

## 1. SUMNER LIFEBOAT INSTITUTION – LAND STATUS ISSUES

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### INTRODUCTION

The purpose of this report is to:

1. Advise the Council of the process to carry out legal actions to regularise activities on the foreshore at Days Harbour, Scarborough.
2. Recommend that the Council resolve to request the Minister of Lands to declare road and stop road under the Public Works Act 1981 as outlined in this report.
3. Advise the Council of the Board's conditional decision to approve:
  - a lease to the Sumner Lifeboat Institution Inc. ("SLI")
  - alterations and additions to the SLI building at Days Harbour, Scarborough.

### SEPTEMBER BOARD MEETING REPORT

A report was presented at the Board's September meeting outlining a proposal to resolve land status issues allowing the Council to provide security of tenure over the site occupied by SLI at Scarborough.

At that meeting the Board decided:

1. To support in principle the actions proposed by the report and that the Community Advocate convene a public meeting with the Board's community and stakeholders.
2. To receive a further report at its October meeting with specific recommendations having regard to community feedback on the legal processes proposed for resolution in terms of the Board's delegation.

### OCTOBER BOARD MEETING REPORT

The report presented to the Board's 30 October meeting provided specific recommendations to the Board following public consultation on the legal processes necessary to carry out the proposed actions.

### Scope and Policy

That report was referred to the Board to resolve under delegated authority to:

1. Approve proposed alterations and additions to the SLI buildings.
2. Grant a lease to SLI under section 61 of the Reserves Act 1977 and to recommend to the Council that the process as provided for in Sections 114 and 116 of the Public Works Act 1981 be commenced (contemporaneously with a subdivision of the Council's title to Days Harbour) to legalise and stop parts of Scarborough Road.

### Board Resolutions

The Board **resolved**:

1. That subject to the Council adopting the recommendation set out at the end of this report, a subdivision of the Council's Days Harbour Title (CT 305/68) be applied for and carried out contemporaneously in accordance with Drawing 24475/6 (attached).
2. To approve the alterations and additions proposed for the Sumner Lifeboat Station Buildings in accordance with the tabled plans and, subject to the Council adopting the resolution set out at the end of this report, grant SLI a lease of Sections 1 and 2 (Drawing 24475/5) and Lot 2 (Drawing 24475/6) pursuant to section 61 of the Reserves Act 1977 for a term of 33 years with a right of renewal for a further term of 33 years conditional on:

- (a) All statutory consents (including subdivision) being in place prior to any site works commencing.
  - (b) Site landscape requirements, construction bond and safety issues being resolved to the satisfaction of the Parks and Waterways Manager before any site works commence.
  - (c) The terms and conditions of the lease being negotiated to the satisfaction of the Property Manager and Parks and Waterways Manager in consultation with the Legal Services Unit on the basis of each party meeting their own legal costs.
  - (d) The Sumner Lifeboat Institution meeting all costs associated with the building alteration/additions (including necessary resource and building consents) and obtaining the necessary funding.
4. That a further report be submitted to the Board to resolve issues re tenure to the Sumner Boating Club and signage on the esplanade reserve to vest.
  5. That survey, subdivision, LINZ fees and proclamation costs be shared equally between the Parks and Waterways and City Streets Units.

#### **SUMMARY OF PROPOSAL**

The recommendation made in this report (if adopted) will regularise SLI's occupation and the use of formed (but not legal) road without compromising the rights of access the public currently enjoy to the area for leisure and recreational activities. A public meeting (feedback detailed later in this report) has endorsed support for the Council to proceed with the land status rationalisation proposed. While vehicle access will be retained to the breakwater, the emphasis in future will be on unrestricted foot access in this area, with vehicle use managed by appropriate signage restricting and limiting parking. The proposal has been developed in consultation with Legal Services, Environmental Services, Parks and Waterways, City Streets and City Solutions Units. A summary of the proposal is outlined below.

#### **Proposed Road Stopping**

To proceed with the proposed road stopping under the Public Works Act 1981(PWA), the Council must pass a formal resolution. On completion of survey, the stopping can then be notified in the New Zealand Gazette without any further public notice. The proposed road stopping is to be shown as separate allotments to allow more flexible tenure options in relation to the building footprints/occupations. The Council is the only adjoining landowner affected, there will be no loss of public access, no land is to go out of public ownership and the recent public meeting endorsed support for the Council to proceed with the road stopping. It is therefore considered that section 116 of the PWA sets out the appropriate road stopping process to be followed, rather than using the process outlined in section 342 of the Local Government Act 1974.

#### **Land for Road**

Those parts of the Council's title that are physically formed and used as road are to be formally declared as road, requiring a Council resolution under Section 114 of the Public Works Act 1981.

#### **Local Purpose (Esplanade) Reserve**

On subdivision of the Days Harbour title, all land between Mean High Water Springs (MHWS) and the legal road boundary as realigned will vest in the Council as Esplanade Reserve under the Reserves Act 1977 (as required by section 230 of the Resource Management Act 1991).

#### **Vesting of Sea Bed**

On subdivision of the Council's title, the parts of the title under water (below MHWS) and in the coastal marine area are required to be vested in the Crown (Department of Conservation) as seabed. (Section 237A of the Resource Management Act 1991).

The use of land below MHWS is restricted to the rules of the coastal marine area and hazard zone administered by ECan. Vesting of this area in the Crown would be consistent with the way in which most foreshore is held.

## **Sumner Lifeboat Institution**

The Council is able to grant (without further public notice or other authority) a lease of Esplanade Reserve of the site occupied by the SLI buildings for a term of up to 33 years with or without renewal pursuant to Section 61 of the Reserves Act 1977. A term of this duration will however need to be in relation to a lease of a parcel of land defined by survey. The SLI is able to conduct its activity below MHWS without formal lease from the Crown (sea bed) provided that this activity is consented to by ECan in terms of the Coastal Hazard Zone and the Coastal Marine Area. These consents are held by SLI.

As the legal processes to stop road and create esplanade reserve will take some time to work through, initially an agreement to lease conditional on the legal processes being completed will be entered into with SLI. SLI is happy with this.

## **Sumner Boating Club**

This Incorporated Society, established since the early 1900s, also occupies a building located on part of the legal road (Section 3, plan 24475/5). This club maintains the public concrete slipways for a small launching fee and as part of the rationalisation, discussions are to be held with the club to determine the most appropriate way of legalising their occupation and control of the slipways.

## **CONSULTATION**

A public meeting was held at the Sumner Community Centre on the evening of 10 October 2002. Thirteen people (other than Board members and staff) representing a cross-section of the community attended this meeting. Attendees included local boat owners, general public, SLI members, and representatives of the Sumner Boating Club and the Department of Conservation. The Community Advocate and Community Secretary convened the meeting with the report officer in attendance to explain the proposals and answer questions.

Positive feedback was received to the actions intended with a clear mandate from the meeting to use the process under the Public Works Act to legally stop those portions of Scarborough affected. The meeting agreed that this was really a rationalisation or "tidying up process" that was well overdue. The need to place signage to manage car parking in this area of high public usage for the good of all users was endorsed with the detail to be worked through with SLI and the Sumner Boating Club, with this organisation also keen to resolve formal tenure for their occupancy.

## **COSTS**

The costs to carry out the survey and subdivision to create the parcels for leasing, reserve and seabed vesting will be shared between the City Streets and Parks and Waterways Units. It is proposed that the Council and the Sumner Lifeboat Institution accept responsibility for their own legal costs associated with the lease agreement, which would be prepared by the Council's Legal Services Unit.

## **CONCLUSION**

The outcome of these processes will align the underlying land status with the existing foreshore activities and regularise tenure anomalies that have existed for many years. Public consultation and discussion with stakeholders have not raised any impediment to proceeding as proposed. Essentially, the public will not be aware of any change to the existing situation on the ground apart from the redeveloped SLI station buildings. SLI's activities are recognised and acknowledged as an integral part of this area. A further report will be presented to the Board at the appropriate time when the issues with the tenure to the Sumner Boating Club and signage to manage vehicle use have been worked through.

## **RESOLUTION REQUIRED**

In order to effect the proposed declaration as road and road stopping, it is necessary for the Council to resolve as follows:

That the Christchurch City Council hereby resolves:

1. Pursuant to Section 114 of the Public Works Act 1981, to request the Minister of Lands to declare as road those parcels of land described in the First Schedule; and
2. Pursuant to Section 116 of the Public Works Act 1981, to stop those portions of formed Scarborough road described in the Second Schedule

**FIRST SCHEDULE**

Shown as Section 6 (125m<sup>2</sup>) and Section 7 (143m<sup>2</sup>) on City Solutions Drawing 24475/5 being part Lot 1 DP 4705 comprised in Certificate of Title 305/68 (subject to survey).

**SECOND SCHEDULE**

Shown on City Solutions Drawing 24475/5 adjoining Lot 1 DP 4705 comprised in Certificate of Title 305/68 (subject to survey) as:

Section 1 (64m<sup>2</sup>)  
Section 2 (31m<sup>2</sup>)  
Section 3 (20m<sup>2</sup>)  
Section 4 (817m<sup>2</sup>)  
Section 5 (43m<sup>2</sup>).

**Recommendation:** That the Council adopt the above resolution.