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## **PROPOSED ROAD STOPPING - LAND ADJOINING 42 VIEW ROAD, HOUGHTON BAY**

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### **Purpose**

This report asks the Regulatory Processes Committee to recommend that the Council stops and sells approximately 85m<sup>2</sup> (subject to survey) of unformed legal road adjoining 42 View Road, Houghton Bay. Refer Attachment 1 for location plan.

### **Summary**

1. The owner of 42 View Road, Houghton Bay has applied to purchase the area outlined in red in Attachment 2 (the Land).
2. Utility providers and the Council's internal business units have been consulted. All support the proposal subject to standard conditions (where applicable).
3. Initial consultation letters have been sent to five immediate neighbours. At the time of writing this report none of these parties contacted officers, but a sixth property owner did. All of these property owners will be included in future correspondence.
4. If the Council approves officers' recommendation then public notification will commence. Neighbours and any other member of the public will then 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) Declares that approximately 85m<sup>2</sup> (subject to survey) of unformed legal road land in View Road, Houghton Bay, shown outlined red on Attachment 2 (the Land), and adjoining 42 View Road (being Lots 7 and 8 DP 4221 CFR WN425/24) is not required for a public work and is surplus to Council requirements.
  - b) Agrees to stop the legal road and dispose of the Land referred to above.
  - c) Declares that approximately 1m<sup>2</sup> (subject to survey) of unformed legal road land in View Road, Houghton Bay, highlighted blue on Attachment 2 and adjoining 42 View Road (being Lots 7 and 8 DP 4221 CFR WN425/24) is not required for road.
  - d) Agrees to stop approximately 1m<sup>2</sup> (subject to survey) of unformed legal road (shown blue on Attachment 2) for use as an isolation strip.
  - 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 relevant public notices, declaring the road stopped, negotiating the terms of sale or exchange, impose any reasonable covenants, and anything else necessary.
3. Notes that if objections are received to the road stopping, and the applicant wishes

to continue, a further report will be presented to the Regulatory Processes Committee for consideration.

## **Discussion**

5. The Land is slopes gently down from the formed carriage way and comprises lawn, vegetation, part of the applicants garage and driveway. (View from Cockayne Road in Attachment 3).
6. Should the road stopping proposal be successful the Land would be amalgamated with 42 View Road.
7. The applicant is interested in purchasing the Land as they want to landscape their current encroachment licence area to create a safe play environment for a special needs child. Preferring to do that with security of ownership rather than continuing with the encroachment licence.
8. 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).
9. 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.
10. Advisors from Council's Transport and Infrastructure unit have confirmed the Land is not required for future road widening or public access purposes. They supported the proposal subject 3m legal road land from the kerb line on the applicant's side of View Road being retained. An isolation strip would be required on the extension of the 42/40 View Road side boundaries, as shown blue on Attachment 2.
11. Relevant Council business units have been consulted and none wish to retain the Land.
12. As is normal practise in the early stages of the road stopping process officers have written to the five immediate neighbours notifying them that Council had received this road stopping application. At the time of preparing this report no response had been receive, but another neighbour did make enquiries. All of these owners will be consulted again when the formal public consultation is carried out later in the road stopping process.
13. If Council approves the above, officers will establish whether any offer back obligations under section 40 of the Public Works Act 1981 exist.

## **Options**

14. The alternative to undertaking the road stopping is to retain the Land as unformed legal road. In the long term this will incur maintenance and retention costs on land that Council no longer requires.

## **Next Actions**

15. Conclude an investigation in accordance with s40 PWA.
16. Initiate the public notification process.

17. Prepare a survey plan and Sale and Purchase contract.

### **Attachments**

- Attachment 1. Location plan
- Attachment 2. Aerial
- Attachment 3. Views from street

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## **SUPPORTING INFORMATION**

### **Engagement and Consultation**

#### ***Community***

In September 2018 letters were sent to five immediate neighbours of the land proposed to be stopped. At the time of preparing this report no response had been received, but another neighbour did make enquiries.

All of 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***

The applicant is obliged to obtain comments from utility providers prior to submission of the application. None have objected to the road stopping.

Wellington Electricity Lines Limited have assets running through the subject land. The assets will either be relocated or an easement registered on the title (at the expense of the new owner).

Wellington Water Ltd advised the toby may need to be relocated to ensure that it remains in legal road land. Exact positioning relative to the new legal boundary will be confirmed by survey, and if required the toby will be relocated at the applicants expense.

Several relevant Council business units were consulted in addition to the Transport and Infrastructure unit:

i.e. Parks, Sport and Recreation, City Consent and Compliance, District Plan, Urban Design, and Vehicle Access.

None objected to the road stopping.

City Planning and Design supported on the condition that the approximately 85m<sup>2</sup> parcel of road to be stopped adjoining 42 View Road is to be amalgamated with that property. Also due to new front yard rule requirements being triggered consult with the owners of 41A, 45 and 47 View Road.

#### **Treaty of Waitangi considerations**

Iwi groups have not been consulted. 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 related to this recommendation. Any costs associated with the disposal of the Land are borne by the applicant or subtracted from sale proceeds per the 2011 cost sharing initiative.

In August 2011 a new cost sharing incentives for road stoppings were approved by Council. The rebate amount is determined at the end of the road stopping process when all of the costs are known.

#### **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 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.

**Communications Plan**

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

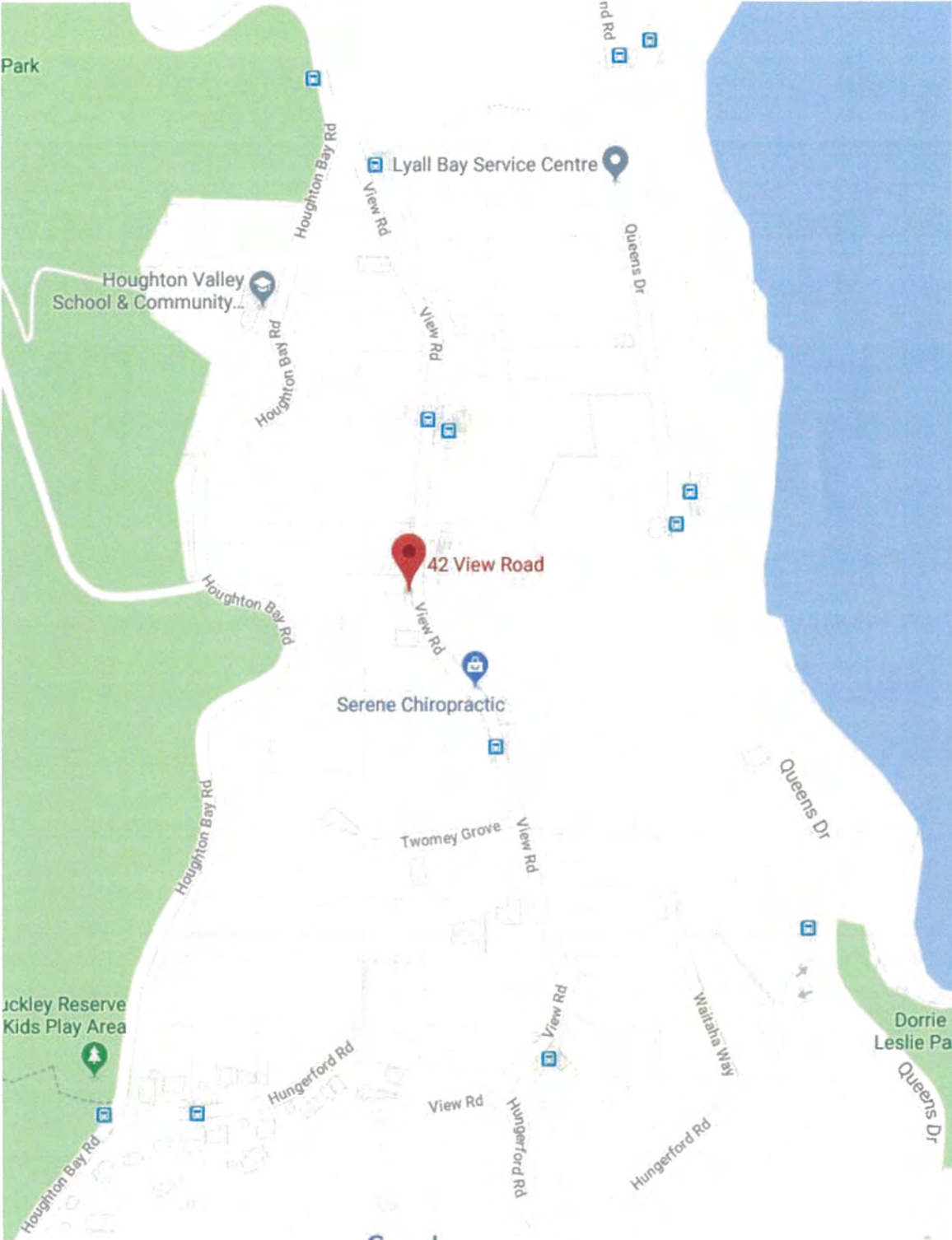
**Health and Safety Impact considered**

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





Location Plan













Views from street



