

PROPOSED ROAD STOPPING – LAND ADJOINING 161 HAPPY VALLEY ROAD, ŌWHIRO BAY

Kōrero taunaki | Summary of considerations

Purpose

1. This report to Koata Hātepe | Regulatory Processes Committee asks the Committee to recommend to Council that it stop and sell approximately 82 m² (subject to survey) of unformed legal-road land adjoining 161 Happy Valley Road, Ōwhiro Bay (the Land). Refer to Attachment 1 for the location plan.

Strategic alignment with community wellbeing outcomes and priority areas

Aligns with the following strategies and priority areas:

- | | |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Strategic alignment with priority objective areas from Long-term Plan 2021–2031 | <input type="checkbox"/> Sustainable, natural eco city |
| | <input type="checkbox"/> People friendly, compact, safe and accessible capital city |
| | <input type="checkbox"/> Innovative, inclusive and creative city |
| | <input type="checkbox"/> Dynamic and sustainable economy |
| | <input type="checkbox"/> Functioning, resilient and reliable three waters infrastructure |
| | <input type="checkbox"/> Affordable, resilient and safe place to live |
| | <input type="checkbox"/> Safe, resilient and reliable core transport infrastructure network |
| | <input type="checkbox"/> Fit-for-purpose community, creative and cultural spaces |
| | <input type="checkbox"/> Accelerating zero-carbon and waste-free transition |
| | <input type="checkbox"/> Strong partnerships with mana whenua |

Relevant Previous decisions

N/A

Significance

The decision is **rated low significance** in accordance with schedule 1 of the Council's Significance and Engagement Policy.

- Affects a limited number of individuals, to a low degree
- Has very little public interest.
- Low consequence for Wellington City.
- Low impact on the Council being able to perform its role.

2. Financial considerations

- | | | |
|-----------------------------------------|------------------------------------------------------------------------------|-----------------------------------------|
| <input checked="" type="checkbox"/> Nil | <input type="checkbox"/> Budgetary provision in Annual Plan / Long-term Plan | <input type="checkbox"/> Unbudgeted \$X |
|-----------------------------------------|------------------------------------------------------------------------------|-----------------------------------------|

3. Risk

- | | | | |
|-----------------------------------------|---------------------------------|-------------------------------|----------------------------------|
| <input checked="" type="checkbox"/> Low | <input type="checkbox"/> Medium | <input type="checkbox"/> High | <input type="checkbox"/> Extreme |
|-----------------------------------------|---------------------------------|-------------------------------|----------------------------------|

Overall, the road stopping process is considered to be low risk.

| | |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------|
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| Authoriser | John Vriens, Property Advisory Manager Brad Singh, Transport and Infrastructure Manager Siobhan Procter, Chief Infrastructure Officer |

Taunakitanga | Officers' Recommendations

Officers recommend the following motion

That the Koata Hātepe | Regulatory Processes Committee:

- 1) Receive the information.
- 2) Recommend to Council that it:
 - a. Declare that the approximately 82 m² (subject to survey) of unformed legal-road land in Happy Valley Road (the Land) adjoining 161 Happy Valley Road (Lot 24 DP 21734, held on CT WN911/43) is not required for a public work and is surplus to Council's operational requirements.
 - b. Agree to dispose of the Land.
 - c. Delegate 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 relevant public notices, declaring the road stopped, negotiating the terms of the sale or exchange, imposing any reasonable covenants, and anything else necessary.
- 3) Note that if objections to the road stopping process are received and the applicant wishes to continue, a further report will be presented to the Regulatory Processes Committee for consideration.

Whakarāpopoto | Executive Summary

4. The owner of 161 Happy Valley Road, Ōwhiro Bay (the Owner), has applied to purchase legal-road land adjoining their property.
5. The approximately 82 m² of legal-road land (the Land) proposed to be stopped and sold is shown outlined in red on Attachment 2.
6. Relevant Council business units have been consulted. All support the proposal subject to standard conditions (where applicable).
7. Utility plans have been acquired and examined. The utility services shown on these plans do not appear to conflict with the proposed stopping.
8. Initial consultation letters were sent to the adjoining neighbours; and at the time of writing of this report, no responses have been received.
9. If the Council agrees with the recommendations of the Regulatory Processes Committee, the road stopping will then be publicly notified. At that time, any neighbours, organisations, or any other members of the public will have the opportunity to make a submission.

Takenga mai | Background

10. The Land runs adjacent to a flat shared driveway off Happy Valley Road. To the north, it begins at the centrepiece of the shared stairway with 163 Happy Valley Road. To the south, it encompasses some land set behind a retaining wall along the boundary to 159 Happy Valley Road. Refer to Attachment 3 for site-specific diagrams showing street views.

11. The legal description for 161 Happy Valley Road is Lot 24 Deposited Plan 21734, held on Record of Title WN911/43.
12. The Land is currently used by the Owner under an encroachment licence for a garage, deck, garden, and access stairs.

Kōrerorero | Discussion

13. Advisors from Council's Transport Network Team have confirmed the Land is not required for future road widening or public access purposes. They supported the proposal by specifying the exact stopping area, as determined by a site visit. An isolation strip (shown in green on Attachment 2) will be required on both the 159 and 163 Happy Valley Road side boundaries.
14. Should the road stopping proposal be successful, the Land will be amalgamated with 161 Happy Valley Road, with its current use not proposed to change.
15. Road stopping is provided for under Sections 319 and 342 and the Tenth Schedule of the Local Government Act 1974 (LGA).
16. 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 public work.
17. Disposal of the Land to any other party but the Owner would result in road access issues for the Owner. Therefore, the Owner is considered to be the only appropriate purchaser of the Land. Section 345 of the LGA provides Council with the statutory power to dispose of stopped road to the adjoining owner. This will be further considered and confirmed as part of the Section 40 PWA offer-back investigation officers will undertake should this proposal be approved (see Next Actions).
18. Relevant Council business units have been consulted, and none wish to retain the Land.
19. Council offers are giving Herenga ā Nuku | Outdoor Access Commission the opportunity to comment on road stopping proposals early in the process. The Commission raised no public-access issues relating to the proposal for this road stopping adjoining 161 Happy Valley Road, Ōwhiro Bay.
20. As is normal practice in the early stages of the road stopping process, officers have written to the adjoining property owners to notify them that Council has received the road stopping application. All the owners will be consulted again when formal public consultation is carried out later in the road stopping process.

Kōwhiringa | Options

21. Approve the recommended option.
22. The alternative to the recommended option is to continue with the current situation and manage any appropriate needs through encroachment licence procedures.

Whai whakaaro ki ngā whakataunga | Considerations for decision-making

Alignment with Council's strategies and policies

23. The recommendations of this report are consistent with the Council's Road Encroachment and Sale Policy 2011.

Engagement and Consultation

24. Letters were sent to the relevant adjoining property owners, notifying them that Council had received this road stopping application. At the time of preparing this report, no response has been received.
25. These neighbouring owners will be consulted again when the formal public consultation is carried out later in the road stopping process, and they will have an opportunity to enter a written submission if they so choose.

Implications for Māori

26. Due to the legal restrictions on the Land, the adjoining owner is the only possible purchaser. No other parties, including our Tākai Here partners, are able to purchase the Land.
27. This road stopping proposal was sent to our partners for their information and for comment in June 2023.
28. We note that the Land is not in the Operative or Proposed District Plans as being located on or near any currently identified Sites and Areas of Significance to Māori. Should a site or area of significance to Māori be identified in the future, we will re-engage with our partners to ensure that the appropriate tikanga and protocols are upheld.
29. Given the nature of this road stopping proposal and all the information gathered and examined, officers believe that disposal of the Land to the adjoining owner has no known implication for Māori.

Financial implications

30. There are no significant financial considerations related to this recommendation. Any costs associated with the disposal of the Land will be recovered from the applicant, and the proceeds of the sale are directed toward the general fund.

Legal considerations

31. The road stopping process is consistent with both legislative and Council requirements.

Risks and mitigations

32. Overall, this proposal is rated low on Council's risk framework.

Disability and accessibility impact

33. There are no known accessibility impacts for this road stopping.

Climate Change impact and considerations

34. There are no known climate change implications for this road stopping.

Communications Plan

35. Public consultation in accordance with the Tenth Schedule of the LGA will be carried out later in the road stopping process. At this time, we will also advise the local residents association.

Health and Safety Impact considered

36. Officers are not aware of any negative health and safety impacts relating to the proposal.

Ngā mahinga e whai ake nei | Next actions

37. The proposed next steps, subject to the Council's approval of the recommended option, are to:

- a) Conclude a Section 40 PWA investigation.
- b) Prepare a Survey Office Plan.
- c) Prepare a Sale and Purchase Agreement.
- d) Begin the public-notification process.

Attachments

Attachment 1. Location Plan – 161 Happy Valley Road
Attachment 2. Aerial – 161 Happy Valley Road
Attachment 3. Street Views – 161 Happy Valley Road