

REPORT

TO: Chief Executive

FOR: Council Meeting – 11 September 2019

FROM: Rob Allen – Acquisitions, Disposals and Leasing Manager
Andrew Mazey – Asset Manager Transportation

DATE: 30 August 2019

SUBJECT: PROPOSED ROAD STOPPING AND SALE – PART OF UNNAMED AND UNFORMED LEGAL ROAD BETWEEN HESLERTON ROAD AND SHEATS ROAD, ADJACENT TO THE MAIN SOUTH RAILWAY LINE

RECOMMENDATION

‘That Council:

- (a) Approves the proposed road stopping of the section of unnamed and unformed legal road situated between Heselton Road and Sheats Road. The road to be stopped adjoins five properties and the Main South Railway Line, Rakaia, being approximately 2.41km in length and 2.4100 ha in area (subject to survey); and,*
- (b) Pursuant to Section 117 of the Public Works Act 1981 or Section 345 of the Local Government Act 1974 (whichever is appropriate) for that the area of stopped road be disposed of to Synlait Milk Limited.*
- (c) Notes that Synlait Milk Limited will pay all of the costs associated with the road stopping process or the market value of the land, whichever is the greater.*

1. PURPOSE

The purpose of this report is to recommend Council provides approval to:

- Stop the section of unnamed and unformed legal road between Heselton Road and Sheats Road, shown in red on the plan attached as Appendix A (“the Proposed Stopped Road”). This is for the purpose to establish a rail siding to service Synlait Milk Limited (Synlait) dairy plant operations near Dunsandel.
- The Proposed Stopped Road adjoins the Main South Railway Line to the north and five properties to the south, being:
 - Lot 3 Deposited Plan (“DP”) 414579 held in Record of Title (“RT”) 845687, with Orion New Zealand Limited recorded as registered proprietor;

Lot 2 DP 526551 held in RT 845688, with Synlait recorded as registered proprietor (“Synlait’s Land”);

- Lot 2 DP 414579 held in RT 454868, with Theland Purata Farm Group Limited recorded as registered proprietor;
 - Water Race Reserve shown on Survey Office Plan 1271; and
 - Reserve 1287 held in Canterbury Provincial Gazette 1871 p 195, vested in the New Zealand Railways Corporation,
- Process the Proposed road stopping in accordance with Section 116 of the Public Works Act 1981 (“the PWA”);
 - Alternatively, if the Minister for Land Information (“the Minister”) does not give approval under Section 116 of the PWA, stop the Proposed Stopped Road in accordance with Schedule 10 of the Local Government Act 1974 (“the LGA”); and
 - Subsequently sell the Proposed Stopped Road to the adjoining owner, Synlait, given that Synlait will meet all associated costs of the proposed road stopping or the value of the Proposed Stopped Road, whichever is the greater.

2. HISTORY/BACKGROUND

Duncan Cotterill as solicitor for Synlait has approached Council regarding the stopping of the Proposed Stopped Road.

Synlait plans to construct a rail siding off the Main South Railway Line, as shown in the diagram attached as Appendix B. As part of the rail siding works, Synlait needs to extend an existing earth bund for noise attenuation purposes and to screen the industrial activities from State Highway 1. There is insufficient space on Synlait’s Land to fit the necessary rail siding (three tracks), the load out area from the drystore, and the bund. Therefore, Synlait seek to use the Proposed Stopped Road for the proposed infrastructure and activities associated with establishing the rail siding.

It is noted that Synlait has inadvertently erected the existing earth bund on part of the Proposed Stopped Road adjacent to the current drystore buildings in its development of the land for its milk processing plant. Synlait is of the opinion that the bund has not prevented any public use of the Proposed Stopped Road typically associated with an unformed “paper” road. To rectify the situation it would require substantial earthworks to reform the bund and would mean that Synlait would be unlikely to meet resource consent conditions related to the purpose of it.

Synlait requires a minimum length of 1504.4m of the Proposed Stopped Road, from the intersection with Heslerton Road to the point that the rail sliding joins the Main South Railway Line. This would leave approximately 929.6m between the point that the rail siding joins the Main South Railway Line to the intersection with Sheats Road.

Synlait considers that the leftover road would be of no use to the Council or the public;

- As it would serve no local access purpose, and so is highly unlikely to ever be developed as a local road and Council staff support this view;
- Access over the rail line from State Highway 1 would not be ever likely to be agreed by KiwiRail to connect to it for any public or private purpose; and
- The Main South Railway Line location and Synlait rail siding and factory significantly impact the ability of NZ Transport Agency (NZTA) to widen State Highway 1 towards Synlait's Land.

Synlait via its solicitors have provided an undertaking that it will meet the costs associated with the stopping and subsequent sale or the market value of the Proposed Stopped Road, whichever is the higher of the two.

The adjoining owners are being consulted in respect of their written consent required for the proposed road stopping. Public notification is also required for the proposed stopping under Council Policy R424 – Road Stopping (“the Road Stopping Policy”) which will be carried out. If the PWA road stopping process is able to be used then there is no requirement to publicly notify but it will still be notified as required under Council Policy R424.

3. PROPOSAL

The purpose of this report is to seek Council's approval to the stopping of the Proposed Stopped Road under Section 116 of the PWA, or alternatively under Section 342 of the LGA according to the process outlined in the Tenth Schedule of the LGA. This gives effect to the Recommendation (b) of this report.

SDC has engaged The Property Group Limited (“TPG”) as an accredited supplier to undertake the road stopping and obtain the Minister's consent which is necessary because the sections of road are located in a rural area.

There is a Council water race within the Proposed Stopped Road. Synlait has confirmed that the water race alignment can remain in its current location. The Council Water Race Manager has advised that an easement will be required for the benefit of the Council to allow for the operation and maintenance of the water race. Where ever necessary the water race will be accommodated and/or protected in accordance with Councils requirements at Synlait cost.

Public notification of the intention to close the Proposed Stopped Road will be advertised in accordance with the Road Stopping Policy. There are no anticipated objections to the proposal as the Proposed Stopped Road is not currently used by the public. Assuming no objections are received the Proposed Stopped Road will be stopped and subsequently amalgamated into the title for Synlait's land.

Notwithstanding the foregoing, if the Proposed Stopped Road is stopped under the LGA, pursuant to Clause (d) of the Road Stopping Policy:

- Half of the Proposed Stopped Road adjoining the Main South Railway Line will be offered for sale to the New Zealand Railways Corporation in the first instance; and

- The other registered proprietors along the south-east half of the Proposed Stopped Road are also considered to be categorised as “adjacent landowners”.

Practically speaking, as Synlait is consulting these owners in respect of their written consent for the proposed road stopping, it is not envisioned that issues will arise in respect of Clause (d) of the Road Stopping Policy and they will consent to the stopped road being sold to Synlait.

All costs associated with the road stopping application and legalisation will be borne by Synlait. These costs include those of consultants, survey, valuation, legal, and advertising.

4. OPTIONS

Council could decide not to approve the proposed road stopping, however, there is no anticipated or likely future requirement for the section of road by either Council or the NZTA due to the presence of the main rail line. The area between the rail line and State Highway 1 has already been widened out near Heslerton Road when the main rail line was shifted over when the Synlait dairy plant was originally built.

The intention is to use the PWA process as the first preference to stop the road. This is in reference that the new rail siding assists and supports the use of the national rail carrier network to move bulk freight, which in turn reduces the use of heavy vehicles on the public roading network. Currently Synlait transports all goods to and from its plant at Dunsandel by road. Reducing this is of public benefit including improving connections to Ports through the use of rail. Recommendation (b) to this report covers that if the PWA process is not deemed appropriate at any point the LGA process can be used instead.

The proposed stopping relieves Council of a redundant asset and allows funds to be used elsewhere. In addition, the proposal supports community outcomes for a prosperous community and economic development by facilitating the business development of the adjoining owner, Synlait.

5. VIEWS OF THOSE AFFECTED/CONSULTATION

(a) Views of those affected

Synlait is consulting with the adjoining owners to seek their written consent to the proposed road stopping. At the date of this report there are no indications as to whether any of the adjoining owners will or will not consent to the proposed road stopping.

The Proposed Stopped Road is not currently used by the public that anyone is aware of, or any evidence on site to suggest this.

(b) Consultation

If road stopping is carried out under the PWA, consultation will occur according to the process outlined in the Council's Road Stopping Policy 464.

If the road stopping is carried out under the LGA, public consultation will occur according to the processes outlined in the Council's Road Stopping Policy 464 and also in the Tenth Schedule of the LGA.

(c) Māori implications

Not applicable.

6. FUNDING IMPLICATIONS

Synlait via their solicitors have undertaken to pay all of the costs associated with the road stopping or the market value of the Proposed Stopped Road, whichever is the higher of the two. The costs are likely to include survey fees, legal fees, accredited agent fees, valuation fees, Land Information New Zealand (LINZ) fees and advertising costs.

7. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

In relation to stopping the Proposed Stopped Road, the issue and decision in relation to this matter has been assessed against the Significance and Engagement Policy and is regarded as having a low level of significance for the following reasons:

- It does not affect a large portion of the community and is therefore inconsequential;
- It does not have a potential impact or consequence on the affected persons that is substantial;
- It does not have financial implications on the Council's resources as Territorial Authority;
- It is unlikely to generate a high degree of controversy as it will assist in reducing the number of large trucks and vehicles on Districts network
- It will also be subject to public notification as required by the Road Stopping Policy and, if applicable, Section 342 of the LGA;

8. RELEVANT POLICY/PLANS

The Proposal conforms to the Road Stopping Policy.

9. COMMUNITY OUTCOMES

The proposed road stopping contributes to achieving the following community outcomes:

COMMUNITY OUTCOME	HOW THE OUTCOME IS SUPPORTED
A Prosperous Community	<p>The Council's business friendly approach and aim of encouraging and supporting local businesses.</p> <p>The Council's approach to support the districts strong existing agricultural and other land-based sectors.</p> <p>Promotes economic development of the district.</p>
An Accessible District	Provide a well-maintained, operated and affordable land transport system

10. NEGATIVE IMPACTS

No negative impacts have been identified in relation to this proposal.

11. LEGAL IMPLICATIONS

The proposed road stopping is to be undertaken under Section 116 of the PWA.

Alternatively, if the Minister for Land Information does not give approval under Section 116 of the PWA, the proposed road stopping is to be undertaken pursuant to Section 342 of the LGA in accordance with the provisions of the Tenth Schedule.

12. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

- 12.1 Consultation has been undertaken with the Roding section who support the proposal as this will help achieve less traffic on the State Highway and adjacent local roads and the proposed road to be stopped serves no strategic or operational value.
- 12.2 Water Services have confirmed that it has no objections to the proposal subject to works and an easement being put in place to cater for and protect the nearby water race
- 12.3 Planning will be consulted in due course as part of the formal road stopping process and should they wish for any sale of the stopped road to be

amalgamated with Synlaits adjacent land then this will be implemented on disposal.

A handwritten signature in black ink, appearing to read 'Rob Allen', with a stylized flourish underneath.

Rob Allen
ACQUISITIONS, DISPOSALS & LEASING OFFICER

A handwritten signature in blue ink, appearing to read 'Andrew Mazey', with a stylized flourish underneath.

Andrew Mazey
ASSET MANAGER TRANSPORTATION

Endorsed For Agenda


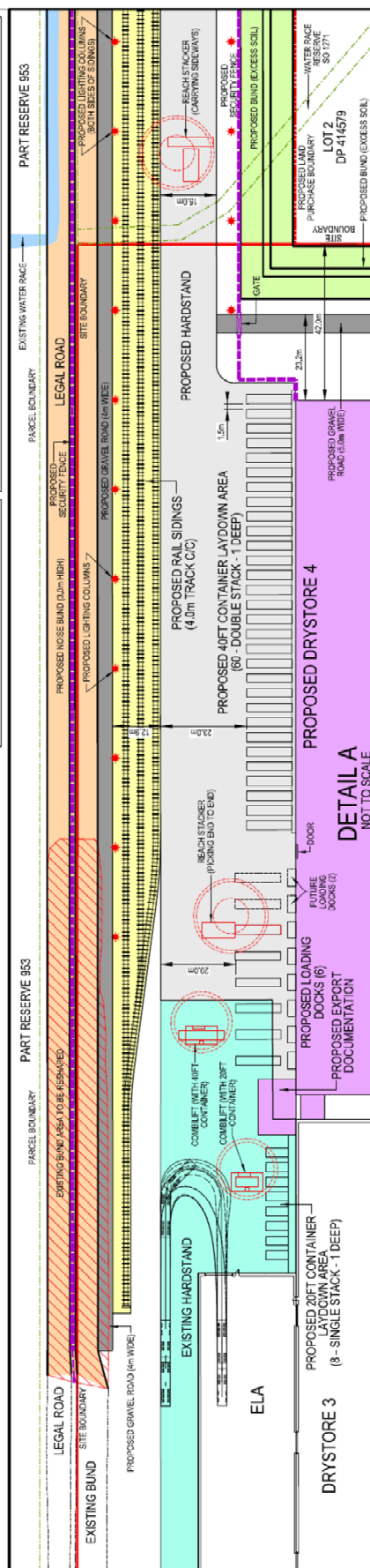
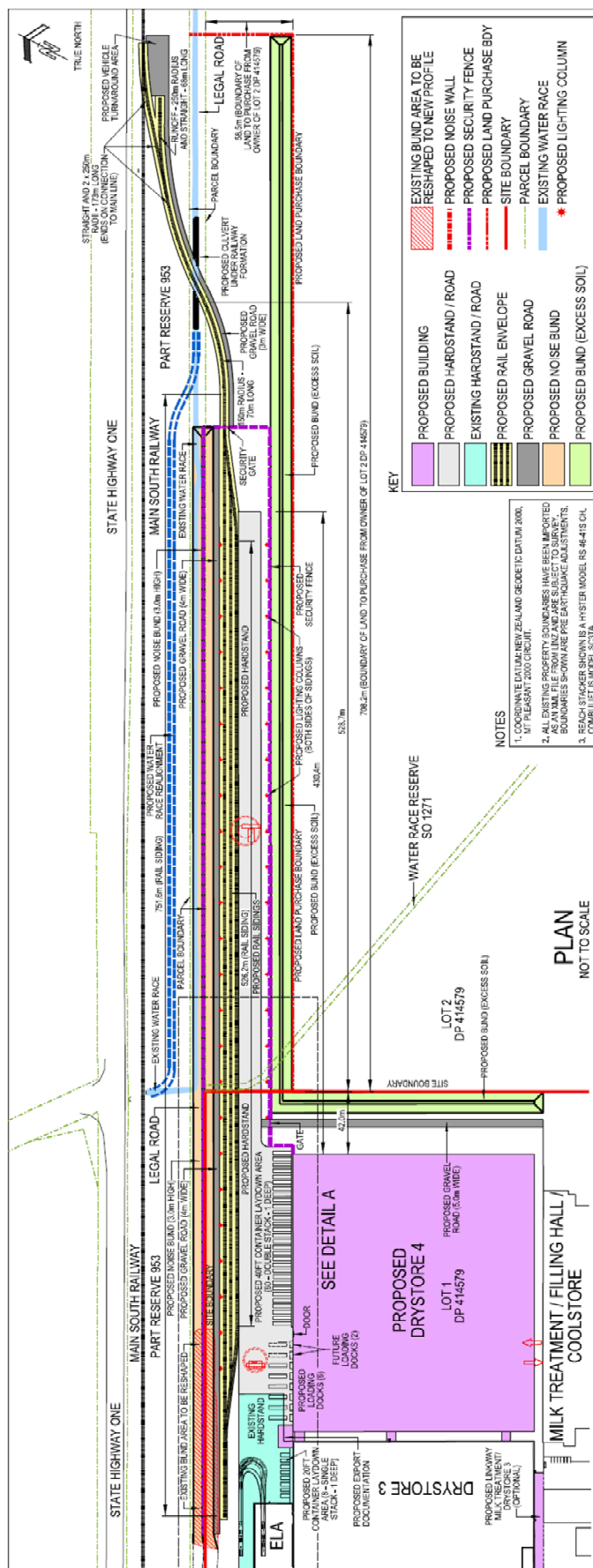
A handwritten signature in black ink, appearing to read 'Douglas Marshall', with a stylized flourish underneath.

Douglas Marshall
GROUP MANAGER - PROPERTY

APPENDIX A



APPENDIX B



Seabridge Consultants Limited
Level 4, 68 Beach Road, Auckland 1010
PO Box 2027, Shortland Street
Auckland 1140, New Zealand
T 09 379 9980 F 09 377 1170
seabridge@seabridge.co.nz www.seabridge.co.nz

CLIENT / PROJECT
SYNLAIT MILK LTD.
DRYSTORE 4
DUNSANDEL

	DATE	INITIAL
DESIGNED	25.02.2019	MJD
DRAWN	25.02.2019	MJD
DESIGN CHECK	11.03.2019	WIC
DRAWING CHECK	11.03.2019	MJM
APPROVED	11.03.2019	MJM

RAWING REVISIONS	DATE	DRN
REV		

DRAWING TITLE
PROPOSED SITE
LAYOUT PLAN

SCALE
NOT TO SCALE

CALE

CB NO.	DRAWING NO.	REVISION
62104	C100	-