

12. SUMNER LIFEBOAT INSTITUTION – LAND STATUS ISSUES

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INTRODUCTION

The purpose of this report is to:

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

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

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.

The Board also requested that the issue of road signage on the newly formed legal road be addressed at the public meeting.

This report presents specific recommendations to the Board following public consultation on the legal processes necessary to carry out the proposed actions.

SCOPE AND POLICY

This report is being referred to the Board to resolve under delegated authority to:

1. Approve the 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.

This proposal is consistent with the goals of the Council's community policy.

EXECUTIVE SUMMARY

The recommendations 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 to be managed by signage to appropriately restrict and limit parking. A summary of the proposal is outlined below.

1. 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 public meeting endorsed support for 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.

2. 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.

3. 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 Council as Esplanade Reserve under the Reserves Act 1977 (as required by Section 230 Resource Management Act 1991).

4. Vesting of Sea Bed

On subdivision of 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 and vesting of this area in the Crown would be consistent with the way in which most foreshore is held.

5. 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.

6. Sumner Boating Club

This Incorporated Society, established since the early 1900's, is also 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. 13 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 meeting was convened by the Community Advocate and Community Secretary 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 over due. 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 to 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 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.

NATURAL + PEOPLE + ECONOMIC STEP ASSESSMENT

#	CONDITION:	Meets condition ✓✓0*	HOW IT HELPS MEET CONDITION:
The Natural Step			
N1	Reduce non-renewable resource use	-	No impact
N2	Eliminate emission of harmful substances	✓	Redevelopment will include connection to main services & removal of fuel tank with resultant lessening of discharge to sea
N3	Protect and restore biodiversity and ecosystems	✓	Recognition of foreshore values with shifting of total control to Crown of land below MHWS
N4	People needs met fairly and efficiently	NA	NA - See People Step + Economic Step
The People Step			
P1	Basic needs met	✓	Ensure long term provision of marine rescue services and in doing so improve peoples sense of safety
P2	Full potential developed	✓	Enhance skills and capabilities through training and courses
P3	Social capital enhanced	✓	Create better venue for people to contribute to the common good and well being of others
P4	Culture and identity protected	✓	Continuance of long-established local "institution"
P5	Governance and participatory democracy strengthened	✓	Governance processes will be transparent through consultation
The Economic Step			
E1	Effective and efficient use of all resources	*	Small one off cost short term to avoid potential long term legal tenure issues
E2	Job rich local economy	✓	Local professionals/contractors engaged
E3	Financial sustainability	-	No impact

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

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 Land 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 (125m²) and Section 7 (143m²) 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 (64m²)
Section 2 (31m²)
Section 3 (20m²)
Section 4 (817m²)
Section 5 (43m²).

Staff

Recommendation (with reference to the plans attached):

1. That the Board recommend that the Council adopt the above resolution.
2. That subject to 1 being adopted by the Board, and the Council adopting the resolution set out above, a subdivision of the Council's Days Harbour Title CT 305/68 be applied for and carried out contemporaneously in accordance with City Solutions Drawing 24475/6.
3. That the Board approve the alterations and additions proposed for the Sumner Lifeboat Station Buildings in accordance with the plans presented to the September 2002 meeting of the Board and subject to recommendations 1 and 2 being adopted, grant to the Sumner Lifeboat Institution Incorporated 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 received by 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 Parks and Waterways and City Streets Units.

Chairperson's

That the recommendations be adopted.

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