

Mayor and Councillors
COUNCIL

10 DECEMBER 2015

Meeting Status: **Public**

Purpose of Report: For Decision

HARRY SHAW WAY RESERVE REVOCATION

PURPOSE OF REPORT

- 1 This report recommends the Council does not revoke the reserve status at 27 Harry Shaw Way, Raumati and recommends ownership of the formed Cycleway, Walkway and Bridleway (CWB) over this portion of the land is held by Council.

DELEGATION

- 2 The Council has the authority to make this decision.

BACKGROUND

- 3 On 19 June 2014 Council approved the transfer of various parcels of land under a Memorandum of Agreement (MOA) under Section 50 of the Public Works Act 1981 to the Crown¹ for the Kāpiti Expressway Project. Part of the resolution was to take any steps required by the Council to give effect to the revocation of the Local Purpose Reserve Land (road) under Section 24 of the Reserves Act 1977.
- 4 There were three parcels of land identified in the MOA which require their reserve status to be revoked before Council transfers the land to the Crown for use in connection with the Expressway.

1	31a Puriri Road, Waikanae	WN50D/559	Lot 58 DP 16850	613 sq m
2	Isolation Strip, Kapiti Road, Paraparaumu	WN44B/399	Lot 3 DP 78602	5 sq m
3	27 Harry Shaw Way, Raumati	WN54D/864	Lot 28 DP 87351	1,229 sq m

- 5 On 16 April 2015 Council approved not upholding the objections to Puriri Road and Kapiti Road and a request has been made to the Minister of Conservation to approve the revocation of these two reserves. A response to this request has yet to be received. See Appendix One for a copy of report CS-15-1506.
- 6 At the same meeting Council agreed:
 - 6.1 **“That the motion to not uphold the objections to the reserve revocation of 27 Harry Shaw Way (WN54D/864) be let lie on the table. And Staff will meet with the New Zealand Transport Agency (NZTA) to establish the**

¹ Any references to the Crown, New Zealand Transport Agency (NZTA) or Mackays to Peka Peka (M2PP) in this report are used interchangeably.

requirements for the Cycleway, Walkway and Bridleway and their development plans for the block of land with a report back to Council”.

- 7 Further discussions have taken place with NZTA and in early November councillors were briefed by an independent planner on the development potential of the surplus NZTA land at the rear of 27 Harry Shaw Way through to Poplar Avenue.
- 8 A copy of part of this presentation is attached as Appendix Two.
- 9 The proposal to revoke the reserve status of this land needs to be considered as part of the larger land at the rear which could be declared surplus and developed into residential/rural lots in the future.
- 10 The surplus land is a large block of land that could have multiple access points and a decision made now could limit these access points.
- 11 The land has not been declared surplus by NZTA and there is a legal process that needs to be followed when disposing of public land (see appendix two for details).
- 12 At this stage it is unknown who the eventual owner will be. If a developer is the owner they will submit to Council a development plan for the area which will be assessed on its merits at that time. This will include whether or not the land at 27 Harry Shaw Way and other local purpose reserve (road) parcels in the vicinity should be used as access points.

ISSUES AND OPTIONS

Current and future use of the land

- 13 Officers have discussed the requirements with NZTA for a CWB connection into the local network (approximately three metres wide) from the M2PP Expressway and it has been identified that approximately 100m² of the land is required for this CWB link.
- 14 The land is currently held for Local Purpose Reserve (Road). This could provide for the creation of a potential future road connection to the adjacent land and is a key reason for creating these types of reserves in and adjacent to subdivision developments.
- 15 Allowing NZTA to build the CWB connection on this portion of the reserve land will not affect any decision about the future use or development of the land. For example, it would not prevent a developer of the land at the rear applying to Council as part of a resource consent process for a future subdivision to convert the land to road if required. Any such proposal would be subject to a Council decision making process and would be assessed on its merits within the statutory framework of the time.
- 16 There is currently no application to develop this land and only assumptions can be made as to the development potential of the land given the District Plan zoning and rules. No final decisions should be made until a developer has assessed the potential of the land and produces a development plan which takes into account all the identified effects and constraints.
- 17 This decision will not prevent NZTA adhering to the Board of Inquiry requirements for a CWB in this location. Council can allow NZTA to build the

CWB and transfer ownership of the formed path to Council to add to its current local CWB network.

Ongoing maintenance of the CWB

- 18 Harry Shaw Way Road Reserve is approximately 1200m² in area. However, when the berms and verges around the head of the cul de sac, the defensible space mown for fire safety and the nearby playground and tennis court reserves are all included, the overall area mown by Council in the immediate vicinity is in excess of 3,000m² of turf.
- 19 Council currently maintains this land on an approximately 3 week mowing rotation. Therefore the net reduction in mown grass due to the presence of the shared path entry (approximately 100m²) is negligible and insignificant when viewed in light of the overall maintenance costs incurred by the Council. The CWB connection will be a concrete shared path which will have a design life of 50+ years provided heavy vehicles are kept from traversing over and damaging the pavement and would be equivalent to replacing a single driveway and kerb crossing.
- 20 Therefore the budget implication of taking over 100m² of CWB is minimal in terms of ongoing maintenance.

Option 1 – Recommend to not revoke the reserve status and own the formed section of CWB over 27 Harry Shaw Way

- 21 If the Council agrees to not revoke the reserve status, the process ends and the reserve status of the land would not be revoked.
- 22 Council would retain ownership, maintenance and control over the future use of the land.
- 23 As discussed in the previous report (CS-15-1506 appendix 1) submitters oppose the revocation due to a number of points, one being the uncertainty over the use of surplus land at the rear.
- 24 By retaining ownership it will allow Council to be in a position to work with a developer to ensure the best outcome is achieved during development of the potentially surplus land. This will include (but is not limited to) appropriate access points, amenity opportunities, assessment of the effects etc
- 25 Agreement would be given to NZTA to access the land to build a portion (approximately 100m²) of the CWB and ownership will revert to Council for the formed path.
- 26 This is the recommended option.

Option 2 – Recommend to not uphold the objections and continue with revoking the reserve status and building of the CWB connection

- 27 Under this option the Council would not uphold the objections and would recommend to the Minister of Conservation to revoke the reserve status of the land.
- 28 If the Minister agrees the land would be disposed of to NZTA as per the MOA and the funds would be added to Council's reserve budget.

- 29 If NZTA owns the land they will be responsible for maintenance of the CWB and the land could be included in a disposal programme along with the surplus land at the rear.
- 30 If the land is sold the Council may have less control over the future use of the land.
- 31 This is not a preferred option at this stage but could become an option in the future once a development plan is submitted for the land at the rear.

CONSIDERATIONS

Policy considerations

- 32 There are no policy implications.

Legal considerations

- 33 Department of Conservation (DOC), Council's legal department and external solicitors have been consulted throughout this process.
- 34 Section 24 of the Reserves Act 1977 outlines the process to revoke reserve status. Section 24 (2) (b) requires the Council to seek feedback from DOC prior to commencing a proposed revocation. DOC responded on 8 October 2014 confirming the process to follow when undertaking a reserve revocation. This process has been followed.
- 35 Council's solicitors will continue to be involved in any further steps of the process and have confirmed if the reserve revocation is not completed there are no legal implications to consider with regards to the MOA with the Crown for 27 Harry Shaw Way.

Financial considerations

- 36 If the proposed reserve revocation process was successful the Council would have disposed of the land to the Crown at market value. The value (\$191,304) was agreed when the MOA was signed through a valuation process as prescribed by the Public Works Act 1981.
- 37 This asset was not held as land for sale and will remain on the asset register.
- 38 The Crown is liable for all reasonable costs involved in revoking the reserve status.

Tāngata whenua considerations

- 39 There are no known tāngata whenua issues with this site.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 40 This matter has a low level of significance under Council policy.

Consultation already undertaken

- 41 Public notices were published in the Kapiti Observer as per the requirements of the Reserves Act 1977.

42 No further consultation is required.

Engagement planning

43 An engagement plan is not needed to implement this decision.

Publicity

44 All submitters were advised of the Council meeting and given the opportunity to attend.

45 A press release will be issued once a decision is reached.

RECOMMENDATIONS

That the Council:

46 Agrees to not revoke the reserve status of 27 Harry Shaw Way (WN54D/864) pursuant to the Reserves Act 1977 (CS-15-1700).

47 Authorises the Chief Executive to undertake discussions with NZTA to ensure the formed Cycleway, Walkway and Bridleway to be constructed at 27 Harry Shaw Way is owned by the Council (CS-15-1700).

48 Notes that the land at 27 Harry Shaw Way (WN54D/864) will be assessed as a potential access point to the surplus land between Poplar Ave and 27 Harry Shaw Way if the land is developed in the future.

Report prepared by	Approved for submission	Approved for submission
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ATTACHMENTS

Appendix 1 – Report CS-15-1506

Appendix 2 – Presentation by Robert Schofield, independent planner