

## 9. PIGEON BAY BOAT PARK LAND EXCHANGE

<b>General Manager responsible:</b>	General Manager City Environment DDI 304-8608
<b>Officer responsible:</b>	Transport & Greenspace Manager
<b>Author:</b>	Justin Sims, Property Consultant

### PURPOSE OF REPORT

1. The purpose of this report is to seek the Community Board's approval to undertake the next process step, being consultation through public advertising under the Reserves Act for a proposed exchange of lands involving part of Pigeon Bay Boat Park (classified as recreation reserve) and an equivalent area of adjoining privately owned land.

### EXECUTIVE SUMMARY

2. Sage Properties Ltd (Sage) own property at 130 Wharf Road, Pigeon Bay which adjoins Pigeon Bay Boat Park Reserve. The property owner is currently renovating the homestead sited on the property and as part of the enhancement works wishes to improve vehicular access by realigning the driveway.
3. The re-aligned driveway is proposed to cut through part of the Reserve shown as Lot 7 DP 301575 on the attached plan (**Attachment 1**).
4. Sage has proposed that a land swap is undertaken whereby they will swap a parcel of their land (**Section 1 on Attachment 1**) for that located in the Reserve (**Section 2 on Attachment 1**). The parcel sought by Sage is a sloping triangular section which is not useable for boat parking purposes whilst the parcel offered to be exchanged is flat and would therefore be capable of beneficial use.
5. There is also potential benefit on regatta days for the driveway being located off the inland part, rather than the coastal part of Wharf Road, as the road between the yacht club and the main area of the Reserve can get congested with vehicles, boats and pedestrians on these days.
6. As part of the agreement, Sage are also proposing to undertake native plantings to the existing Reserve, the section to be swapped with Council and also contribute to other planting initiatives around the bay as indicated on the plan (**Attachment 2**).
7. Section 15 of the Reserves Act 1977 ("the Act") enables the exchange of reserves for other land. The Community Board has delegated authority to approve such an exchange. However the first step in that process is to publicly notify the proposal to establish if there are any objections. Subsequent to this and the satisfaction of any objections the matter of proceeding with the exchange itself will be formally reported back to the Community Board for resolution. At that time issues such as landscaping, Department of Conservation approval and authority for entering into the required contractual arrangements will be attended to. Any objections not satisfied will need to be attended to through a separate process; this is outlined in paragraph 15 below.

### FINANCIAL IMPLICATIONS

8. The two land parcels are the same size and it is therefore considered that they have the same value. All other costs associated with the reserve land exchange such as consultation requirements of section 15 of the Reserves Act 1977 and all associated staff time, including survey costs, will be borne by Sage. There will therefore be no cost to the Council in agreeing to and completing the land exchange.
9. Future maintenance of all the plantings are also to be borne by Sage and they have also entered into an agreement that if the property is sold, the title will be encumbered with the liability for this future maintenance.

### Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

10. No, but the cost of the land swap is to be borne by Sage.

## **LEGAL CONSIDERATIONS**

### **Have you considered the legal implications of the issue under consideration?**

11. The Community Board has delegated authority to approve an exchange of reserves for other land under Section 15 of the Reserves Act 1977.
12. Section 15 of the Reserves Act 1977 – exchange of reserves for other land, provides that the Minister of Conservation may authorise the exchange of the land comprised in any reserve for any other land to be held for the purposes of that reserve subject to the Council passing a resolution requesting the exchange, following a public notification process.

## **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

### **Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

13. Yes. Refer Page 118 of Volume 1 of the LTCCP, level of service under parks, open spaces and waterways.

## **ALIGNMENT WITH STRATEGIES**

### **Do the recommendations align with the Council's strategies?**

14. Open Space Strategy

## **CONSULTATION FULFILMENT**

15. The land exchange is to be completed in accordance with section 15 of the Reserves Act 1977 and will therefore require a months notice with opportunity for any objections to be heard. The process for this is that staff will endeavour to informally satisfy any objections. If this is achieved then the matter will be reported back to the Community Board for resolution on whether to proceed with the exchange or not. Should there be any objections that are unable to be informally satisfied, or objectors wish to be heard, then the matter will need to be referred to an independent commissioner or hearings panel. In this instance due to the Council's interest in acquiring a portion of privately owned land there is sufficient risk to claim the matter requires some independence and therefore a process using a commissioner rather than a hearing is recommended. In that event, a commissioner will be appointed by the Council Secretary.

## **STAFF RECOMMENDATION**

It is recommended that the Community Board support commencement of the consultation process as required under section 15 of the Reserves Act for the land exchange as shown on drawing RPS259.