

QLDC Council
9 March 2017

Report for Agenda Item: 6

Department: Property & Infrastructure

Nook Road Stopping and Sale

Purpose

The purpose of this report is to consider stopping a small part of Nook Road, Hawea and selling that area to the adjoining neighbour.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Approve** initiation of the procedures of section 116 of the Public Works Act 1981 to stop that portion of road shown on the attached C. Hughes and Associates plan No W925 highlighted and labelled "A" with a total area of 179 square metres; and
3. **Approve** the road, when stopped, being disposed of in accordance with sections 117 & 120(3) of the Public Works Act 1981 and amalgamated with the adjoining land held in Computer Freehold Register OT6C/339; and
4. **Approve** the disposal of the stopped road for \$16,000 (plus GST if any) less the costs incurred; and
5. **Agree** that Council's approval to undertake this process and any sale and purchase agreements relating to it shall be limited to a period of 3 years from the date of this resolution; and
6. **Approve** Council's costs in undertaking the procedures of the Public Works Act 1981 be billed and paid on a monthly basis by the applicant; and
7. **Delegate** final terms and conditions along with approvals for any placing or removal of easements in favour of Council, minor alignment and area changes, pro-rata changes in sale price based on area and signing authority to the Chief Executive of Council.

Prepared by:

Reviewed and Authorised by:



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17/02/2017



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General Manager, Property &
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22/02/2017

Background

- 1 Nook Road is a rural road to the east of the Lake Hawea township. It services a small number of rural properties.
- 2 Pietro Bercelli owns a property legally known as Section 14 Blk XIII Lower Hawea SD that borders Nook Road. That land was donated by Mt Grant Station to the government in the late 1940's. The Government built a rabbit board house on the property and over the years added to the building, the latest addition being an addition to the bathroom in 2002. Resource consent was granted by Council for that extension.
- 3 Unfortunately, part of the building was constructed outside the legal boundary of the property and on the legal alignment of Nook Road. This only came to light recently when the owner sought a LIM report to facilitate the sale of the property. The owner has investigated a range of options to remedy the problem including moving the house and garage, but that is not possible because those buildings are on a concrete foundation. Mr Bercelli has asked that the affected road be stopped and sold to him so that it can be included into his certificate of title.
- 4 The legal alignment of Nook Road is currently 20.12 metres. The proposed stopping would result in the road width being 13.62 metres at its narrowest point. Beyond this property, the road currently only services two other properties so has minimal use. The current formed road is approximately four metres wide.
- 5 A valuation has been undertaken. The value of the land is \$16,000 plus GST (if any).

Comment

- 6 The process of stopping this portion of road would be undertaken pursuant to section 116 of the Public Works Act. Section 116 requires that either adequate road remains or that all adjoining owners consent to the stopping. The applicant has advised that he has consulted informally with the other property owners on Nook Road, but he would need to provide their consent in writing for the stopping to be approved by the Minister of Lands.
- 7 The value of the land is \$16,000 plus GST. The applicant will need to pay the costs of closing the road and upon settlement, those costs are deducted from the sale price. In this case the costs may be higher than the value, and the applicant would still need to meet those costs. Costs are recharged to the applicant

monthly. If the stopping is not concluded for any reason, the applicant bears the costs incurred.

- 8 As is seen from the plan, the applicant has asked to stop a larger area of road than the current footprint of his buildings, being a total of 179 square metres. This is to align the legal boundary with the fenced boundary. Council could choose just to approve stopping for the building areas. The area would be approximately 80 square metres, valued at \$7,200 (plus GST if any).
- 9 Council's Chief Engineer has been consulted on the application and approves of the stopping. Council does not have any in-ground infrastructure on the existing legal road.

Options

- 10 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.
- 11 Option 1 Agree to initiate the road stopping procedures for 179 square metres of Nook Road as shown, and sell the road to the adjacent property owner for \$16,000 (plus GST if any).

Advantages:

- 12 Will enable the adjoining property owner to include the land upon which his house is located on the certificate of title, and therefore facilitate his sale of the property.
- 13 Will generate income for Council, albeit a minimal amount.

Disadvantages:

- 14 Will see the legal width of Nook Road reduced.
- 15 Option 2 Agree to initiate the road stopping procedures for 80 square metres of Nook Road as shown, and sell the road to the adjacent property owner for \$7,200 (plus GST if any).

Advantages:

- 16 Will enable the adjoining property owner to include the land upon which his house is located on the certificate of title, and therefore facilitate his sale of the property.

Disadvantages:

- 17 Will be unlikely to generate any income for Council (because the road stopping costs may be higher than the sale price).
- 18 Will result in the house being located on the legal boundary with Nook Road (i.e. will not include the fenced area).

- 19 Will see the legal width of Nook road reduced.
- 20 Option 3 Decline the request in which case the owner will likely have to demolish part of the house.

Advantages:

- 21 Will see the legal width of Nook Road remaining at 20 metres.

Disadvantages:

- 22 Will not be a practical outcome for the property owner, or resolve the encroachment.
- 23 Will not generate any income for Council.
- 24 This report recommends **Option 1** for addressing the matter because, although it will see the width of Nook Road reduced, will ensure a reasonable width of road remains for this location, and will enable the property owner to legalise the encroachment and eventually sell his house.

Significance and Engagement

- 25 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because the issue relates to roads, identified as a strategic asset. In this case the significance is medium because the portions of road to be stopped are minimal and will not affect the functionality of the road.

Risk

- 26 This matter relates to the strategic risk SR3, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because stopping roads must follow the process detailed in the Public Works Act.
- 27 This report addresses the risk by seeking a Council resolution to stop the road, enabling the correct process to be commenced.

Financial Implications

- 28 The applicant has agreed to pay all costs incurred by Council to enact the proposed road stopping, transfer and vesting. Council may receive income from the sale of the road.

Council Policies, Strategies and Bylaws

- 29 The following Council policies, strategies and bylaws were considered:
- Property Sale and Acquisition Policy 2014

- 30 The recommended option is consistent with the principles set out in the named policy. As if the land is not required for current or future needs of the community it may be considered for disposal.
- 31 This matter is not included in the 10-Year Plan/Annual Plan because the road stopping was not contemplated at the time the plan was written. As all costs to Council are being met by the applicant, Council will not require specific budgets to progress the project.

Local Government Act 2002 Purpose Provisions

32 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by ensuring Council has roading assets in locations most beneficial to the community and rate payers;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

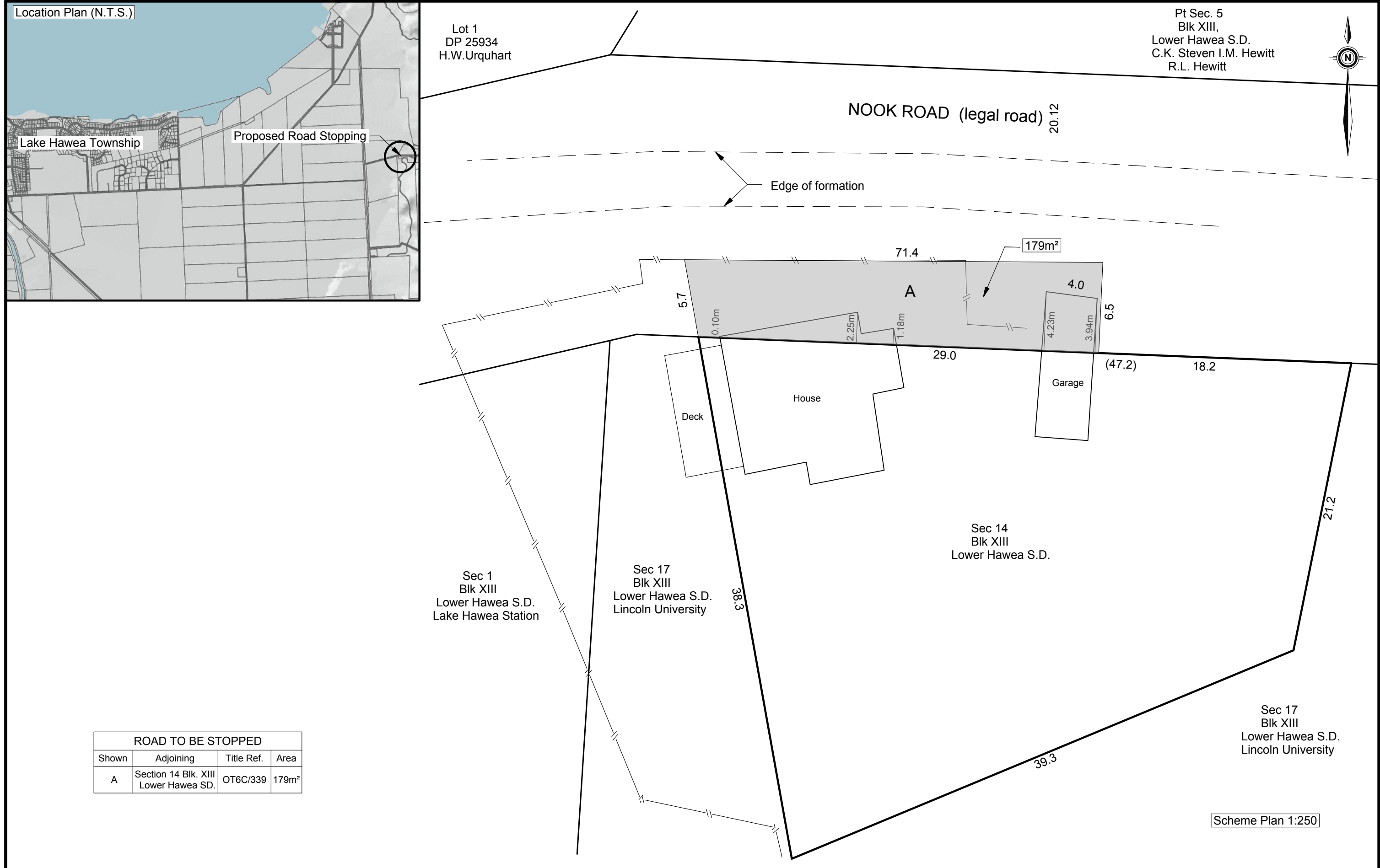
Consultation: Community Views and Preferences

- 33 The persons who are affected by or interested in this matter are the adjoining land owners on Nook Road. The owners have been consulted verbally of the proposal and they will be asked to give their consent in writing.

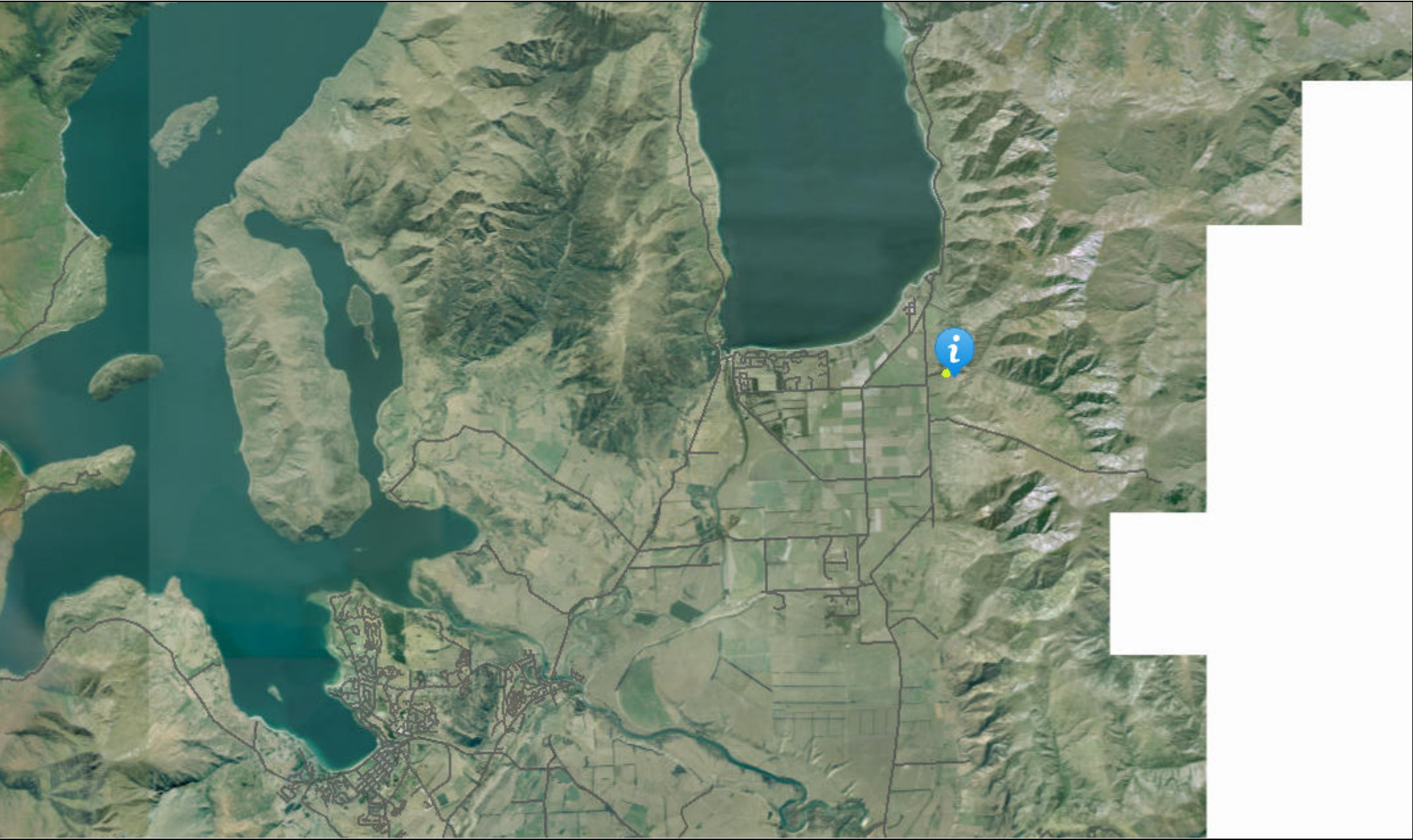
Attachments

- A Proposed Road stopping plan (CH Hughes 5496 W925)
- B Location Plan

Attachment A: Proposed Road stopping plan



Attachment B: Location Plan



The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Queenstown Lakes District Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. While reasonable use is permitted and encouraged, all data is copyright reserved by Queenstown Lakes District Council. Cadastral information derived from Land Information New Zealand. CROWN COPYRIGHT RESERVED