



## REPORT TO COUNCIL

**DATE:** January 03, 2023

**REPORT:** DEV 23-008

**FROM:** Deepa Chandran, Planner

**FILE:** 5400-04/RC22-03

**SUBJECT: Road Closing & Highway Dedication Removal Bylaw 1945 for Existing Road Right-of-ways Off Vancouver St, opposite to Chandler Park**

### RECOMMENDATIONS:

1. THAT Council give First Reading to Bylaw No. 1945 - Road Closing and Highway Dedication Removal (Parts of Road Dedicated on Plan 1054 District Lots 1053 and 5289 Range 5 Coast District);
2. THAT Council give Second Reading to Bylaw No. 1945 - Road Closing and Highway Dedication Removal (Parts of Road Dedicated on Plan 1054 District Lots 1053 and 5289 Range 5 Coast District); and
3. THAT Council give Third Reading to Bylaw No. 1945 - Road Closing and Highway Dedication Removal (Parts of Road Dedicated on Plan 1054 District Lots 1053 and 5289 Range 5 Coast District).

### BACKGROUND:

In response to provincial budget cuts, School District 54 discontinued operation of the Chandler Park Middle School in 2004 and subsequently sold the property to a local company, 0974526 BC Ltd.

The Town recently received a road closure request from 0974526 BC Ltd. for the undeveloped road right-of-ways off Vancouver Street, located opposite to Chandler Park, between Frontage Road and Third Avenue (see Attachment 1). The owner has demolished the former school building and intends to sell all the properties adjacent to the road right-of-ways as a complete, consolidated package.

Currently, the properties are spatially disconnected by the undeveloped Fourth Avenue road right-of way and the two undeveloped lane right-of-ways, which total 3,389 m<sup>2</sup> (0.34 hectare; 0.84 acre) in area.

|                                     |                                  |                                   |                             |
|-------------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| CAO <input type="checkbox"/>        | Dir/FIN <input type="checkbox"/> | PCSO <input type="checkbox"/>     | Agen Date: January 24, 2023 |
| Dir/CS <input type="checkbox"/>     | Dir/DS <input type="checkbox"/>  | EC/DEV <input type="checkbox"/>   | Closed Agen Date:           |
| EXEC. ASST <input type="checkbox"/> | Dir/OPS <input type="checkbox"/> | REC <input type="checkbox"/>      | Agenda Placement: Bylaws    |
| HR <input type="checkbox"/>         | Dir/COM <input type="checkbox"/> | BLDG INS <input type="checkbox"/> | Other:                      |
| MAYOR <input type="checkbox"/>      | AIRPORT <input type="checkbox"/> | PLANNER <input type="checkbox"/>  |                             |
| COUNCIL <input type="checkbox"/>    | FIRE <input type="checkbox"/>    | WEBSITE <input type="checkbox"/>  |                             |

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By the *Community Charter*, the existing road right-of-ways are vested in the Town's ownership. In order for the owner to sell the complete package, the road right-of-ways must be closed, by bylaw, and consolidated with the adjacent properties.

In preparation for the sale, the current owner has initiated the lot consolidation process; closing and removing the road dedication of the existing road/lane right-of-ways and purchasing the 'closed areas' from the Town (see Attachment 2). The owner intends to consolidate the triangular-shaped parcel abutting Vancouver Street and Frontage Road, with the adjacent closed lane area, and this would remain in the Town's ownership. The remaining lands -- including the closed Fourth Avenue and closed lane areas to be disposed by the Town -- are in process to be sold to the Francophone School District 93 for a future school project (see Attachment 3). The sale terms and final land areas are under separate negotiations.

### **DISCUSSION:**

Subject to exemptions listed under section 35 (2), section 35 (1) of the *Community Charter* vests the ownership and possession rights of highways with municipalities. In accordance with sections 40 and 41 of the same legislation, a municipality has the authority to permanently close and remove dedication of all or a part of an existing road right-of-way, contingent on various factors (see Attachment 4). The impact of a road closure on public access to amenities and ability of adjacent owners to access their properties are two key considerations in this regard.

Staff support the proposed road closing and highway dedication removal request for the following reasons:

- Impact on adjacent property owners: Francophone School District 93's intent is to consolidate all parcels shown on south of the lane right-of-way that is located close to the Frontage Road. The adjacent properties, such as the Park Place Manufactured Home Park subdivision and the local RCMP office are not accessed through the right-of-ways proposing to be closed as part of the SD93's proposal. As such, the proposed road closure and highway dedication removal will not have any adverse accessibility impacts on the adjacent properties. Public will have the opportunity to make written/verbal submissions to Council as part of the Public Opportunity to be held before the proposed bylaw's adoption.
- Efficient use of land: In the subject case, the presence of undeveloped road/lane right-of-ways -- both within and between parcels -- limit the site design options available for these properties. Consolidating the current school site and the abutting vacant lots will enhance the development potential of the site; the consolidation will enable SD93 to secure a site that is spacious enough accommodate a future school.
- Site services: The proposed road closure and highway dedication removal will not impact servicing of the consolidated or adjacent parcels. The new development will trigger off-site works. Given that Third Avenue is already built to the Town's urban road standards established by *Subdivision Servicing and*

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*Development Standards Bylaw No. 1800*, off-site works will be completely focused on bringing the fronting Vancouver Street up to current standards.

- Community-wide benefit: The road closures will enable SD93 to establish a permanent school facility that will serve the French-speaking community in the region and supports the SD93's plan for potential expansion. Thus, the road closures support the principles of cultural diversity, education and community wellbeing.
- Other factors: The other considerations such as access to waterbodies do not apply to the subject case.

With the adoption of the proposed bylaw (see Attachment 5), the closed areas will cease to be highways and the highway dedications will be removed. In accordance with section 120 of the *Land Title Act* (see Attachment 6), the adopted bylaw will subsequently be filed with the Land Titles Office, enabling the closed areas' titles to be registered in the Town's name. As the next step, the Town is required to dispose the 'closed areas' to the Applicant, at fair market value. As mentioned above, final negotiations and the disposition process will follow soon after the bylaw adoption.

#### **RESOURCE CONSIDERATIONS:**

The Town does not have an established procedure for processing road closing requests. Where the Town has an interest in a proposed road closure, the Town covers all the costs, including those associated with the explanatory plan preparation, public notification, newspaper advertisements, and staff hours. Given that the proposed road closure was not initiated by the Town, the Applicant will cover cost for plan preparation, while the rest will be covered by the Town from existing operating budgets.

Local governments, generally, regard road closing proposals as part of subdivision applications. Recognising the absence of an effective mechanism for processing road closing requests, staff is currently working on a 'road closing' procedure and has included a separate fee for subdivision applications involving road closures in the latest Fees and Charges Bylaw amendment.

#### **LEGAL/POLICY CONSIDERATIONS:**

The sale of land that was formerly a municipal highway, to the owner of an adjacent parcel for the purpose of land consolidation, cancels the provincial government's authority to resume ownership of the former highway land for meeting the Ministry's transportation-related needs in the future (see Attachment 7). The disposition of the land must be done in compliance with sections 26 and 94 of the Community Charter (see Attachment 8).

#### **ENVIRONMENTAL/ACCESSIBILITY CONSIDERATIONS:**

The proposed highway closing, and dedication removal does not have adverse environmental or accessibility implications.

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**COMMUNICATIONS:**

In accordance with section. 94 of the *Community Charter and Town of Smithers Public Notice Bylaw No. 1929*, notice of the proposed bylaw will be posted on the Town of Smithers official website and Facebook page. In addition, notifications will be sent to property owners affected by the proposed bylaw, and a public notice will be published in one edition of Interior News, inviting comments from public. Similarly, feedback will be invited from utility companies, the Office of Wet'suwet'en, and the Witset First Nation. The Ministry of Transportation and Infrastructure (MOTI)'s approval is mandatory to proceed to the bylaw adoption.

**ALTERNATIVES:**

- Advise staff to submit additional information
- Request modifications to the proposed bylaw

**ATTACHMENTS:**

1. Subject Property
2. Ortho-image: Chandler Park School Property
3. Nov 19, 2022, Media Release on Funding Approval
4. S. 35, 40, and 41 Community Charter
5. Draft Road Closing Bylaw No. 1945
6. S.120 of the Land Title Act
7. Resumption of Highways Regulation
8. S. 26 and 94 Community Charter

Respectfully submitted:



Deepa Chandran  
Planner

Reviewed by:



Mark Allen  
Director of Development Services

Submission approved by:

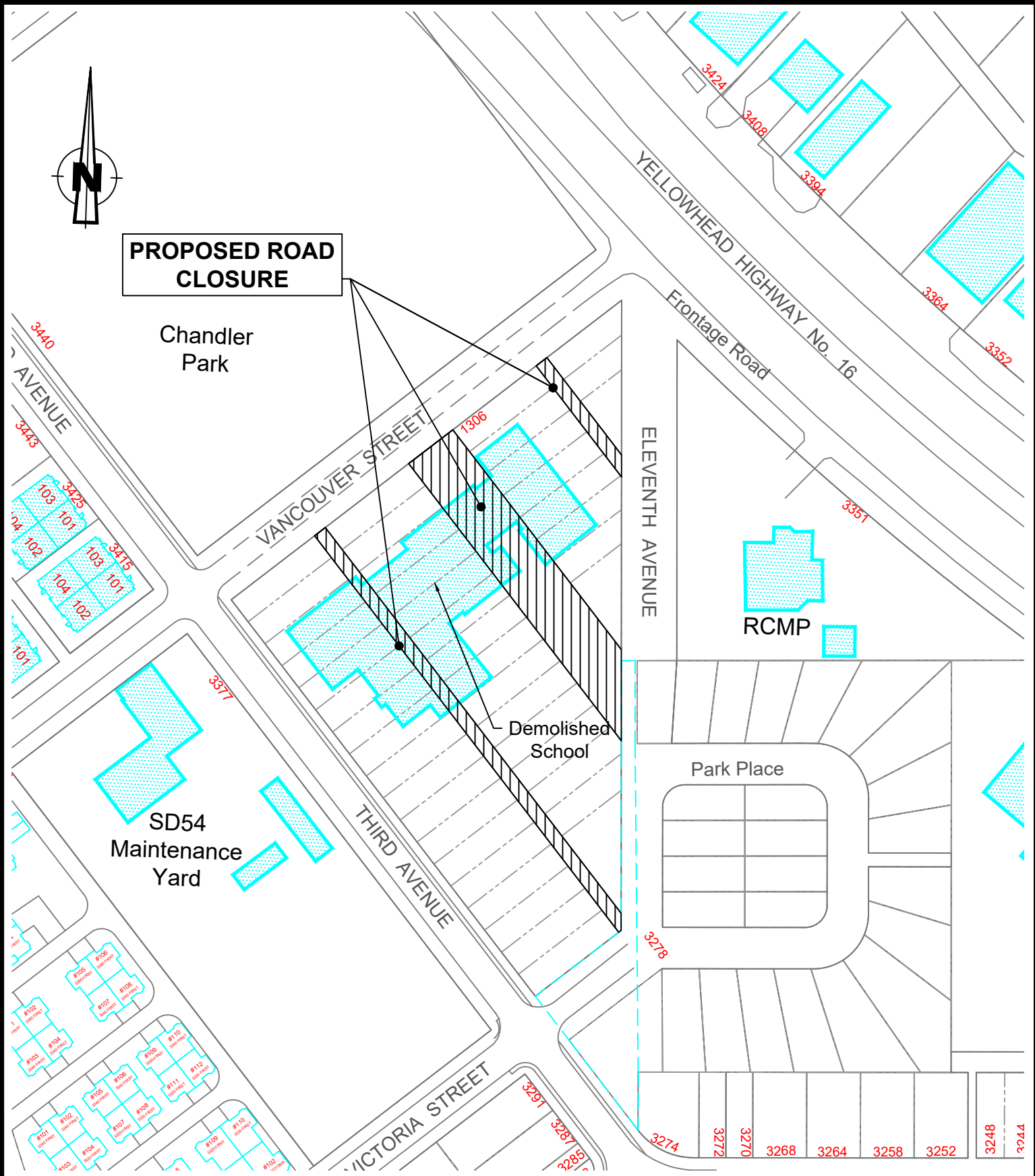


Dianna Plouffe  
Chief Administrative Officer



**PROPOSED ROAD CLOSURE**

Chandler Park



SCALE:

**Subject Property Map  
BYLAW 1945**

SCALE: N.T.S.

DRAWN BY: AG

DATE: 2022/11/28

APPROVED BY: MFA

DATE: 2022/11/28

DRAWING PATH: N:\5200-5799 ENGINEERING AND PUBLIC WORKS\5400 STREETS AND ROADS\5400-04 - CLOSURES\5799\2022\RC22-03 Bylaw No. 1945

**Attachment 2: Ortho-image - Chandler Park School Property**

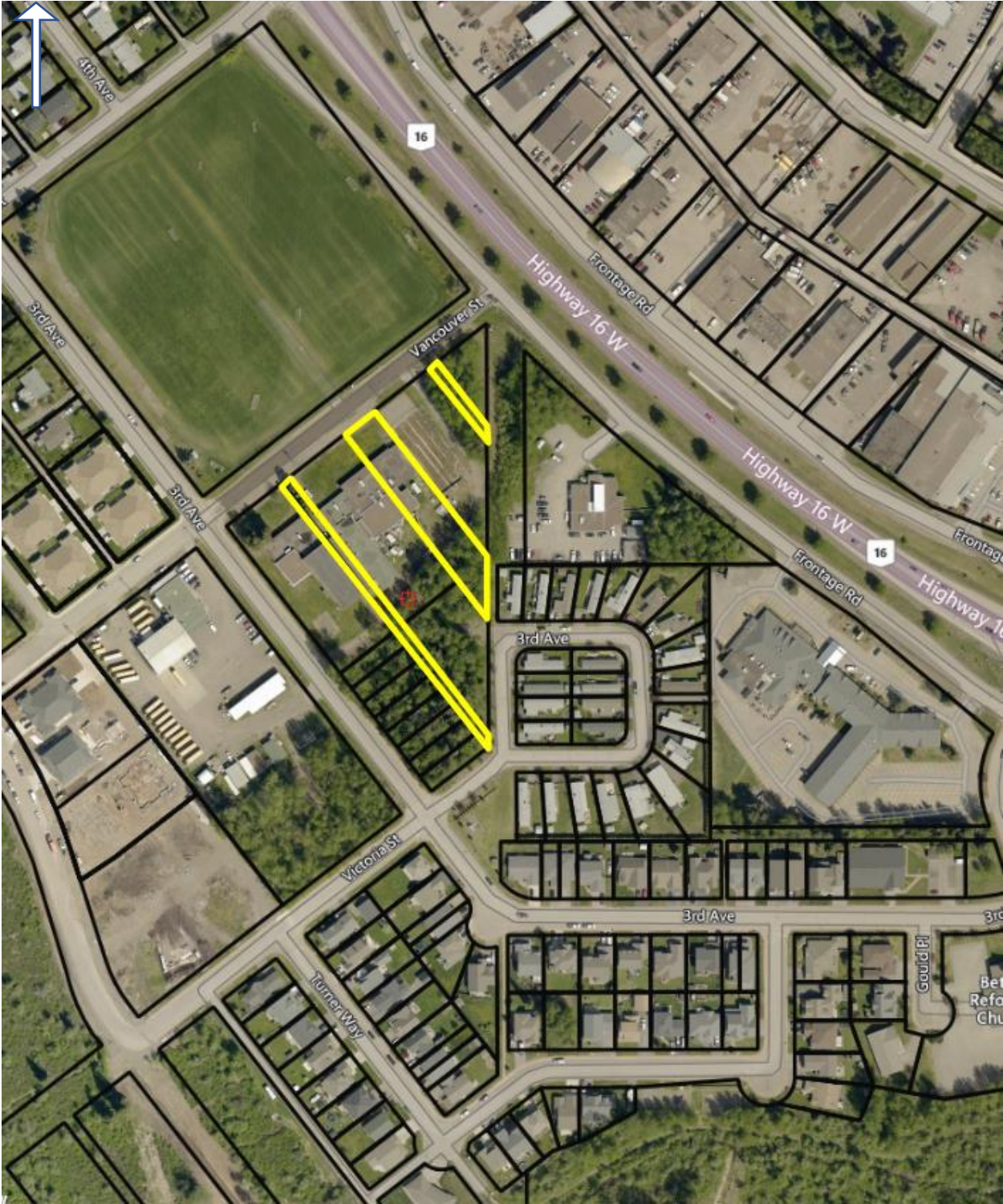


Image 1. The existing lane rights-of-way (highlighted in yellow) limits the development potential of the land. Consolidating the closed right-of-way area with the abutting property will lend SD-93 with an adequately spacious site for accommodating a future school.

- [Skip to main content](#)
- [Skip to footer](#)

British Columbia News

# Funding approved for francophone school site purchase in Smithers

<https://news.gov.bc.ca/27808>

Francophone students in Smithers are a step closer to having a school now that funding has been approved to purchase a site.

“It is so important that families who speak French as a first language have the opportunity to send their children to a francophone school that’s close to home,” said Jennifer Whiteside, Minister of Education and Child Care. “I’m pleased to see that a site has been secured in Smithers for the future home of école La Grande-ourse. We are committed to continued work with the Conseil scolaire francophone de la Colombie-Britannique to ensure that francophone students have access to quality education across B.C.”

The Province has provided the Conseil scolaire francophone de la Colombie-Britannique (CSF) with \$2.1 million to purchase property for a future permanent home for école La Grande-ourse in Smithers. École La Grande-ourse offers classes from kindergarten to Grade 7 to the francophone population.

With the lease ending for the current space used to operate école La Grande-ourse, the new site purchase, at the southeastern corner of Vancouver Street and 3rd Avenue, will ensure francophone students have a place to learn for many years to come. Now that a school site has been secured, the Province will work with the CSF to find the best short- and long-term solutions to meet the needs of the community’s francophone students and families.

“I am proud of the work we are doing to support Smithers’ francophone students and their families by purchasing a site for the école La Grande-ourse,” said Nathan Cullen, MLA for Stikine. “Our government is taking significant steps to meet the demand for French-language education in Smithers.”

Since September 2017, the Province has provided the CSF with more than \$56.8 million for site purchases in Burnaby, Kamloops, Penticton, Victoria and Pemberton and almost \$11.3 million for the new temporary modular school (École Beausoleil) in Victoria. The Province will continue acquiring school sites and building or upgrading schools for francophone students throughout the Province.

“We welcome the news of additional funding to purchase a school site in Smithers with great enthusiasm. Ensuring permanent and stable access to school sites is crucial for the CSF to offer high-quality French-language education to francophone students throughout the province,” said Marie-Pierre Lavoie, board chair, CSF. “We look forward to continued collaboration with the Ministry of Education and Child Care in developing a modular school building to satisfy the immediate needs of the community. The school site will also allow us to plan for the eventual construction of a permanent, long-term school building for école La Grande-ourse.”

Budget 2022 includes \$3.1 billion for school capital projects during the next three years, including new and expanded schools, seismic upgrades and replacements, and land purchases for future schools.

Ministry of Education and Child Care

Media Relations  
250 356-5963

## Translations

- [Smithers\\_francophone\\_school\\_French.pdf](#)  
(<https://bcgovnews.azureedge.net/translations/releases/2022ECC0087->

001731/Smithers\_francophone\_school\_French.pdf)

## **Acknowledgment**

The B.C. Public Service acknowledges the territories of First Nations around B.C. and is grateful to carry out our work on these lands. We acknowledge the rights, interests, priorities, and concerns of all Indigenous Peoples - First Nations, Métis, and Inuit - respecting and acknowledging their distinct cultures, histories, rights, laws, and governments.

## Attachment 4: S. 35, 40 and 41 Community Charter

### Ownership and possession of highways

35 (1) Subject to this section,

- (a) the soil and freehold of every highway in a municipality is vested in the municipality, and
- (b) in the case of a highway in a municipality that is not vested under paragraph (a), the right of possession of the highway is vested in the municipality.

(2) Subsection (1) (a) does not apply to the following:

- (a) Provincial arterial highways, including the intersection between a Provincial arterial highway and another highway and any interchange between a Provincial arterial highway and another highway;
- (b) highways referred to in section 23 (1) of the *South Coast British Columbia Transportation Authority Act*;
- (c) highways in a park, conservancy, recreation area or ecological reserve established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act* or an area to which an order under section 7 (1) of the *Environment and Land Use Act* applies;
- (d) highways in a regional park;
- (e) a regional trail, other than a regional trail that is part of the road system regularly used by vehicle traffic;
- (f) land, including the improvements on it, on which Provincial works such as ferry terminals, gravel pits, weigh scales and maintenance yards are located;
- (g) roads referred to in section 24 of the *Forest and Range Practices Act* that have not been declared to be public highways;
- (h) highways vested in the federal government;
- (i) in relation to a reserve as defined in the *Indian Act* (Canada), highways in the reserve or that pass through the reserve;
- (j) public rights of way on private land.

(3) Subsection (1) (b) does not apply to highways referred to in subsection (2) (a) to (h).

(4) The vesting under subsection (1) (a) and the right of possession under subsection (1) (b) (a) are not adversely affected or derogated from by prescription in favour of any other occupier, and (b) are subject to any rights reserved by the persons who laid out the highway.

(5) The vesting under subsection (1) (a) includes the vesting of all statutory rights of way and other easements owned by the Provincial government solely for purposes relating to the

drainage of a highway that is vested under that subsection, and the interest of the Provincial government under those easements is transferred to the municipality and the municipality assumes the rights and obligations of the Provincial government in relation to those easements.

- (6) The minister responsible for the *Transportation Act* may file with the land title office an application satisfactory to the registrar of land titles that identifies an easement referred to in subsection (5) and, on filing, the registrar must register ownership of the easement in the name of the municipality.
- (7) The vesting under subsection (1) (a) is subject to the following:
- (a) the right of resumption under subsection (8);
  - (b) the limits referred to in section 23 (2) of the *Land Title Act*;
  - (c) the exceptions described in section 50 (1) (a) (ii) to (iv) and (b) of the *Land Act*, as if the vesting were made by Crown grant under that Act;
  - (d) the exceptions described in section 107 (1) (d) of the *Land Title Act*, as if the vesting were under that section.
- (8) The Provincial government may, by order of the Lieutenant Governor in Council, resume the property or interest vested in a municipality under subsection (1) (a), if the Lieutenant Governor in Council considers that this is required
- (a) for the purpose of or in relation to a Provincial arterial highway,
  - (b) for any other transportation purpose, or
  - (c) for the purpose of or in relation to a park, conservancy, recreation area or ecological reserve established or proposed to be established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act* or an area to which an order under section 7 (1) of the *Environment and Land Use Act* applies.
- (9) An order under subsection (8) (a) or (b) may only be made on the recommendation of the minister responsible for the *Transportation Act*, and an order under subsection (8) (c) may only be made on the recommendation of the minister responsible for the applicable Act referred to in that subsection.
- (10) The minister responsible for the *Transportation Act*, after consultation with the minister responsible for this Act, may
- (a) by order, cancel the Provincial government's right of resumption under subsection (8) in relation to a specified highway or in relation to highways within a specified area, or
  - (b) by regulation, specify circumstances in which the Provincial government's right of resumption is cancelled without a specific order.

- (11) For certainty, a council may grant a licence of occupation or an easement, or permit an encroachment, in respect of a highway that is vested in the municipality under subsection (1) (a).
- (12) This section does not apply to a highway for which the municipality has purchased or taken the land and for which title is registered in the name of the municipality.

### **Permanent closure and removal of highway dedication**

- 40** (1) A council may, by bylaw,
- (a) close all or part of a highway that is vested in the municipality to all or some types of traffic, or
  - (b) reopen all or part of such a highway that has been closed.
- (2) A council may, by bylaw, remove the dedication of a highway
- (a) that has been closed by a bylaw under subsection (1) (a), or
  - (b) that is to be closed by the same bylaw, or by a bylaw adopted by the council at the same time.
- (3) Before adopting a bylaw under this section, the council must
- (a) give notice of its intention in accordance with section 94 [*public notice*], and
  - (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.
- (4) In addition to the requirement under subsection (3), before adopting a bylaw under subsection (1) (a), the council must deliver notice of its intention to the operators of utilities whose transmission or distribution facilities or works the council considers will be affected by the closure.
- (5) A bylaw under subsection (2) must be filed in accordance with section 120 of the *Land Title Act* and, on filing, the property subject to the bylaw ceases to be a highway, its dedication as a highway is cancelled and title to the property may be registered in the name of the municipality in accordance with section 120 of the *Land Title Act*.
- (6) As a limit on subsection (2), a council may not remove the dedication of a highway that was dedicated by the deposit of a subdivision or reference plan in the land title office if
- (a) the highway has not been developed for its intended purpose, and
  - (b) the owner of the land at the time the plan was deposited is the owner of all of the parcels created by the plan, unless the owner of the parcels consents.
- (7) This section, and not section 30 [*reservation and dedication of municipal property*], applies to cancelling the dedication of a highway.
- (8) For certainty, this section applies to public highways under section 42 of the *Transportation Act*.

## **Restrictions in relation to highway disposition, closure or alteration**

41 (1) As a restriction, if

(a) a bylaw under section 40 (1) (a) [*authority to permanently close*] affects a highway, or part of a highway, that provides access to the ocean or a lake, river or other stream or watercourse, and

(b) the municipality is proposing to dispose of the highway or part,

the municipality may only dispose of that highway or part if

(c) the municipality is exchanging the property for other property that the council considers will provide public access to the same body of water that is of at least equal benefit to the public, or

(d) the proceeds of the disposition are to be paid into a reserve fund, with the money from the reserve fund used to acquire property that the council considers will provide public access to the same body of water that is of at least equal benefit to the public.

(2) If the effect of

(a) a proposed highway closure under section 40 (1) (a), or

(b) a proposed highway alteration

will be to completely deprive an owner of the means of access to their property, the municipality must either

(c) obtain the consent of the owner before the owner is deprived of access, or

(d) in addition to paying any compensation required under section 33

(2) [*compensation for injurious affection*], ensure that the owner has another means of access that is sufficient for this purpose.

(3) As a restriction on the authority under section 40 (1), if the highway or part of a highway to be closed or reopened is within 800 metres of an arterial highway, the bylaw under that section may only be adopted if it is approved by the minister responsible for the *Transportation Act*.

(4) The operator of a utility affected by the closure of a highway under section 40 [*permanent closure and removal of highway dedication*] may require the municipality to provide reasonable accommodation of the utility's affected transmission or distribution facilities or works on agreed terms.

(5) If the parties are unable to reach an agreement under subsection (4), the matters must be settled by arbitration, and for that purpose the *Arbitration Act* applies.



## BYLAW NO. 1945

### ROAD CLOSURE AND HIGHWAY DEDICATION REMOVAL (PARTS OF ROAD DEDICATED ON PLAN 1054 DISTRICT LOTS 1053 AND 5289 RANGE 5 COAST DISTRICT)

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**WHEREAS** Section 40 of the *Community Charter* authorizes Council, by bylaw, to permanently close and remove highway dedication of all or part of a highway that is vested in the municipality;

**NOW THEREFORE** be it resolved that the Council for the Town of Smithers in open meeting assembled, enacts as follows:

1. **CITATION:**

This bylaw may be cited for all purposes as “Bylaw No. 1945 – Road Closure and Highway Dedication Removal (Parts of Road Dedicated on Plan 1054 District Lots 1053 and 5289 Range 5 Coast District)” and comes into effect on the date of adoption.

2. **ADMINISTRATIVE PROVISION:**

- 2.1 If any portion of this bylaw is found invalid by a court of competent jurisdiction, it shall be severed and the severance shall not affect the validity of the remainder of the bylaw.
- 2.2 The schedule to this bylaw is an integral part of this bylaw.

3. **ROAD CLOSING:**

- 3.1 That portion of the undeveloped road allowances intersecting Vancouver Street, between Frontage Road, Third Avenue, and Eleventh Avenue, outlined in bold black and identified as “Closed Road Area A” and “Closed Road Area B” on the Explanatory Plan EPP126177 prepared by HBH Land Surveying Inc., a reduced copy of which is attached to and forming part of this bylaw as Schedule “A”, is hereby closed to all traffic and the highway dedication removed.

# TOWN OF SMITHERS

BYLAW NO. 1945

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- 3.2 That portion of the road allowances closed by this bylaw and described in Section 3.1 as 'Closed Road Area A" is hereby authorized to be disposed of and transferred to the adjacent landowner, 0974526 BC Ltd., for the purpose of consolidating it with Parcel B (see CA3806877).
- 3.3 That portion of the road allowances closed by this bylaw and described in Section 3.1 as 'Closed Road Area B" is hereby authorized to be disposed of and transferred to the adjacent landowner, 0974526 BC Ltd., for the purpose of consolidating it with Parcel A (see CA3806873), Parcel B (see CA3806874), Parcel C (see CA3806875), and Lots 1-8, Block 33 Plan PRP1054 District Lot 1053 Range 5.
- 3.4 The Mayor and Corporate Officer are hereby authorized to execute all conveyances, titles, survey plans, forms, and other documents necessary to affect the road closure, removal of highway dedication and disposal of land.

**TOWN OF SMITHERS**

BYLAW NO. 1945

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READ A FIRST TIME THIS DAY OF , 2022.

READ A SECOND TIME THIS DAY OF , 2022.

READ A THIRD TIME THIS DAY OF , 2022.

RECEIVED APPROVAL OF THE MINISTRY OF TRANSPORTATION AND  
INFRASTRUCTURE ON THIS DAY OF 2023.

ADOPTED THIS DAY OF , 2023.

The Corporate Seal of the Town of Smithers  
was hereto affixed in the presence of

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Gladys Atrill  
Mayor

---

Dianna Plouffe  
Chief Administrative Officer

**CERTIFIED A TRUE AND CORRECT  
COPY** of Bylaw No. 1945, cited as “Bylaw  
No. 1945 – Road Closure and Highway  
Dedication Removal (Parts of Road  
Dedicated on Plan 1054 District Lots 1053  
and 5289 Range 5 Coast District)”

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David Schroeter  
Corporate Officer

# SCHEDULE "A" TO BYLAW No. 1945

Plan EPP126177

PRELIMINARY

## EXPLANATORY PLAN

To Accompany Bylaw No. 1945 of the Town of Smithers to Close Parts of Road Dedicated on Plan 1054 District Lots 1053 and 5289 Range 5 Coast District

Pursuant to Section 120 of the Land Title Act and Section 40 of the Community Charter.

BCGS 93L.075

SCALE:



The intended plot size of this plan is 560mm in width by 432mm in height (C size) when plotted at a scale of 1:750.

This plan shows horizontal ground level distances, unless otherwise specified.

Bearings are grid derived from Plan EPP126176.

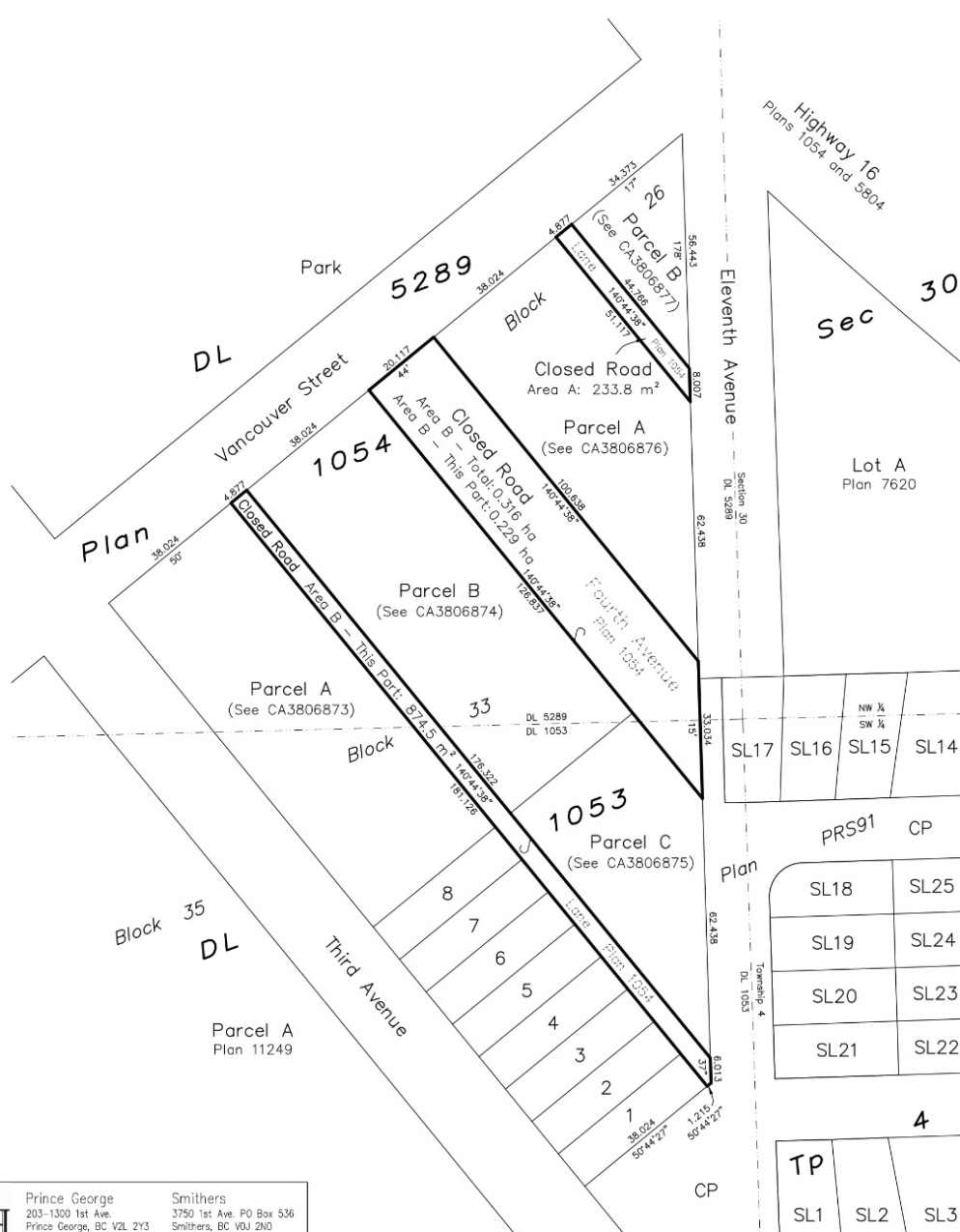
### BOOK OF REFERENCE:

| Description:                                | Area:                |
|---|----------------------|
| Closed Road Area A - Dedicated on Plan 1054 | 233.8 m <sup>2</sup> |
| Closed Road Area B - Dedicated on Plan 1054 | 0.316 ha             |
| Total:                                      | 0.340 ha             |

This plan lies within the Town of Smithers.  
This plan lies within the Regional District of Bulkley Nechako.

This plan is based on the following Land Title and Survey Authority of BC records:  
Plans 1054, PRP14786 and EPP126176

Mark Rossmann, BCLS 926  
[dd] day of [month], [year]



**HBH** LAND SURVEYING INC.  
 Prince George: 203-1300 1st Ave. Prince George, BC V2L 2Y3 250.640.2787  
 Smithers: 3750 1st Ave. PO Box 536 Smithers, BC V0J 2N0 250.847.3808  
 www.HBHLandSurveying.com

HBH File M012205

## **Attachment 6: S.120 Land Title Act**

### **Municipal bylaw cancelling highway or public square dedication**

- 120** (1) A municipal bylaw cancelling the dedication of all or part of a highway or public square must be filed in the land title office.
- (2) In relation to a bylaw under subsection (1), the registrar may accept a reference plan, or an explanatory plan, or a description by apt descriptive words.
- (3) On the filing of a bylaw cancelling the dedication of all or part of a highway, the registrar must register the indefeasible title of the property in the name of the municipality, subject to the reservations and exceptions provided in section 50 of the *Land Act* and section 35 [*ownership and possession of highways*] of the *Community Charter*, as if the vesting were made by Crown grant under the *Land Act*.

## Attachment 7: Resumption of Highway Regulation

### Circumstances in which right of resumption is cancelled

- 1 The Provincial government's right of resumption under section 35 (8) of the *Community Charter*, in relation to a highway or portion of a highway that was vested in a municipality by section 35 (1) of that Act, is cancelled if the corporate officer of the municipality files with the land title office a statement certifying that
  - (a) the municipality has, by bylaw under section 40 of the *Community Charter*,
    - (i) closed the highway or portion, and
    - (ii) removed its dedication,
  - (b) the closed highway or portion is not adjacent to
    - (i) a park, conservancy, recreation area or ecological reserve established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*, or
    - (ii) an area to which an order under section 7 (1) of the *Environment and Land Use Act* applies, and
  - (c) the land is to be disposed of
    - (i) in exchange for land necessary for the purpose of improving, widening, straightening, relocating or diverting a highway, or
    - (ii) to one or more adjacent landowners for the purpose of consolidating it with the landowners' existing adjacent parcel or parcels of land.

## **Attachment 8: S. 26, 94 Community Charter**

### **26. Notice of proposed property disposition**

- (1) Before a council disposes of land or improvements, it must publish notice of the proposed disposition in accordance with section 94 [*public notice*].
- (2) In the case of property that is available to the public for acquisition, notice under this section must include the following:
  - (a) a description of the land or improvements;
  - (b) the nature and, if applicable, the term of the proposed disposition;
  - (c) the process by which the land or improvements may be acquired.
- (3) In the case of property that is not available to the public for acquisition, notice under this section must include the following:
  - (a) a description of the land or improvements;
  - (b) the person or public authority who is to acquire the property under the proposed disposition;
  - (c) the nature and, if applicable, the term of the proposed disposition;
  - (d) the consideration to be received by the municipality for the disposition.

### **94. Requirements for public notice**

- (1) If this or another Act requires notice to be given or published in accordance with this section, the notice must be published
  - (a) in accordance with section 94.1 or 94.2, as applicable, and
  - (b) by posting the notice in the public notice posting places.
- (2) If a matter is subject to 2 or more requirements for publication in accordance with this section, the notices may be combined so long as the requirements of all applicable provisions are met.
- (3) A council may provide any additional notice respecting a matter that it considers appropriate, including by the internet or other electronic means.

#### **94.1 Default publication requirements**

- (1) Unless a council has adopted a bylaw under section 94.2, and subject to subsection (3) of this section, a notice must be published
  - (a) in a newspaper that is distributed at least weekly
    - (i) in the area affected by the subject matter of the notice, and
    - (ii) if the area affected is not in the municipality, also in the municipality, and
  - (b) unless this or another Act provides otherwise, once each week for 2 consecutive weeks.
- (2) The obligation under subsection (1) may be met by publication of the notice in more than one newspaper, if this is in accordance with that subsection when the publications are considered together.

- (3) If publication under subsection (1) is not practicable, the notice may be given in the areas by alternative means so long as the notice
- (a) is given within the same period as required for newspaper publication,
  - (b) is given with the same frequency as required for newspaper publication, and
  - (c) provides notice that the council considers is reasonably equivalent to that which would be provided by newspaper publication.
- (4) As an exception, subsection 3 (b) does not apply in relation to an area if the alternative means is by individual distribution to the persons resident in the area.

#### **94.2 Bylaw to provide for alternative means of publication**

- (1) A council may, by bylaw, provide for alternative means of publishing a notice instead of publishing the notice in a newspaper in accordance with section 94.1 (1) (a) and (b).
- (2) A bylaw adopted under this section must specify at least 2 means of publication by which a notice is to be published, not including posting in the public notice posting places.
- (3) Subject to the regulations, a council may specify, in a bylaw adopted under this section, any means of publication, so long as, before adopting the bylaw, the council considers the principles prescribed by regulation under subsection (6) (a).
- (4) Section 12 does not apply in relation to a council's authority to adopt a bylaw under this section.
- (5) If a bylaw is adopted under this section, the applicable notice referred to in section 94 (1) (a)
- (a) must be published by the means specified in that bylaw,
  - (b) subject to the regulations and unless this or another Act provides otherwise, must be published at least 7 days before the date of the matter for which notice is required, and
  - (c) if a period is prescribed for the purpose of this paragraph and unless this or another Act provides otherwise, must be published in the prescribed period before the date of the matter for which notice is required.
- (6) The minister may make regulations as follows:
- (a) prescribing the principles that must be considered before adopting a bylaw under this section;
  - (b) prescribing one of the means of publication that must be specified in a bylaw adopted under this section;
  - (c) requiring that one or more of the means of publication specified in a bylaw adopted under this section be selected from the prescribed means;
  - (d) for the purpose of subsection (5) (b), prescribing a number of days, other than 7 days, before the date of the matter for which notice is required;
  - (e) for the purpose of subsection (5) (c), prescribing a period of time.