfere with or affect the full free use and enjoyment by the Grantee and the members of the public the rights, powers and privileges granted under this easement.

Grantee's Rights and obligations

10. The Easement will be for the use of the general public.
11. The Grantee is entitled to close the easement facility if it reasonably considers that a serious threat exists to the safety of the public.
12. The Grantee will use reasonable endeavours to cause as little disturbance and disruption to the carrying on of the normal or reasonable operations of the Grantor or the lawful use of the Burdened Land by the Grantor or third parties although the Grantor accepts that this provision will not prevent, restrict or hinder the Grantee from exercising its rights in a manner consistent with the terms and conditions set out under this easement.
13. The Grantee will not:
 - (a) damage the easement facility, excluding fair wear and tear;
 - (b) endanger, disturb or annoy any other lawful user of the easement area provided that this provision will not unreasonably restrict or hinder the exercise of the Grantee's rights;
 - (c) leave on the easement area any materials or unreasonable impediments to the use and enjoyment of the easement facility; or
 - (d) do or allow to be done on the easement area or the Burdened Land anything that may interfere with or restrict the rights of the Grantor or interfere with the efficient operation of the easement facility.
14. The Grantee must comply with all reasonable signs and control measures as painted or installed by the Grantor on the Burdened Land.
15. Neither the Grantee nor the Grantor will do or permit on the Burdened Land anything that may interfere with or restrict the rights of the other to use and enjoy the Easement Facility, except as permitted by this instrument.

Variation of Route

16. The parties acknowledge and agree that the Grantor may from time to time request that the Stipulated Course of the Easement Facility through the burdened land be varied.
17. If clause 16 applies the Grantee agrees to surrender this easement subject to:
 - (a) the Grantor granting to the Grantee a pedestrian right of way easement along a varied route with rights and powers similar to those granted under this easement; and
 - (b) the Grantor obtaining all required consents and permits in respect of the new easement facility.

Annexure Schedule

Insert type of instrument

Easement

Dated

Page

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of

Pages

Continue in additional Annexure Schedule, if required.

18. The Grantor agrees to meet all costs associated with the variation of the easement area, including survey, registration, legal and the Grantor's reasonable costs incurred in the attending to any request made by the Grantee.

Repair, Maintenance and Costs

19. The Grantor is responsible for the construction, maintenance and repair of the easement facility to ensure that the easement facility is kept in good order and to prevent it from becoming a danger or nuisance.
20. The Grantee must on demand pay to the Grantor the cost of any repair and maintenance of the easement facility which results from any wilful or negligent act or omission of the Grantee.
21. Except in the cast of an emergency, before carrying out any maintenance and/or repair pursuant to clause 19, the Grantor must, to the extent that such works may interfere with or restrict the rights of the Grantee, provide the Grantee with reasonable notice setting out the timing of the works and take all reasonable steps to minimise any inconvenience to the occupiers or lawful users of the easement facility.

General

22. Where there is any conflict between the provisions of the Fifth Schedule of the Land Transfer Regulations 2018 and this instrument, the provisions of this instrument must prevail.
23. For the avoidance of doubt the rights and powers implied by the Fifth Schedule of the Property Law Act 2007 are negated, the grant not being a vehicular right of way (except for mobility devices).

MEMORANDUM OF UNDERSTANDING BETWEEN THE
THORNDON SCHOOL BOARD OF TRUSTEES AND THE THORNDON RESIDENTS' ASSOCIATION INC
RELATING TO WALKING ACCESS BETWEEN HOBSON CRESCENT AND TURNBULL ST.

Parties

The parties to this Memorandum of ~~Association Understanding~~ (MoU) are the Thorndon School Board of Trustees (TSBoT) and the Thorndon Residents' Association Incorporated (TRA).

Walking Access ~~Easement~~ Outside School Hours

The parties note the ~~existence (when it exists)~~ creation of a registered public access easement for walking access between Hobson Crescent and Turnbull Street, open for access outside ~~Thorndon~~ ~~S~~school hours. For ~~that this~~ purpose, ~~Thorndon S~~school hours are defined as being the hours between 8.30 a.m. and 3.30 p.m. on the days that school is open for instruction.

Walking Access During School Hours

~~Access During School Hours~~

This MoU has been created to address the arrangement for ~~passage walking access~~ during ~~Thorndon~~ ~~S~~school hours. ~~For this purpose, Thorndon School hours are defined as being the hours between 8.30 a.m. and 3.30 p.m. on the days that school is open for instruction. TSBoT have designated Thorndon School opening hours as 8.00 a.m. to 3.30 p.m. on the days that the school is open for instruction.~~

Closure of access

The parties accept that access must be subject to the health and safety interests of the students and staff ~~of Thorndon School~~. The parties agree that the ~~s~~School is able to close access at any time if the ~~s~~School considers there is an unacceptable health or safety risk ~~to the students and staff of school~~. That decision will be at the sole discretion of the person in charge of ~~the Thorndon S~~school at that time.

Limitation on Access

The parties agree that access is confined to the clearly delineated and signposted pathway through ~~the school Thorndon School's~~ grounds. That pathway runs from Hobson Crescent along the northern boundary, turning to around the ~~e~~Eastern side of the water tank, across the frontage of Ata Kimi Ora field in line with the footpath on the northern side of Turnbull St.

The parties agree gates will be installed as and where ~~appropriate as~~ determined ~~appropriate~~ by the school and that in so doing the school will use best endeavours to ensure ease of opening by elderly or disabled users.

Signage

The parties note that the conditions of use are to be clearly displayed on permanent signs at each end of the path and that the signs will contain ~~reference~~references to both the walking access easement and this MoU.

The agreed wording on the signage is:

This pathway, accessing Hobson Crescent and Turnbull Street, is provided by the goodwill of ~~the~~ Thorndon School under the following conditions:

-

- You are entering Thorndon School Grounds. There may be students running around and playing with equipment. Be alert.
- This pathway can be closed by Thorndon School at any time if there are health ~~and or~~ safety risks to students or staff. ~~(NB health or safety would be better otherwise a pedant would argue that risks to both must be present)~~
- Remain on the designated pathway.
- No loitering or interacting with school students.
- Any cycles or person transporters (excluding those used by disabled persons for accessibility purposes) must not be ridden but must be walked or carried.

The ~~2019 current e~~asement and ~~the MoU~~ Memorandum of Understanding can be viewed at Thorndon School, WCC Enquiries Office, or on the Thorndon Residents' Association website: thorndon.org.nz (this a slight change from the wording in the offer – our physical address is my place).

Consultation

The parties agree to hold a regular (annual?) meetings with access available to interested community participants to update, reinforce or modify this MoU. Either party may request a meeting at a shorter frequency to which agreement to participate shall not be unreasonably withheld.

REGULATORY PROCESSES COMMITTEE
21 NOVEMBER 2018Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

Item 2.1

2. General Business**BACKGROUND TO ORAL SUBMISSIONS:
PROPOSED ROAD STOPPING AND LAND EXCHANGE -
LEGAL ROAD TO MINISTRY OF EDUCATION ADJOINING 16-
24 TURNBULL STREET, THORNDON (THORNDON SCHOOL)****Purpose**

1. The purpose of this report is to provide the Committee with background information to the oral submissions to be heard today on the proposal to stop and transfer 142m² legal road land in Turnbull Street, adjoining 16-24 Turnbull Street, Thorndon (the 'Land') in exchange for acquiring 22m² of Thorndon school land to facilitate the construction of a vehicle turning area.

Summary

2. On 26 April 2018 Council declared the Land surplus subject to the road stopping process being successfully completed, and the outcome of public notification.
3. Public notification was undertaken between 21 August and 2 October 2018. Written objections were received from nine objections against and 83 submissions in favour of the proposal.
4. Four of those objectors have withdrawn their objections after the Ministry of Education (MOE) advised them that school did not intend to prevent the informal access through the school grounds currently enjoyed by local residents. The formalisation of the access is not possible as this would conflict with the school and MOE duty of care obligations under the Education Act and Vulnerable Children's Act.
5. Four of the remaining five objectors wish to make an oral submission to today's Committee further to their written submission.
6. Two supporters of the proposal, along with the Thorndon school principal and MOE Project Delivery Manager will also make an oral submission to today's Committee.
7. No decisions are expected from the Committee on the day of the oral submissions. Following the oral hearing a final report will be prepared by officers, to enable the Committee (at its 13 February 2019 meeting) to make a decision on whether or not to uphold any objection.

Recommendation/s

That the Regulatory Processes Committee:

1. Receive the information.
2. Thanks all oral submitters.
3. Advise submitters that it will consider the matter and make a decision on whether to uphold any objections, at the next available meeting of the Regulatory Process Committee.

REGULATORY PROCESSES COMMITTEE
21 NOVEMBER 2018

Background

8. The Regulatory Processes Committee meeting of 18 April 2018 and the Council meeting of 26 April 2018 agreed to proceed with the road stopping proposal. Refer to **Attachment 1** for the previous report that went to the Regulatory Process Committee and the minutes of the Council meeting that approved the road stopping.
9. Public notification on the proposed road stopping was undertaken during 21 August and 2 October 2018. Refer to the **Supporting Information** section for detail about this process.
10. By the close of the public notification period on 2 October 2018 at 5pm, nine written submissions had been received objecting to the proposal and 37 in favour of the proposal. A further 56 supporting submissions were received after the close date and by 8 October 2018 in favour of the proposal.
11. Of the nine objectors, four consented to direct contact with MOE regarding the future of the informal access via the school grounds. As a result of the contact four of those objectors have withdrawn.
12. The following four objectors have requested to make an oral submission to the Committee in further to their written submission:
 - Marion Cowden on behalf of the Thorndon Residents Association
 - Marilyn Powell (as an individual)
 - Richard Powell (as an individual)
 - Richard Murcott (as an individual)
13. The following four supporters have requested to make an oral submission to the Committee in further to their written submission:
 - Deb Taylor on behalf of the Ministry of Education (MOE)
 - Alistair du Chatenier as principal of Thorndon School
 - Tyler Ross and Shan Ng Lee (combined)

Please refer to **Attachment 2** for copies of the written submissions that are being orally supported by those submitters and heard by the Committee today.

Discussion

14. The objection grounds primarily relate ensuring that the informal pedestrian access through the school grounds remains (this is fee simple Crown land for education purposes) and further requesting that Council formalise pedestrian and even vehicular access over the Crown's land.
15. MOE have advised that there is no intention by the school to change the status quo of Thorndon residents informally walking through the school grounds between Hobson Crescent and Turnbull Street.
16. Formal access is unable to be given over the Thorndon school grounds (Crown land) as this would contravene the School's and MOE duty of care obligations that it has

REGULATORY PROCESSES COMMITTEE
21 NOVEMBER 2018Absolutely Positively
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Item 2.1




under the Education Act and Vulnerable Children's Act. Any such formal access would require the land owner's permission and this has not been given.

17. Four of the objectors have withdrawn their objections after being contacted by Deb Taylor of MOE confirming that there is no intention to prevent access over the school grounds and advising of their duty of care obligations.
18. Four of the remaining five objectors did not want contact from MOE in relation to their requests to formalise access over the school grounds between Hobson Crescent and Turnbull Street, preferring that Council deal with that directly.

Next Actions

19. After officers briefed the Committee they requested a site visit to further familiarise themselves on the situation and location. At the time of preparing this report, this has been arranged for 14 November 2018.
20. Once the Committee hears the oral submissions, officers will present a further report for the Committee's next available meeting.
21. The Committee will then consider the submissions and final report, in order to make a recommendation to Council on whether or not to uphold the objections.
22. If the Committee's decision is to uphold any objection and full Council agrees, then the road stopping proposal is effectively ended and the Land will not be stopped and sold.
23. If the decision reached is to not uphold (i.e. reject) the objections and to proceed with the road stopping process, any objector who wishes their objection to remain, and if the applicant wishes to proceed, the road stopping proposal and the objection(s) will be referred to the Environment Court for a decision.

Attachments

Attachment 1.	April 2018 Council Meetings and Report to Regulatory Processes Committee ↓ 	Page 11
Attachment 2.	Schedule of Oral Submissions ↓ 	Page 25
Attachment 3.	Written Submissions ↓ 	Page 26

Author	John Vriens, Senior Property Advisor
Authoriser	Wendy O'Neill, Property Services Manager David Chick, Chief City Planner

REGULATORY PROCESSES COMMITTEE
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SUPPORTING INFORMATION

Engagement and Consultation

Public notification for the road stopping proposal was undertaken during 21 August and 2 October 2018.

- Letters were sent to owners and occupiers of properties in Turnbull Street near the road stopping site in Turnbull Street, and the local residents association.
- Public notices were placed in the Dominion Post on 21 August and 4 September 2018. Signage was placed on the Land, as required under the Tenth Schedule of the Local Government Act 1974.

Information was also available from Council's website, the Central Library and Service Centre at 101 Wakefield Street.

Treaty of Waitangi considerations

No Iwi consultation specific to the road stopping proposal was undertaken. The land is not located in a Māori precinct, or other area identified as significant to Māori. The land is not being disposed on the open market, and will not become a standalone allotment (amalgamation is proposed).

Financial implications

There are no significant financial considerations in this proposal as the applicant; MOE is responsible for all of its related costs.

Policy and legislative implications

The recommendations of this report are consistent with policies of the Council, and in accordance with the legislative requirements the road stopping is being undertaken under.

Risks / legal

The road stopping process is consistent with legislative, and the Council's requirements.

Any legal agreement, or possible action in the Environment Court, will be overseen by the Council's lawyers.

Climate Change impact and considerations

There are no climate change implications for this road stopping.

Communications Plan

Officers will keep all parties fully informed while submissions are being considered, and any Environment Court referral necessary.

Health and Safety Impact considered

If this road stopping proposal is successful the land exchange can proceed and MOE will finalise construction of a vehicle turning area which will improve traffic and pedestrian safety in this street and provide a safer environment for the school users.

REGULATORY PROCESSES COMMITTEE
21 NOVEMBER 2018

Absolutely Positively
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Me Heke Ki Pōneke

COUNCIL
26 APRIL 2018

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

ORDINARY MEETING
OF
WELLINGTON CITY COUNCIL
MINUTES

Time: 09:30
Date: Thursday, 26 April 2018
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

PRESENT

- Mayor Lester
- Councillor Calvert
- Councillor Calvi-Freeman
- Councillor Dawson
- Councillor Day
- Councillor Fitzsimons
- Councillor Foster
- Councillor Free
- Councillor Gilbert
- Councillor Lee
- Councillor Marsh
- Councillor Pannett
- Councillor Sparrow
- Councillor Woolf

REGULATORY PROCESSES COMMITTEE
21 NOVEMBER 2018

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COUNCIL
26 APRIL 2018

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3. Committee Reports

3.1 Report of the Regulatory Processes Committee Meeting of 18 April 2018

Road Stopping and Exchange - Legal Road in Turnbull Street Adjoining 16-24
Turnbull Street (Thorndon School)

Moved Councillor Sparrow, seconded Councillor Calvi-Freeman

Resolved

That the Council:

1. Agrees that approximately 141m² (subject to survey) of formed road land in Turnbull Street, Thorndon, shown highlighted orange on **Attachment 1** (the Land), and adjoining 20-24 Turnbull Street, Thorndon (Lot 1 DP 5859; Lot 1 DP 5443 and Part Lot 1 Application Plan 648 CFR 782543) is not required for a public work and is surplus to Council requirements.
2. Agrees to dispose of the Land by sale and exchange for approximately 22m² of the owners adjoining land currently part of 16 and 18 Turnbull Street (Lot 1 DP 4659 and Lot 17 Deeds Plan 27 CFR 782543) shown highlighted orange in **Attachment 1** (the Applicant's Land).
3. Agrees to acquire the Applicant's Land.
4. Delegates to the Chief Executive Officer all powers necessary to conclude this transaction including all legislative matters, issuing relevant public notices, declaring the road stopped, negotiating the terms of sale and exchange, imposing any reasonable covenants, and anything else necessary.
5. Notes that if objections are received to the road stopping and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.
6. Notes that the land exchange will formalise the construction of a vehicle turning area (underway) in Turnbull Street, with all related costs to be met by the applicant (MOE).

A division was required, voting on which was as follows:

<u>For:</u>	<u>Against:</u>
Mayor Lester	Councillor Free
Councillor Calvert	
Councillor Calvi-Freeman	
Councillor Dawson	
Councillor Day	
Councillor Fitzsimons	
Councillor Foster	
Councillor Gilbert	
Councillor Marsh	
Councillor Pannett	
Councillor Sparrow	
Councillor Woolf	

Majority Vote: 12:1

Carried

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Item 2.2

Item 2.1 Attachment 1

ROAD STOPPING AND EXCHANGE - LEGAL ROAD IN
TURNBULL STREET STREET ADJOINING 16-24 TURNBULL STREET
(THORNDON SCHOOL)

Purpose

1. This paper asks the Committee to recommend that the Council:
 - a. Stops and sells approximately 141m² of Council-owned legal road adjoining Thorndon School at 16-24 Turnbull Street, Thorndon, Wellington (the Land); and
 - b. Acquires approximately 22m² of the applicants' land for the purposes of road (refer land exchange plan shown in **Attachment 1**).
 - c. This will facilitate the construction of a vehicle turning area at the (new) end of Turnbull Street at the cost of the applicant - Ministry of Education (MOE).

Summary

2. The Ministry of Education (MOE) owns Thorndon School at 16-24 Turnbull Street (also 19-23 Turnbull Street) and has applied to purchase 141m² of formed legal road adjoining their property at the end of Turnbull Street. The proposed road stopping area of 141m² is shown highlighted orange in **Attachment 1**.
3. In exchange for the above, Council will acquire 22m² of MOE land at 16 and 18 Turnbull Street (the Applicants' Land) highlighted orange in **Attachment 1**. MOE will pay for all relocation or termination of service utilities and the costs to construct the vehicle turning area and street end (shown in **Attachment 2**) and all transaction costs.
4. Utility providers, relevant Council business units and WREMO have been consulted. All support the proposal subject to standard utility conditions (where applicable).
5. Officers met with the two affected neighbours on the opposite side of Turnbull Street to discuss the proposal. Both support the turning area and land exchange proposal.
6. If the Council approves officers' recommendations then public notification will commence. At that time neighbours, and any other member of the public, will have an opportunity to make a submission.

Recommendations

That the Regulatory Processes Committee:

1. Receives the information.
2. Recommends to Council that it:
 - a. Agrees that approximately 141m² (subject to survey) of formed road land in Turnbull Street, Thorndon, shown highlighted orange on **Attachment 1** (the Land), and adjoining 20-24 Turnbull Street, Thorndon (Lot 1 DP 5859; Lot 1 DP 5443 and Part Lot 1 Application Plan 648 CFR 782543) is not required for a public work and is surplus to Council requirements.
 - b. Agrees to dispose of the Land by sale and exchange for approximately 22m² of the owners adjoining land currently part of 16 and 18 Turnbull Street (Lot 1 DP 4659 and Lot 17 Deeds Plan 27 CFR 782543) shown highlighted orange in **Attachment 1** (the Applicant's Land).

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- c. Agrees to acquire the Applicant's Land.
- d. Delegates to the Chief Executive Officer all powers necessary to conclude this transaction including all legislative matters, issuing relevant public notices, declaring the road stopped, negotiating the terms of sale and exchange, imposing any reasonable covenants, and anything else necessary.
- e. Notes that if objections are received to the road stopping and the applicant wishes to continue with the road stopping, a further report will be presented to the Committee for consideration.
- f. Notes that the land exchange will formalise the construction of a vehicle turning area (underway) in Turnbull Street, with all related costs to be met by the applicant (MOE).

Background

7. The Ministry of Education (MOE / the Applicant) owns 16-24 Turnbull Street, Thorndon and has applied to acquire an area of legal formed road at the end of Turnbull Street which is bordered on three sides by Thorndon School. This 141m² area is shown outlined orange in **Attachment 1** (the Land).
8. The Land is proposed to be amalgamated with 20-24 Turnbull Street legally described as Lot 1 DP 5859, Lot 1 DP 5443 and Part Lot 1 Application Plan 648 on CFR 782543.
9. In exchange for the Land, MOE has agreed to sell 22m² of its land to Council, being parts of 16 and 18 Turnbull Street (the Applicant's Land). This is for the purposes of creating a vehicle turning area (shown in **Attachment 2**) that is deemed to be an important facility to service this narrow street and adjacent properties.
10. MOE has arranged and will pay for the construction (underway) of the new vehicle turning area and reform the stopped road land to include a gate, paving, seating and planters in order to provide a safe transitional area from the main school buildings to the playing field on the west side of (now) Turnbull Street.

Discussion

11. Road Stopping is provided for under sections 319(1)(h) and 342(1)(a) of the Local Government Act 1974 (LGA).
12. The Council, under section 40 of the Public Works Act 1981 (PWA), 'shall endeavour' to dispose of any land not required for the public work for which it was taken, and which is not required for any other public work.
13. Advisors from Council's Transport Team have confirmed the Land is not required for future road purposes, and support the proposal as the acquisition of the Applicant's land, as part of the land exchange, provides for a necessary vehicle turning area in the street.
14. As part of the road stopping, the applicant consulted with service authorities and officers with affected internal business units. All have granted consent with only standard conditions applying.
15. There are only two affected neighbours in the street (the Royal Society of NZ and a private individual) at 9-15 and 17 Turnbull Street. They have been consulted by way of onsite meetings with officers to fully discuss the land exchange and turning area proposal. Both neighbours support the land exchange in order to provide a vehicle

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turning area in this narrow street. The Wellington Regional Emergency Management Office (WREMO) has also been consulted and supports the proposal.

- 16. If Council approves the above, officers will establish whether any offerback obligations under section 40 of the PWA exist, although exclusions are likely to apply.

Options

- 17. The alternative to undertaking the road stopping is to retain the Land as legal road. In the long term this will incur maintenance and retention costs on land that Council no longer requires.
- 18. There is no alternative to acquiring the Applicant's Land in order to create a vehicle turning area in Turnbull Street and the safety of school and street users would be reduced.

Next Actions

- 19. Conclude an investigation in accordance with section 40 PWA.
- 20. Initiate the public notification process.
- 21. Prepare a survey plan and conclude a land exchange agreement with MOE.
- 22. Construction of the vehicle turning area at the new end of Turnbull Street.

Attachments

Attachment 1.	Aerial of Land Exchange area in Turnbull Street ↓	Page 43
Attachment 2.	Views of vehicle turning area ↓	Page 45
Attachment 3.	Location Plan ↓	Page 47

Authors	John Vriens, Senior Property Advisor Charles Kingsford, Principal Traffic Engineer
Authoriser	Steve Spence, Chief Advisor, Transport and Infrastructure David Chick, Chief City Planner

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SUPPORTING INFORMATION

Engagement and Consultation

Community

Initial consultation meetings have been undertaken with the only two other neighbours in Turnbull Street, and they have advised us they have no concerns and support the vehicle turning area proposal. Consultation on the proposed Parking changes was completed 30 March 2018 and is to be presented to City Strategy Committee on 19 April 2018 to the proposed parking changes required.

Utility Provider and Council Business Units

All relevant utility providers and Council business units have been consulted and none objected to the proposed road stopping. Those that have assets in the subject road land have provided their conditions of relocation or termination to the new street end.

Treaty of Waitangi considerations

Iwi groups have not been consulted. The subject road land is not located in a Māori Precinct, or other area identified as significant to Māori. The land is not being disposed on the open market, and will not become a standalone allotment (amalgamation is proposed).

Financial implications

There are no significant financial considerations related to this recommendation as the applicant, MOE, is paying for all the costs of the new turning area construction, relocation of services (as required) in the road to be stopped and the road stopping / land exchange transaction costs (survey, legal, valuation and advertising, etc.).

Policy and legislative implications

The recommendations of this report are consistent with policies of the Council; the road stopping is also being undertaken in accordance with legislative requirements.

This is not a significant decision. This report sets out the Council's options under the 2011 Road Encroachment and Sale Policy.

This proposed road stopping and exchange has no significant impact on the Long Term Plan.

Risks / legal

The road stopping process is consistent with legislative, and the Council's requirements. Any legal agreement, or action in the Environment Court, will be overseen by the Council's lawyers.

Climate Change impact and considerations

There are no climate change implications for this road stopping and exchange.

Communications Plan

Public consultation in accordance with the Schedule 10 of the LGA will be carried out later in the road stopping process.

Health and Safety Impact considered

There are no Health and Safety Impact considerations for this proposed road stopping and exchange except that the provision of a vehicle turning area in Turnbull Street will provide

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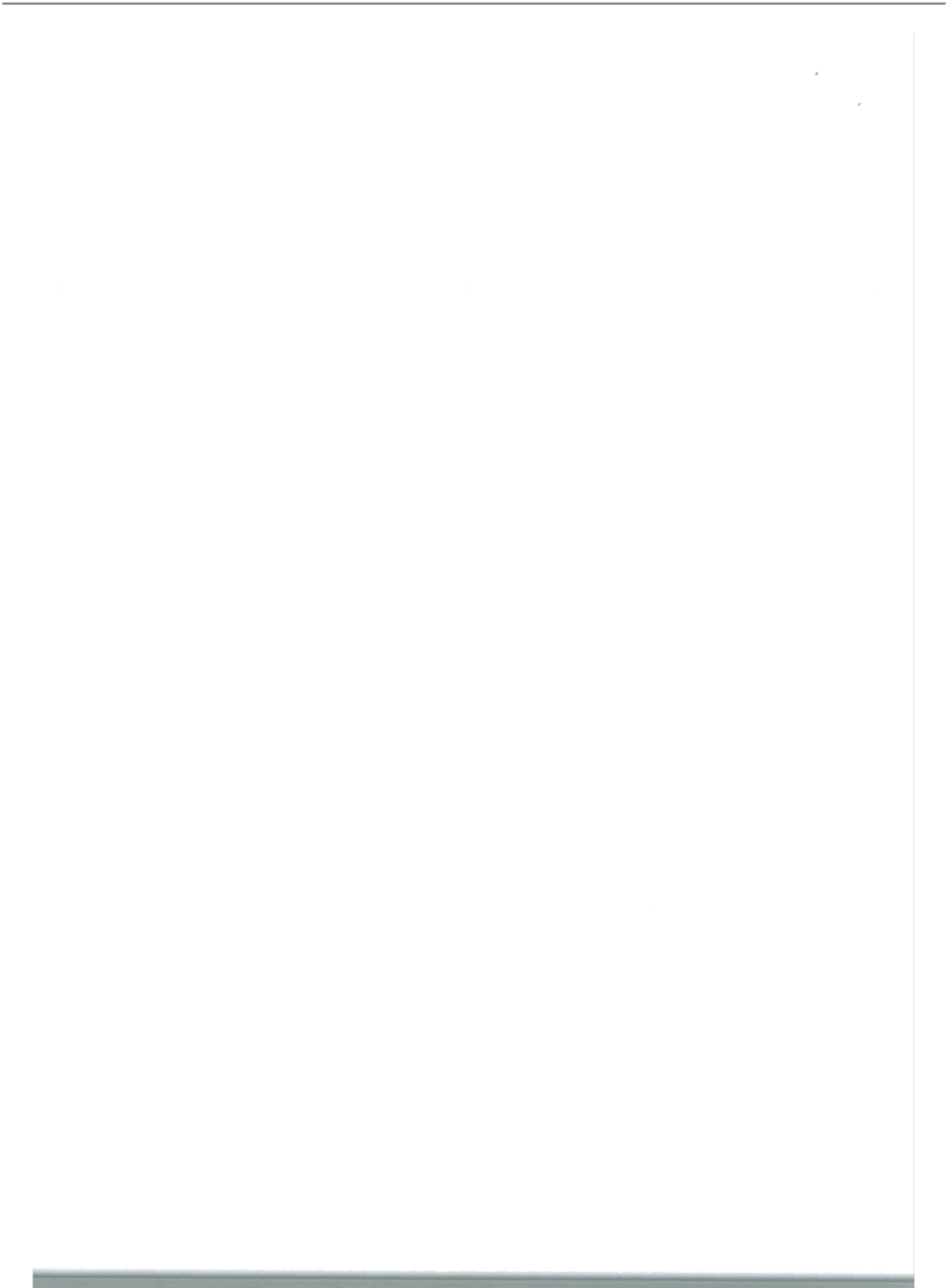
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improved traffic safety for all street users (both vehicle and pedestrian) and provide a safer environment for the predominant Thorndon Primary School users.

Item 2.1 Attachment 1

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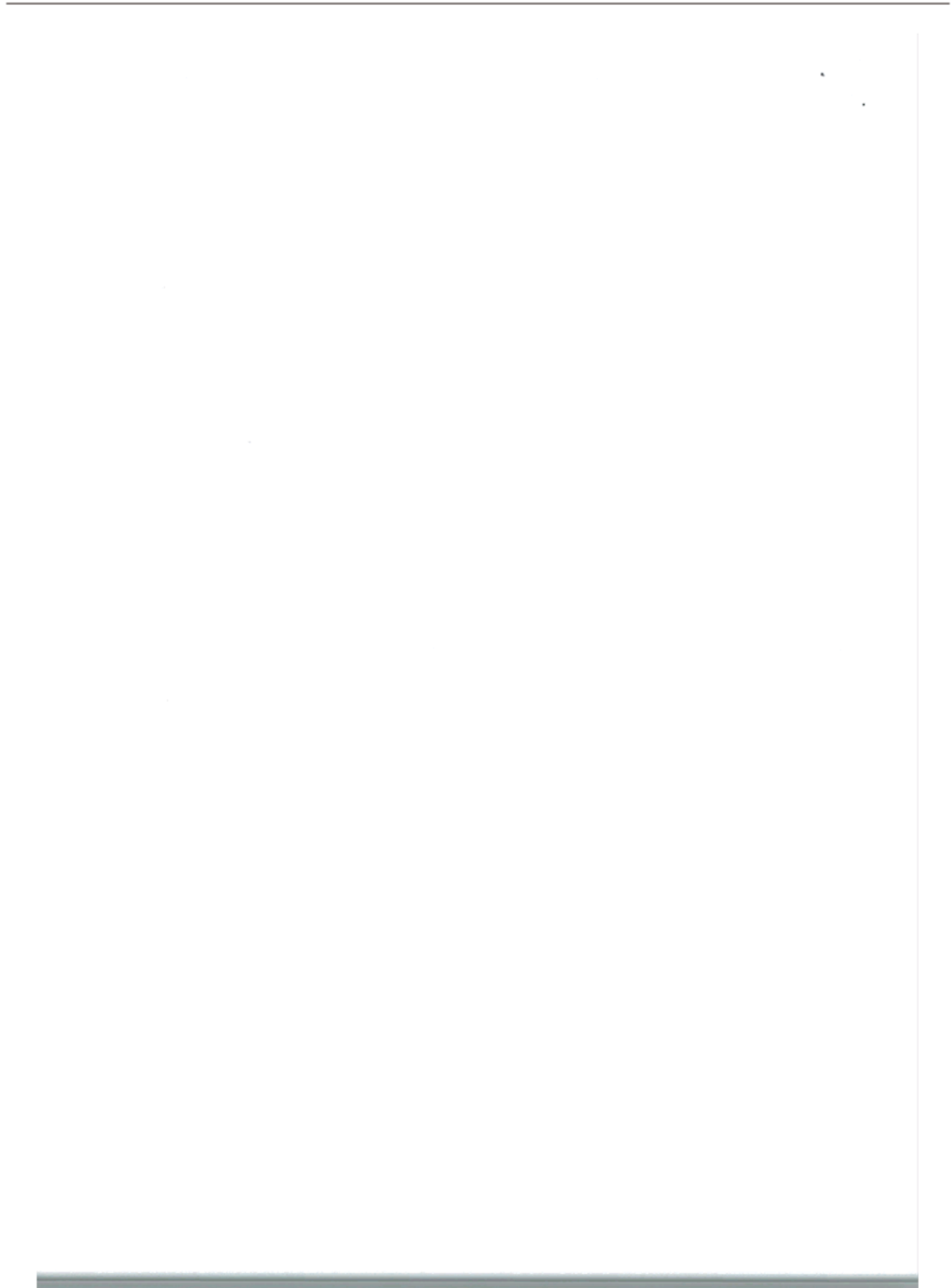
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Attachment 1 Aerial of Land Exchange area in Turnbull Street

Item 2.1 Attachment 1





Attachment 2 Views of vehicle turning area

Item 2.2 Attachment 2

Item 2.1 Attachment 1

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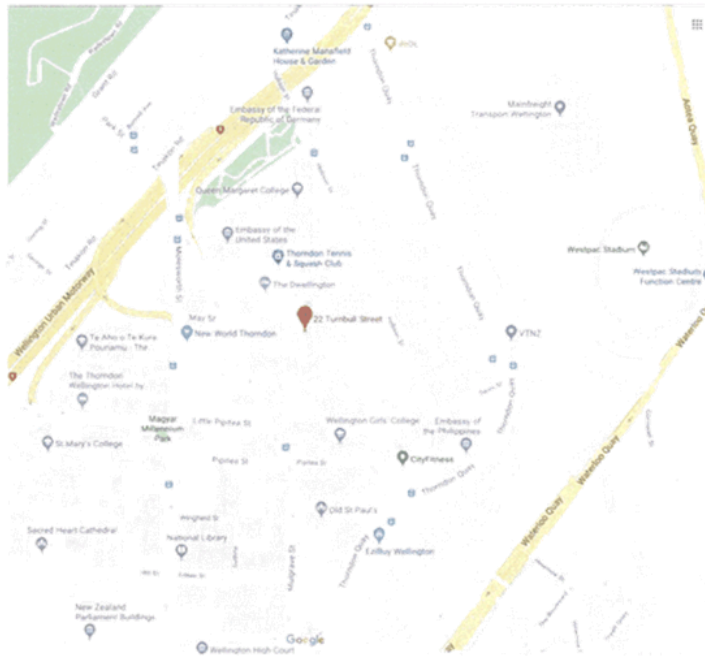
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Item 2.2 Attachment 3



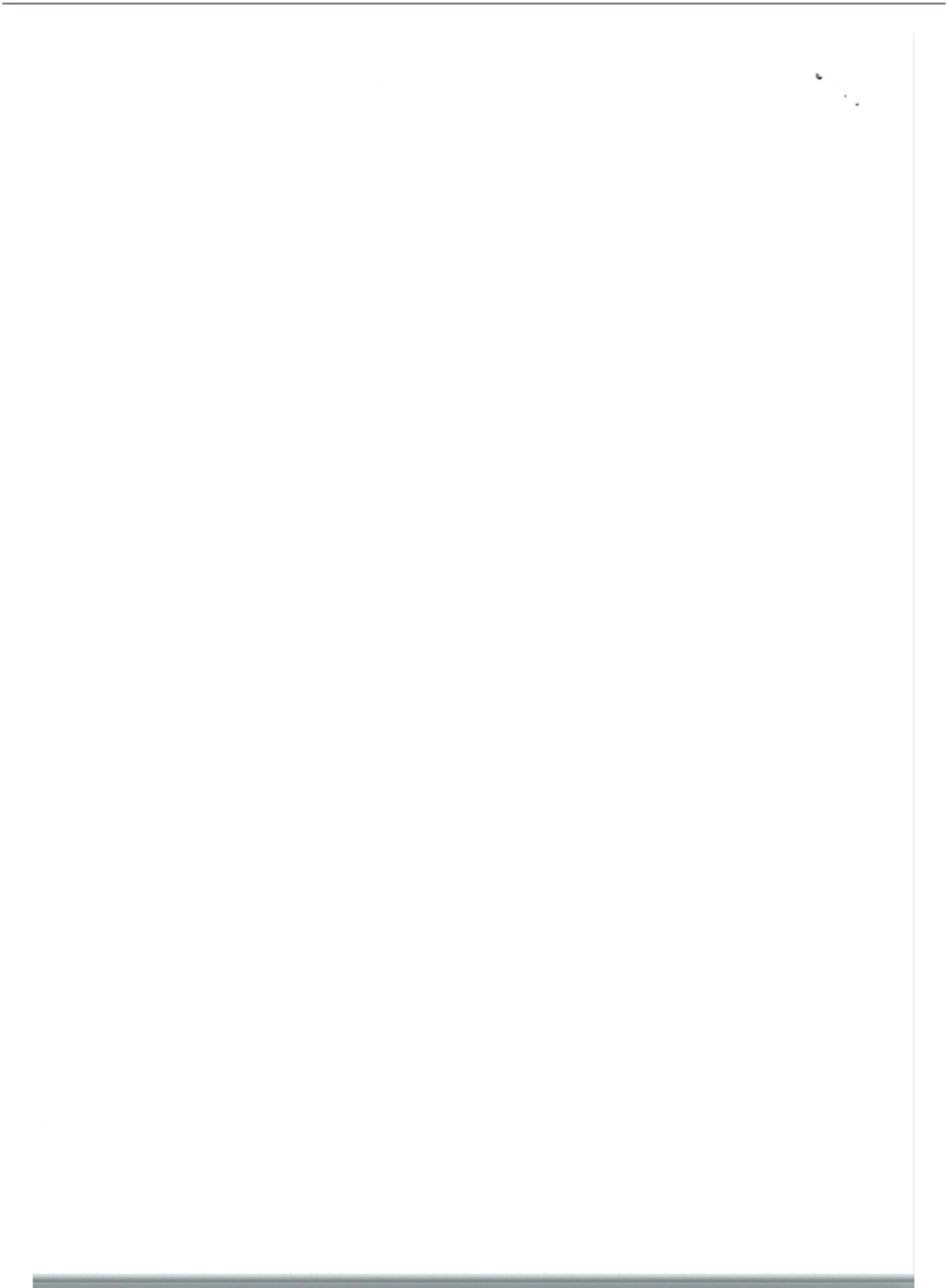
Attachment 2 Views of vehicle turning area

Location Plan



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Road Stopping and Exchange (Turnbull Street Adjoining Thorndon School)
Schedule of Oral submissions

Time.	Submitter name	Page
9.40am	Deb Taylor (Ministry of Education)	
9.50am	Richard Murcott	7
9.55am	Tyler Ross & Shan	2
10.00am	Marion Cowden (Thorndon Residents Association)	5
10.10am	Richard Powell	9
10.15am	Marilyn Powell	3
10.20am	Alistair du Chatenier (Thorndon School)	

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**Road Stopping and Exchange - Legal Road in Turnbull
Street Adjoining Thorndon School**

Written submissions for oral hearing

**Notice of information withheld under Local Government
Official Information and Meetings Act 1987**

Some information supplied by submitters has been withheld in accordance with provisions in the Local Government Official Information and Meetings Act 1987 (LGOIMA) as follows:

- Contact information of submitters has been withheld in order to protect the privacy of natural persons, including that of deceased natural persons [LGOIMA s7(2)(a)]; and

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Sub no.	Submitter name	Page
1	Tyler Ross & Shan Ng Lee	2
2	Marilyn Powell	3
3	Marion Cowden (Thorndon Residents Association)	5
4	Richard Murcott	7
5	Richard Powell	9

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Subject: Submission on Road Stopping and exchange – Legal road in Turnbull St adjoining Thorndon School

- **your name, postal address and telephone number**

Tyler Ross & Shan Ng

[REDACTED] Glenmore Street, Thorndon 6011, Wellington

[REDACTED]

- **details of the proposal you are submitting on**

Road stopping - Turnbull St, Thorndon

The proposal is to stop a 142m² portion of legal road in Turnbull Street, Thorndon.

- **whether you support or oppose the proposal**

We SUPPORT the proposal.

- **what aspects of the proposal you are neutral towards (if any)**

Support all aspects of the proposal.

- **your submission statement, with reasons**

We believe that the stopping proposal as presented is the best option to ensure the safety of young and vulnerable school children who attend Thorndon School to move between the school area, and the fields on the opposite side, and the Noddy House located along the current alignment of Turnbull Street where the youngest students first attend. Our daughter has attended Thorndon School since she was five (she is now 12) so we recall how the road operated prior to the temporary closure in place currently. We observed rat-running at peak hours when school children are arriving at school, inappropriate speeds in non-peak hours, and parking issues. These have not been prevalent with the temporary closure, and it is a much safer environment that will only be enhanced by the proposal.

We have also anecdotally observed more walking and active mode travel to the school since the temporary road closure. Children are either dropped off away from the school, or travel from their homes if nearby, and are more confidently using the footpaths along Turnbull Street to then cross into the school where it has been temporarily closed. We believe that the proposal will lead to more active travel by children attending the school, and provide additional benefits for traffic movements in the area, by reducing side friction from Turnbull Street, and the Thorndon Pool carpark.

- **The decision you would like Wellington City Council to make.**

To proceed with the road stopping and exchange – Legal road in Turnbull Street adjoining Thorndon School.

- **Whether you would like to make an oral submission to Councillors, to support your written submission.**

Yes

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From: [Marilyn Powell](#)
To: [John Vriens](#)
Subject: Turnbull Street road stoppage
Date: Saturday, 29 September 2018 3:48:08 p.m.

Name: Marilyn Powell
Address: [REDACTED] Hobson Street, Thorndon, Wellington 6011

WCC Proposal: Road Stoppage of part of Turnbull Street
Type of Submission: Oppose

Any neutral aspects: I understand the reasons for stopping through vehicular traffic. I would prefer vehicular traffic to continue but it makes sense for a school straddling the road to not want vehicles being driven through.

Submission Statement with reasons:

- This notice to stop a road proposal should have been notified via the letterboxes of residents and workers with an interest in Hobson Street, Hobson Crescent, Davis Street and Thorndon Quay. I almost didn't read the sign attached to a pole in the Turnbull Street area under discussion, because I thought it was just a school notice. An affected person I spoke to thought it was a missing cat notice. A neighbour told me just last week that she had not seen the sign although she walks through the area regularly. So there has been a lack of notification to affected parties.
- It is not stated on the notice how this affects pedestrians walking between Murphy Street and Hobson Crescent. An affected person I spoke to thought it only meant vehicular traffic was stopped. So there has been a lack of detail of the implications.
- Until 2011 Turnbull Street was a through street between Murphy Street and Hobson Crescent. This was very convenient as a left turn and avoided the Wellington Girls High corner, plus being much quicker than going the long way round. I understand the rationale for closing that end of Turnbull Street to traffic, because Thorndon School, with the removal of Kimi Ora School, now straddles the road; so I did not protest that.
- A few years ago Thorndon School erected a gate and fence across the Hobson Crescent carpark, which has been a big inconvenience for carrying groceries through and often an umbrella and a shopping trundle at the same time. This has made this no longer an accessible route in terms of wheelchair access.

More recently Thorndon School had been padlocking this gate, generally only during school hours, and directing by signage, pedestrians to walk through the often muddy playing field where Kimi Ora school buildings used to be. I found this completely unacceptable. I do not want to be hit in the head with a sports ball nor interfere in the path of running children, nor do I want muddy shoes. The reason, my neighbours told me, was because "a man was said to have touched a child". Non-evidenced, anti-male anecdotes like this are hard to refute, and go against my view that having so many members of the public walking through the area actually keeps it safer. By my looking at a child bullying another as I walked through, the bully desisted merely by my being a witness. Members of the public being visible improves school security, gives children role models and a sense of community.

- If access is barred then residents' ability to access the bus stop, railway station, supermarket, chemist, doctors' surgery, hairdressers etc. is very much thwarted. The alternative of walking via Pipitea and Moturoa Street is a lot of hill climbing and becomes a major expedition. The alternative route to Pipitea/Moturoa Streets would be Fitzherbert Terrace past the epileptic-seizure-inducing type of fence outside the

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USA embassy and of a much greater distance.

- Wellington is rightly well regarded and famous for its walkways: if this pedestrian access is cut off then more people will have to drive and there will be a resulting lack of independence for the aging population and parents of young children. We want less use of cars: more people walking.
- A valued right is being taken away from rate-paying residents, to the detriment of the wellbeing of the community.

Decision desired:

- Unimpeded public pedestrian and wheelchair/pushchair access be guaranteed in perpetuity on a level, well lit, ungated path.
- If the school wants to fence itself off then the school can construct an overbridge or tunnel for its children. Farmers routinely have an underpass for their stock when their properties straddle both sides of a road. An overbridge would probably be enjoyed by children.

Decision desired:

- That a direct walkway from Turnbull Street into Hobson Crescent, without a gate, be maintained for pedestrians. That this walkway be suitable for wheelchairs and be well lit.

Oral submission: I am willing to make an oral submission, but if dozens of others are willing to speak against the proposal, then I will not need to.

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John Vriens
Senior Property Advisor
Property Services
Wellington City Council

By email: john.vriens@wcc.govt.nz

Dear Sir

PROPOSED ROAD STOPPING AND LAND EXCHANGE AT 16-24 TURNBULL STREET, THORNDON

The Thorndon Residents' Association Inc submits to the Wellington City Council, for its consideration, the following:

1. Many Thorndon residents currently walk between Hobson Crescent and Turnbull Street using a pedestrian access way through Thorndon School. From Hobson Crescent it begins with a footpath which leads from the staff car park of Thorndon School on to the playing field north of the Thorndon School buildings and proceeds by way of the playing field to the footpath on Turnbull Street.
2. The proposed road stoppage and subsequent sale could result in pedestrians no longer having access to this access way. At our meeting with the Principal of Thorndon School he assured us that this is not intended. The proposals we make below, with which the Principal is in agreement and which were assisted by Chris Ward of Walking Access who attended our meeting with the Principal should make this pedestrian access way much clearer for everyone.
3. The Thorndon Residents' Association proposes:
 - a) that the footpath on the north of the proposed Turnbull Street sale land be retained for pedestrian traffic allowing the pedestrians to continue to be able to walk between Hobson Crescent and Turnbull Street.

Thorndon Residents' Association PO Box 12587 Wellington 6144

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b) that a low fence be inserted along the footpath from the beginning of the school property to direct pedestrian traffic away from the current carriageway and the school grounds.

c) that the pathway then continue around the rear of the emergency water tank at the corner of the playing field and that this pathway be paved and also fenced off from the playing field and that the fence continue along the current pathway at the side of the playing field until the path reaches the gate leading to the path to Hobson Crescent.

d) that the path be continued along the whole of the boundary of number 27 Hobson street and fenced off from the parking area and a new entry way be created through the fence on Hobson Crescent.

See the attached map for a representation of these proposals.

These changes would make the pathway much clearer. They would direct pedestrian traffic through the school grounds and way from the car park. They would also make pedestrian access available to wheel chair traffic.

5. The Thorndon Residents Association also suggests that, as part of the envisaged exchange, The Council negotiate with the Ministry of Education for an appropriate contribution for maintaining and improving the access way with the additional pathways and fencing we have proposed.

6. The Walking Access Commission support this proposal.

7. We would be happy to discuss our suggestions with the responsible Council Officer(s).

Yours faithfully



Marion Cowden

Chair

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From: [REDACTED]
To: John Vriens
Subject: [REDACTED]
Date: Objection to the proposal to "stop" and sell legal road - Turnbull St, Thorndon
Saturday, 29 September 2018 8:30:04 p.m.

Hello John

Please acknowledge my **objection** to the proposed stopping of part of Turnbull St, Thorndon.

Reasons for my Objection

After approximately half a century of open public passage, it would seem timely to formalise a route as a legal public access right between Turnbull St and Hobson Crescent.

[Photograph of drivable access in 1978.](#)

The land uses have changed during the last five decades, and with the current evolutions of the Thorndon School site it would now seem timely to secure and formalise a public accessway between Turnbull St and Hobson Cres.

The area of Turnbull St proposed for stopping forms at least part of the route needed to formalise public access between Turnbull St and Hobson Cres i.e. please incorporate part of this legal road into a solution to formalise the entire route between these two parts of the suburb.

Background

I have a long association with Thorndon. I've resided in the Hobson precinct since 1981. My wife and I have been ratepayers for our family residence in Hobson St since 1993. Like numerous other residents in the Hobson precinct, I have always had passage between Hobson Crescent and Turnbull St.

It is only in relatively recent years, since Kimi Ora departed, that a metal fence and two gates have prevented vehicular passage. (*it was very convenient on the weekends*) Presently, I walk or cycle between Turnbull St and Hobson Crescent every day, 7 days a week.

My case to formalise public access

This is the direct route for many Hobson precinct residents to many important amenities:
- supermarket
- medical centre, pharmacy, bank, coffee shops, takeaways, workplaces, etc

The route has been a feature (benefit) for the community for the duration of most residents in the suburb. Many will assume a public right to pass already exists. It is timely to make it so.

But it is also the route that reminds residents where the Community Emergency Hub is situated (Thorndon School), and where the community emergency water supply tank (25,000 Litres) is sited ([half way between Turnbull St and Hobson Cres](#)), and near where WREMO operate from, etc.

This route is especially important for linking parts of Thorndon.

And it encourages resilience by enabling these connections and helping people become familiar with their sense of place and how to navigate across this part of the suburb. This

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familiarly only grows with use i.e. as long as folk can regularly access them.

Recommendation

That the proposed land exchange of part of Turnbull St does not progress, until there is an agreed formalisation of a public access easement (of some form) between Hobson Cres and Turnbull St that is adequate to accommodate the considerable regular pedestrian count, including a path adequate for wheelchairs and cyclists, and that enables, without any ambiguity, unfettered access between the existing streets.

And that the public access easement is consulted with all residents in the wider vicinity (entire Hobson precinct) prior to anything actually changing.

Observation

The present proposal to stop the end of Turnbull St was consulted with just two immediately affected neighbours, in Turnbull St.

Yet clearly, in comparison, the 'affected' population is huge. Therefore I feel that the consultation process has been flawed. The wider needs of the community for passage between Turnbull St and Hobson St seem to have been overlooked.

It would appear that it is timely to settle this situation with an enduring solution. The Education Ministry (i.e. Crown Land) has public good obligations. It is hoped that they can collaborate with Council and help devise a way to remove any ambiguity about rights of public passage, by formally defining them.

Please devise a plan that ensures public access between the two streets is obvious, safe for all, and so that the right for the public to pass is made clear and enduring.

Presentation of Submission

If an opportunity existed I would be happy to personally represent my submission.

Thank you
Richard Murcott
[REDACTED]
Thorndon
[REDACTED]

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From: [Richard Powell](#)
To: [John Vriens](#)
Cc: [Councillor Nicola Young](#)
Subject: Turnbull Street road stoppage
Date: Sunday, 30 September 2018 3:59:02 p.m.

Name: Richard Powell
Address: [REDACTED] Thorndon, Wellington 6011

WCC Proposal: Road Stoppage of part of Turnbull Street
Type of Submission: OPPOSE

Any neutral aspects: I understand the reasons for stopping through vehicular traffic. I would prefer vehicular traffic to continue but it makes sense for a school straddling the road that they would not want vehicles being driven through.

Submission Statement with reasons:

- This notice, to stop the road proposal, should have been notified via the letterboxes of residents and workers with an interest in Hobson Street, Hobson Crescent, Davis Street and Thorndon Quay. I only read the sign attached to a pole in the Turnbull Street area under discussion, by chance, as I thought it was a missing pet notice. A neighbour told me just last week that she had not seen the sign although she walks through the area regularly. So there has been a lack of notification to affected parties.
- It is not stated on the notice how this affects pedestrians walking between Murphy Street and Hobson Crescent. There has been a lack of detail of the implications.
- Until 2011 Turnbull Street was a through street between Murphy Street and Hobson Crescent. This was very convenient as a left turn and avoided the Wellington Girls High corner, plus being much quicker than going the long way round. I understand the rationale for closing that end of Turnbull Street to traffic, because Thorndon School, with the removal of Kimi Ora School, now straddles the road; so I did not protest that.
- A few years ago Thorndon School erected a gate and fence across the Hobson Crescent carpark, which has been a big inconvenience when carrying bags etc. This route is no longer independent wheelchair accessible. It now requires someone to open the gate.
- More recently Thorndon School had been padlocking this gate, generally only during school hours, and directing by signage, pedestrians to walk through the often muddy playing field where Kimi Ora school buildings used to be. This is completely unacceptable. The reason, my neighbours told me, was because "a man was said to have touched a child". Non-evidenced, anti-male anecdotes like this are hard to refute, and go against my view that having so many members of the public walking through the area actually keeps everyone safer. By my looking at a child bullying another as I walked through, the bully desisted merely by my being a witness. Members of the public being visible improves school security, gives children role models and a sense of community.

REGULATORY PROCESSES COMMITTEE
21 NOVEMBER 2018

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

- If access is barred, then residents' ability to access the bus stop, railway station, supermarket, chemist, doctors' surgery, hairdressers etc. is very much thwarted. The alternative of walking via Pipitea and Moturoa Street is a lot of hill climbing and becomes a major expedition. The alternative route to Pipitea/Moturoa Streets would be along Fitzherbert Terrace past the epileptic-seizure-inducing type of fence outside the USA embassy and of a much greater distance.
- Wellington is rightly well regarded and famous for its walkways: if this pedestrian access is cut off then more people will have to drive and there will be a resulting lack of independence for the aging population and parents of young children. We want less use of cars: more people walking.
- A valued right is being taken away from rate-paying residents, to the detriment of the wellbeing of the community.

Decision desired:

- That a direct walkway from Turnbull Street into Hobson Crescent be maintained giving unimpeded public pedestrian and wheelchair/pushchair access and this be guaranteed in perpetuity on a level, well lit, ungated path.
- If the school wants to fence itself off then the school can construct an overbridge or tunnel for its children. An overbridge would probably be enjoyed by children.

Oral submission: I am willing to make an oral submission.

3. Public Excluded

Recommendation

That the Regulatory Processes Committee:

1. Pursuant to the provisions of the Local Government Official Information and Meetings Act 1987, exclude the public from the following part of the proceedings of this meeting namely:

General subject of the matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
3.1 Recommendation for appointment of additional DLC Chair and DLC members	7(2)(a) The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.	s48(1)(a) That the public conduct of this item would be likely to result in the disclosure of information for which good reason for withholding would exist under Section 7.