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## **PROPOSED ROAD STOPPING - LAND ADJOINING 181 CLYDE STREET, ISLAND BAY**

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### **Purpose**

1. This report asks the Regulatory Processes Committee to recommend that the Council stops and sells approximately 34m<sup>2</sup> (subject to survey) of unformed legal road adjoining 181 Clyde Street, Island Bay. Refer to Attachment 1 for location plan.

### **Summary**

2. The owners of 181 Clyde Street have applied to purchase the area outlined in red on Attachment 2 (the Land).
3. Utility providers and relevant Council business units have been consulted. All support the proposal, subject to conditions (where relevant).
4. Initial consultation letters have been sent to four adjoining or adjacent neighbours. At the time of writing this report only one response has been received, with that party having no objection.
5. 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 34m<sup>2</sup> of unformed legal road on Clyde Street, Island Bay, (the Land) adjoining 181 Clyde Street (being Part Lot 311 Deeds Plan 127, ROT WN353/135), is not required for a public work and is surplus to requirements.
  - b) Agrees to dispose of the Land.
  - c) 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**

6. The Land proposed to be stopped extends along the entire front boundary of 181 Clyde Street. It is currently used as a fenced front yard (lawn, garden and paths) by way of an encroachment licence.

7. Should the road stopping proposal be successful the Land would be amalgamated with 181 Clyde Street. The applicants intend to continue using the Land for garden, with the potential to create off street parking.
8. 181 Clyde Street is level with the formed carriageway, with topography rising moderately to its rear boundary. Refer to Attachment 3 for views from street level.
9. In this section of Clyde Street the legal road width is 18m, with the exception in front of 181, 185A and 189 Clyde Street where it widens to approximately 20.5m. If the road stopping proposal is successful 181 Clyde Street's new front legal boundary would align with the rest of this side of the street.
10. 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).
11. 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.
12. Advisors from Council's Transport and Infrastructure unit (Transport) have confirmed the Land is not required for future road widening or public access purposes.
13. Transport required an isolation strip on the extension of the 181/185A Clyde Street legal side boundary, as shown blue on Attachment 2.
14. Relevant Council business units have been consulted and none wish to retain the Land.
15. 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.
16. When road stopping applications are first received officers recently commenced giving the Walking Access Commission the opportunity to comment. The Commission supports the proposal by 181 Clyde Street, without condition.
17. If Council approves the above, officers will establish whether any offer back obligations under section 40 of the Public Works Act 1981 exist.

### **Options**

18. 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.
19. The owners of 181 Clyde Street could continue their use of the Land under their encroachment licence. However that would provide them with less certainty of tenure and limit the scope for better utilisation.

### **Next Actions**

20. Conclude a section 40 PWA acquisition history investigation.
21. Prepare a survey legalisation plan and agreement for the Land.
22. Initiate the public notification process.

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### Attachments

Attachment 1.	Location Plan <a href="#">↓</a> 	Page 40
Attachment 2.	Aerial <a href="#">↓</a> 	Page 41
Attachment 3.	Views at street level <a href="#">↓</a> 	Page 42

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## **SUPPORTING INFORMATION**

### **Engagement and Consultation**

In August 2019 letters were sent to four adjoining or adjacent neighbours of the land proposed to be stopped. The only response received was from one neighbour (179 Clyde Street) who had no objection to the proposal.

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

### **Utility Provider and Council Business Units**

There are no utility assets affected by this proposal, or any easements etc required.

Several business units of the Council were consulted: Transport Networks, Planning, Parks, Sport and Recreation, District Plan Policy, and Vehicle Access. None objected to the road stopping or provided conditional support.

Conditions such as kerb setbacks, the inclusion of isolation strips, amalgamation of parcels and neighbour consultation, have been adopted where applicable.

### **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

