

America's Cup Road Stopping Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the America's Cup Road Stopping Bill and recommends that it be passed with the amendments shown.

Introduction

The America's Cup Road Stopping Bill seeks to permanently close a portion of road in Auckland to enable the construction and operation of the 36th America's Cup. The race is set for March 2021, but construction needs to begin by November 2018, which would not be possible without legislative action. The affected portion of road amounts to 0.322 hectares of waterfront land on Brigham Street at Wynyard Point, owned by Auckland Council.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Providing for the application of the Public Works Act

We understand the intention is that section 40 of the Public Works Act 1981 would not apply to the stopped road, as is normal for a road stoppage by a territorial local authority.¹ We recommend inserting subclauses (3A) and (3B) into clause 7 to provide for this intention. These subclauses would specify that the use of the stopped road for the 36th America's Cup would be a public work under the Public Works Act. They

¹ Section 40 of the Public Works Act requires land that is no longer required for a public work to be offered for sale to the former owner or their successor.

would also state that section 40 of the Public Works Act would not apply to the stopped road while ownership of the land remains with Auckland Council.

We also recommend inserting clause 1 into Schedule 1 to ensure that the relevant provisions in clause 7 would continue to apply even after the bill had repealed itself. The relevant clauses are 7(2), 7(3A), and 7(3B) which relate to the operation of other legislation.

Wider issue for future consideration

We note that this bill is not the first legislation used to bypass normal processes in order to speed up progress on a project of national importance. The National War Memorial Park (Pukeahu) Empowering Act 2012 is another example.

However, we do not see it as desirable to resort to legislation whenever usual processes are not able to meet desired outcomes. We note that this issue has also been raised by the Legislation Design and Advisory Committee. We would like to see further consideration given to this issue.

Appendix

Committee process

The America's Cup Road Stopping Bill was referred to the committee on 5 July 2018. The closing date for submissions was 23 July 2018. We received and considered three submissions from interested groups and individuals.

We received advice from the Ministry of Business, Innovation and Employment.

Committee membership

Deborah Russell (Chairperson)

Sarah Dowie

Jenny Marcroft

Todd Muller

Hon Scott Simpson

Erica Stanford

Chlöe Swarbrick

Angie Warren-Clark

Poto Williams

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon David Parker

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the America's Cup Road Stopping Act **2018**.

2 Commencement

This Act comes into force on **1 November 2018**.

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3 Purpose

The main purpose of this Act is to remove the road status from part of Brigham Street, in Wynyard Point in Auckland, so that the land can be used for ~~con-~~struction relating to, ~~and the operation of,~~ the 36th America's Cup.

4 Interpretation

In this Act,—

36th America's Cup means—

- (a) the operation of the 36th America's Cup; and
- (b) any construction or other matter relating to the 36th America's Cup, whether before, during, or after the event

Registrar-General means the Registrar defined by section 5(1) of the Land Transfer Act 2017

stopped road means the area of land that has ceased to be road under **section 7(1)**.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

6 Act binds the Crown

This Act binds the Crown.

7 Road stopped

- (1) The road shown as Section 1 on SO 524347 is stopped.
- (2) Section 345 of the Local Government Act 1974 does not apply to the stopping of the road or to the stopped road.
- (3) To avoid doubt, the stopped road ~~remains~~ continues to be owned by Auckland Council.
- (3A) The use of the stopped road for the 36th America's Cup is a public work for the purposes of the Public Works Act 1981 where the use is by, or under the control of, the Crown or any local authority as defined by that Act.
- (3B) In addition, section 40 of the Public Works Act 1981 does not apply to the stopped road while Auckland Council continues to own it after it is stopped.
- (4) *See **Schedule 2** for a map showing the area of the stopped road, but the map is merely indicative and has no legal effect.*

8 Record of title for stopped road

- (1) Auckland Council, as the owner, may apply in writing to the Registrar-General for a record of title for the stopped road.

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- (2) The Registrar-General must, as soon as is reasonably practicable after receiving the application and in accordance with the application,—
- (a) create a record of title for the fee simple estate in the stopped road in the name of Auckland Council; and
 - (b) record on the record of title any interests that are registered, noted, or to be noted and that are described in the application. 5

9 Repeal of this Act

This Act is repealed 12 months after its commencement.

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to this Act as enacted

5

1 Continued effect of certain provisions

Section 7(2), (3A), and (3B) continues to have effect despite the repeal of this Act.

2 References relating to Land Transfer Act 2017

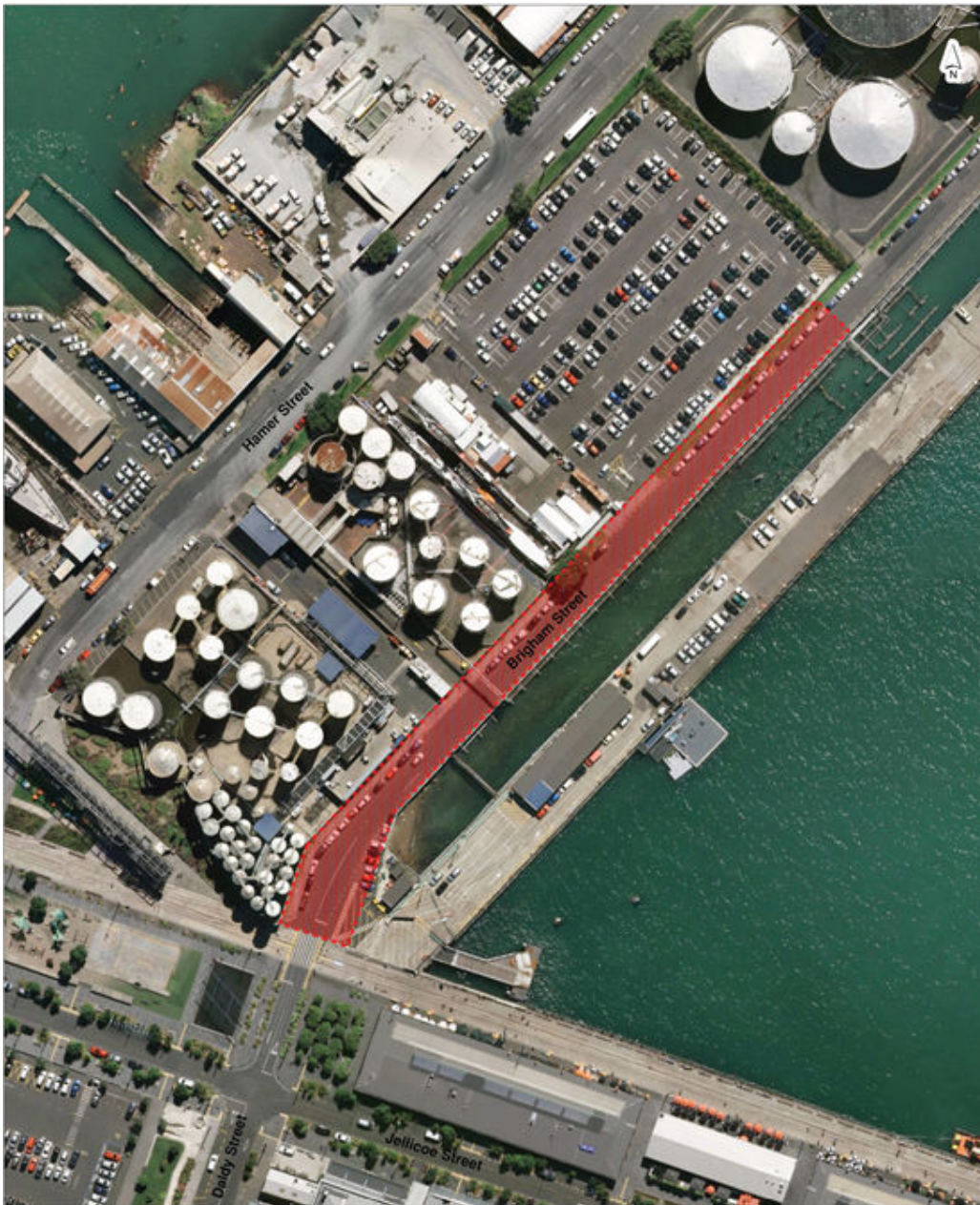
In this Act, until the Land Transfer Act 1952 is repealed by the Land Transfer Act 2017,— 10

- (a) a reference to a record of title is a reference to a computer freehold register under the Land Transfer Act 1952:
- (b) a reference to an owner is a reference to a proprietor under the Land Transfer Act 1952: 15
- (c) a reference to a provision in the Land Transfer Act 2017 is a reference to the provision in the Land Transfer Act 1952 that is replaced by, or corresponds to, that provision in the Land Transfer Act 2017.

Schedule 2

Indicative map of stopped road

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Legislative history

2 July 2018
5 July 2018

Introduction (Bill 73-1)
First reading and referral to Environment Committee

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Wellington, New Zealand:

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