



# **EMERGENCY EVACUATION PROCEDURES**

## **COUNCIL CHAMBER TOTARA AND KAURI MEETING ROOMS**

1. If you discover a FIRE operate the nearest FIRE ALARM.
2. Call the Fire Service by dialling (1) 111. Give the exact location of the fire and advise the building name and address (Waitakere Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City).
3. When you hear the ALARM evacuate the building immediately by the nearest safe exit which is through the main doors of the Council Chamber, Totara Room or Kauri Room and go downstairs into the Civic Centre foyer and exit through the main front doors.

Your alternative exit is through the emergency exit door at the far end of the cafeteria.

4. Your assembly area is on the front lawn north of the main entrance by the "Running Man" statue at the front of the Civic Centre building on Waipareira Avenue.
5. The Fire Warden is the Committee Secretary for this meeting.
6. **DO NOT RUN.**

**DO NOT USE THE LIFT.**

**DO NOT LINGER IN THE CHAMBER, MEETING ROOMS, FOYER, PASSAGE WAYS OR EXIT DOORS.**

**DO NOT RETURN TO THE BUILDING UNTIL THE "ALL CLEAR" IS GIVEN.**

**AGENDA FOR A SPECIAL MEETING OF THE COUNCIL (CIVIC FUTURE PROJECT IMPLEMENTATION) TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON THURSDAY, 10 OCTOBER 2002 COMMENCING AT 1.30 PM**

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**AGENDA FOR A SPECIAL MEETING OF THE COUNCIL (CIVIC FUTURE PROJECT IMPLEMENTATION) TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON THURSDAY, 10 OCTOBER 2002 COMMENCING AT 1.30 PM.**

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**1 APOLOGIES**



**2 AQUATIC CENTRE SHUTDOWN - ADDITIONAL FUNDING REQUEST**

This matter has been dealt with by the Finance and Operational Performance Committee. However, provision is made on this agenda so that any consequential issues can be discussed should this be necessary.



**3 CIVIC FUTURE PROJECT IMPLEMENTATION - DESIGN AGREEMENT WITH UNITEC**

**PURPOSE OF THE REPORT**

The purpose of this report is to update Council on progress with the implementation of Council's resolutions from its meeting of 18 August 2002, and in particular, its negotiations with UNITEC around the overall Civic Future Project and the agreement to commence design. The report seeks Council approval of a design agreement with UNITEC.

**BACKGROUND**

At its meeting held on 19 August 2002 Council determined to proceed with development of a Civic Centre Project at a Henderson location. This option involved a shared development with UNITEC Institute of Technology, comprising 10,200 square metres of office space for Waitakere City Council, a library of some 3,000 square metres, and a campus facility for UNITEC of between 5,000 and 8,000 square metres. Council proceeding with this option was subject to confirmation of involvement from UNITEC.

The Council resolved *inter alia*:

*“That the Chief Executive be authorised to expend monies provided in the 2002/2003 Annual Plan for Design, subject to normal Council procurement procedures, once an agreement of the sharing of design fees with UNITEC has been executed between the parties.”*

2617/2002

This report presents the proposed Preliminary Design Agreement with UNITEC.

## STRATEGIC CONTEXT

Council has examined the strategic context of this project at length. The location of Council's main office building within the Henderson town centre supports a number of key Council strategies, including its economic development strategy, its transport strategy and its urban strategy. In addition, the building enables the Council to demonstrate and comply with a range of other strategies, such as its sustainable building, and green network strategies. The shared development with UNITEC also enables Council to attract a tertiary education provider to the City on a significant scale, which will provide education and job training benefits for the Waitakere community, as well as helping to retain young skilled, professionals within the Waitakere area.

## ISSUES

*A1-A14*

A draft Preliminary Design Agreement with UNITEC has been prepared for the Council and is attached at pages A1 to A14. The Preliminary Design Agreement sets out the processes by which the parties will work together and establishes an initial basis for sharing costs. UNITEC have indicated that their scale of development will at this stage be 5,000 square metres and it is intended that a share of design costs will be a reflection of the overall costs of the development. On initial estimates, a cost-share arrangement of 70% Waitakere City Council and 30% UNITEC for design fees has been proposed.

The Design Agreement set out relates to the preliminary design phase. . The two parties will reach agreement at the completion of the preliminary design stage before commencing with the subsequent stages and developing appropriate agreements. At the completion of preliminary design stage, the design outcome will be reported back to Council, along with a robust costing estimate. Council will be able to determine at that stage, whether the costing arrangements are acceptable and it wishes to proceed on with the next design stage. UNITEC will also have this opportunity.

As outlined in earlier reports, construction and land sale and purchase will be covered by additional agreements.

Staff will be present to answer any questions Council may have on the Preliminary Design Agreement. Timely approval of the Preliminary Design Agreement is necessary if Council is to meet its desired timelines for design and construction. No work on the design process can be commenced until this Design Agreement is executed.

## CONCLUSION

A proposed agreement on design process and cost-sharing for the preliminary design phase with UNITEC is set out. Council's approval of this document is required to enable design work to commence and budget implementation to proceed in accordance with Council's desired timeline.

## RECOMMENDATIONS

1. That the information be received.
2. That the Preliminary Design Agreement be approved and that the Chief Executive be delegated authority to make any minor wording amendments required to reach agreement with UNITEC and to execute the document on behalf of Council.

Report prepared by Ross McLeod, Director: Corporate & Civic Services.



#### 4 CIVIC FUTURE PROJECT IMPLEMENTATION - SPECIFICATION REVIEW

##### PURPOSE OF THE REPORT

The purpose of this report is to advise Council on how the specification review requested by Council in relation to the Civic Future Implementation Project will be carried out.

##### BACKGROUND

At its meeting of 19 August 2002, the Council resolved:

*“That Council officers be instructed to review specifications set out for the Henderson building with a view to identifying options for discussion for possible reduction in costs of the building project, and that the findings be reported back to Council”.*

2618/2002

The Civic Future Implementation Project is a large and complex project that will require some certainty in the initial briefing stages, in order to enable the project to be delivered in a timely fashion within budget and specification parameters. An early response by staff to the resolution set out above is required in order to enable Council to meet its time, cost and quality objectives.

##### STRATEGIC CONTEXT

The Civic Future Implementation Project enables Council to advance, deliver on and comply with a number of its strategies and plans. The strategic nature of the project has been covered off at length in a number of other reports (including others on this Agenda), however the specification of the building deserves special comment.

Council has signalled through its strategic review work that it wishes to provide high quality public buildings that:

- create a sense of civic pride;
- provide high quality public spaces within town centres that are safe, attractive and vibrant;
- incorporate sustainable design principles;
- incorporate arts into design;
- reflect the City heritage and cultures and location in the South Pacific;
- are fit for purpose.

Alongside these drivers, Council also has concern for getting best value for money for its citizens and ratepayers. Council is, and always has been, keen to eliminate unnecessary costs and to ensure that an ethos of affordable best practice is applied to its building projects, as opposed to “gold-plated” solutions. Establishing the appropriate level of specification for buildings needs to take account of all of these drivers. The process for establishing specifications to date for the Civic Future Project has done so.

## ISSUES

The key issue facing the implementation team and Council is to get a level of specifications that Council is happy with in a timely manner that allows Council to meet its time, cost and quality goals. It needs to be noted that the Civic Future evaluation work comprised only a preliminary conceptual design and quantity survey analysis. The implementation project is subject to its own design and costing exercise. However, the specifications used for the evaluation project were based on a number of factors that form a sound basis for the development of specifications for the project proper. These include:

- a fit for purpose design in terms of operating efficiency and effectiveness
- sustainable design principles
- arts integration
- quality public space and public buildings which contribute to a safe, attractive and vibrant urban and civic environment
- maximising divestment usage opportunities (not building such a specialist building that it would exclude alternative users should Council wish to sell)
- resale quality (providing a quality of building that does not rule out possible resale opportunities should Council ever wish to sell (either over-specified or of poor quality))

These factors are considered to be a good starting point for the design specification for the Henderson building. They address the Council's desire for quality public buildings that contribute to urban design, while balancing both short term and long term economic and financial considerations.

The Council is quite right, however, in wanting to explicitly factor in its value-for-money responsibilities. The following processes proposed in order for the Council to ensure that there is an adequate focus on value-for-money in the design process:

### **Design Brief**

There will be a requirement on the design brief for the design consultants to examine at every design phase, cost-saving opportunities in respect of specifications and material options. The focus will be on smart solutions rather than using inferior quality products and materials.

### **Separation of Architect and Quantity Surveyor**

Council's own experience in recent building projects has indicated that having the quantity surveyor report directly to the client, rather than the architect, is best practice in terms of Council obtaining value for money. Council has experience with both approaches - the New Lynn Community Centre and Massey Library used the separated quantity survey approach, while the Aquatic Centre has had the quantity surveyor reporting to the architect. Experience has indicated that the former process is preferred and delivers much better value for money results to the Council. Under this model, Council gets direct and unfiltered advice from the quantity surveyor. This enables a value tension to be created in the design process, and enables Council to more thoroughly interrogate design factors, specifications and costs from an informed position.

### **Full Cost Reviews at Each Design Phase**

As per standard Council practice, full cost reviews will be carried out at the end of each design phase, to ensure there is no over-specification or unwarranted costs in the building project.

## Value Engineering

Both prior to and following the construction tender, a value engineering process will be carried out to review both the specifications and the construction methodology to evaluate where cost savings can be made.

Council has had some success in bringing projects in within budget and lowering overall budgets, without compromising quality, where this methodology has been used.

In addition to the above, it would be intended after the preliminary design phase is completed, to report the full design and associated quantity survey exercise and a specification review report to the Council, in order for the Council to assess value for money.

In line with Council's stated strategic objectives, and also taking account of the need to balance both long-term and short-term financial and economic factors, it is considered that the factors set out above form a sound basis for specifications for the implementation project. Accordingly, it is recommended that the specification for design be based on these factors.

However, regardless of the focus on cost effective process, Council needs to recognise the old adage - you get what you pay for. If Council determines to accept a lower specification for particular aspects of the project, this will be reflected in the outcomes delivered.

## CONCLUSION

An initial review of the specifications for the Henderson building has been carried out. The review has found out that the basis for specification for the building is sound, but that ongoing processes need to be designed to ensure that all of Council's strategic and economic/financial goals and objectives are taken account of. A process for doing this is outlined in the report, and will be incorporated into the design process.

## RECOMMENDATIONS

1. That the information be received.
2. That the basis for the development of design specifications as outlined in the agenda report be approved.
3. That the process for dealing with specification review as outlined in the agenda report be adopted.

Report prepared by: John Dragicevich, Director: City Services and Ross McLeod, Director: Corporate & Civic Services.



5 **CIVIC FUTURE PROJECT IMPLEMENTATION - SALE PROCESS FOR EXISTING CIVIC CENTRE**

**PURPOSE OF THE REPORT**

The purpose of this report is to outline and commence the process for disposing of the existing Civic Centre at Waipareira Avenue, in the context of the Civic Futures project and the development of a new Civic Centre in Henderson.

**BACKGROUND**

At its meeting of 19 August 2002, Council determined to proceed to develop a new Civic Centre in Henderson town centre. As part of the development of a new Civic Centre, a process needs to be developed to dispose of the existing Civic Centre. The Waipareira Avenue building will be surplus to requirements, and the proceeds from sale will help to reduce the net cost of the new building. The sale of the building, and the resulting proceeds, was factored into the analysis contained in the Civic Future Evaluation Project.

From time to time, Council has received expressions of interest from various parties, none of which have yet been negotiated in detail. Serious expressions have been noted for future discussions, as a disposal process is formulated and actioned.

**STRATEGIC CONTEXT**

The Civic Futures project report incorporated the sale of the Waipareira Ave. property as part of the overall budgeted net cost of constructing a new Civic Centre in Henderson.

Due to commercial sensitivity, the figure which was presented in the Civic Futures document is not incorporated in this agenda item, however a figure was selected that represented a conservative, yet realistic estimate of the potential sale price.

A process for selling the existing Civic Centre needs to be established now, so that the sale proceeds can be maximised and offset against the potential cost of the new development.

**ISSUES**

**Local Government Act**

At the present time, the provisions of the Local Government Act 1974 apply. Section 230 of the Local Government Act prescribes the process by which land can be disposed of, including a requirement for public notification and a sale price endorsed by a Registered Valuer.

The provisions of the Local Government Bill will be different but will tend to guide Council towards a similar process to that which would be adopted under Section 230 of the Local Government Act 1974.

These statutory processes are the formal requirements on Council in a sale. However these are likely to occur in the latter part of the process, and a great deal more work is required before that point.

**Proposed Process**

In addition to meeting the legal requirements for disposal under the Local Government Act and Local Government Bill, there are practical considerations that need to be taken into account when establishing a disposal process.

In order to maximise the sale proceeds and provide minimal disruption to Council operations, a process needs to be established that will:

- allow the continuous operation of Council before, during and after the move of premises;
- suit the timetable of the new development, including an allowance for smooth transition of staff and equipment;
- open the sale process to the widest possible range of genuine prospective purchasers;
- introduce an element of 'competition' between prospective purchasers;
- allow prospective purchasers to optimise the 'lead time' between unconditional purchase and possession; and
- create a firm price/unconditional contract for Council at the earliest practical time, to enhance the level of certainty of the overall project budget.

*A15-A17*

Bristow, Barbour and Walker have provided initial advice on sale process which recommends an "off-market" approach, having regard to the value and limited potential uses of the Civic Centre building. This advice is attached at pages A15 to A17.

Under this approach, Real Estate Agents would not advertise the property widely, but would introduce the property to appropriate prospective purchasers within the markets of potential uses. Initially, as much as promoting the property itself, the role of the agents would be to seek detailed feedback from the 'niche markets' as to saleability issues such as: likely value range; limitations of the property for each particular use; market concerns etc. This initial feedback will be of value to the Council when firming up its expectations in the early stage of negotiations. It will also allow the Council to consider whether it is better to market the building and surrounding land as a single parcel, or to subdivide and sell the two parts separately.

Two aspects of the process are provision of professional advice to the sale process and timing of the process. These are dealt with below.

### **Professional advice**

As described above, the professional advice received suggests that the best method to market the existing Civic Centre would be by way of an 'off market' process. This approach relies heavily on the ability of those engaged to carry out the process to canvass the most likely markets, to seek feedback from those markets, and to present the positive aspects of the building in a way that best engages with prospective purchasers' own needs.

From an early stage, Council officers will be heavily involved in negotiating with prospective purchasers, however, a successful process will also involve engaging the services of suitable professionals, with better access to likely markets than can be achieved by internal staff alone.

It is therefore proposed that an external Property Consultant be engaged to oversee the marketing of the property, and to engage, as sub-consultants, an appropriate mix of Real Estate marketers at the lowest possible final cost to Council.

To engage an external Property Consultant, a selected tender approach is recommended. Proposals will be invited from several Property Consultants, including those who have been involved in the Civic Futures project in the past.

## Timing

The timing of the sale of the existing Civic Centre will almost certainly impact on the ability to obtain the best possible financial return to Council.

In order to achieve its objectives, Council needs to maintain ownership of the present Civic Centre until, say, six months after the completion of the new development. Yet, it desires both certainty about the price it can obtain and an unconditional sale and purchase agreement, as soon as practically possible.

The 'lead time' for prospective purchasers will also dictate the extent of the potential market for the existing Civic Centre. Relatively few prospective purchasers, for example, would be interested in a settlement period of, say, three years (from 2002 to 2005). However, it is quite likely that many prospective purchasers would be comfortable with an extended settlement period of at least one year, given the size of the premises. Professional advice received to date suggests that the building is more suited to an owner-occupier, who could use an extended settlement period to develop the proposed use prior to possession.

The ability for both vendor and purchaser to achieve a completely compatible settlement period will not be known until the market is canvassed. At this stage, Council can only proceed with its own preference for a reasonable timetable.

Therefore, in line with achieving the strategic objectives outlined in the proposed process (above), it is recommended that Council immediately implements a process to seek and consult with prospective purchasers, with the aim of concluding negotiations and obtaining an unconditional sale and purchase agreement by the end of 2003. Council's preference would be to finalise the sale price before the letting of a construction contract for the new development.

Given the factors outlined above and the integral nature of the sale to the Civic Future project, it is considered prudent to undertake the first stages of the disposal process now.

## RESOURCES

Council officers would be more significantly involved in the proposed marketing process than might otherwise be the case. Meetings between vendor and potential purchasers would involve council officers from the outset, while issues of potential price and timing of sale were being discussed and formulated. In normal market situations, the vendor would tend to become involved only when a firm purchase offer was ready for presentation.

It is proposed that the process be managed by the Civic Future Project Implementation Steering Group as a sub-project of the overall Civic Future project. Additional resources would be engaged as required, either internally or with external assistance as appropriate. Any costs associated with the building process would be "netted off" the actual sale price.

## CONCLUSION

As part of the process of developing a new Civic Centre in Henderson town centre, a process for disposing the existing Civic Centre needs to be established and implemented.

There are significant issues associated with an appropriate disposal process, including: statutory requirements; the possible limits on alternative uses of the building; and the required 'lead times' for both Council and prospective purchasers.

An 'off-market' sale process has been recommended as the most appropriate approach to take. It is recommended that Councillors approve such a process, to begin immediately.

### **RECOMMENDATIONS**

1. That the information be received.
2. That the Project Implementation Steering Group be authorised to commence a selected tender process for professional assistance for the sale of the existing Civic Centre.
3. That the Project Implementation Steering Group be authorised to begin the process of seeking out and negotiating with prospective purchasers in accordance with the broad process and timeframes outlined with any sale and purchase agreements to be reported back to Council for consideration.
4. That the costs associated with the sale process be funded initially from short-term borrowing and recovered from the proceeds of the sale of the building.

Report prepared by: Michael Riley, Partnerships and Advocacy Leader: Governance and Infrastructure.



**The Waitakere City Council**

**UNITEC Institute of Technology**

**Heads of Agreement for Preliminary Design of Civic Future Project**

**KPMG Legal  
Solicitors  
Auckland & Wellington**

Agreement dated

2002

## **Parties**

- 1 **The Waitakere City Council (“WCC”)**
- 2 **UNITEC Institute of Technology (“UNITEC”)**

## **Background**

- A The parties wish to pursue the shared development of an office and library complex in the Henderson town centre.
- B It is intended that the shared development will achieve certain objectives agreed by the parties which are:
- a. To increase the participation and success of the residents of Waitakere City in tertiary education;
  - b. To develop tertiary education facilities and services within Waitakere City in a way that reflects the emerging needs of residents, businesses and the wider community and provides all parties with improved access to tertiary education;
  - c. To maximise the environmental, economic and social benefits of UNITEC’s presence in Waitakere City;
  - d. To maximise the effective and efficient growth of UNITEC’s educational services to and through Waitakere City;
  - e. To help assist the development of Henderson as a vibrant and visually-attractive town centre for business, education and leisure.
  - f. To provide facilities which will accommodate the current and future needs of WCC for its civic administration functions.
- C It is also intended that the overall appearance of the Complex will reflect the unique character of Waitakere City including its history, culture and residents and that the Complex will:
- a. Reflect affordable best practice urban design;
  - b. Incorporate sustainable building methodologies; and
  - c. Increase the safety and attractiveness of the Henderson town centre.
- D As the first step in the process, the parties have agreed to enter into an agreement (this Agreement) in relation to the preliminary design of the Complex with the intention that once both party’s agreement on the preliminary design has been achieved, the parties will then enter into further agreements in relation to the further development of the design and, if both parties are agreeable, the construction, use and management of the Complex.

## Agreement

### 1 Interpretation

#### 1.1 Definitions: In this Agreement unless the context otherwise requires:

“**Agreement**” means this agreement including the background recitals and schedules;

“**Complex**” means the shared development of an office, teaching and library complex on the Site generally in accordance with the preliminary concept plans that have been approved by the parties, including buildings, landscape and parking; portions of which will be shared spaces and portions of which will be dedicated spaces for each party;

“**Design Consultants**” means an architect, landscape architect, quantity surveyor and lead artist, together with such other consultants that the parties may decide to engage for the purpose of carrying out designs of or in relation to the Project;

“**Design Contracts**” means the contracts of engagement for the Design Consultants;

“**PCG**” means the Project Control Group to be established by the parties pursuant to clause 8.1;

“**Preliminary Design**” means design documentation for the Complex to concept stage and is the design stage to which this Agreement is applicable;

“**Project**” means the undertaking to be carried out by the parties pursuant to this Agreement in relation to the engagement of the Design Consultants, the commissioning of the Preliminary Design and the approval of the Preliminary Design;

“**Project Manager**” means an independent consultant whose function will be to facilitate and co-ordinate the activities of the PCG and to manage and co-ordinate the Design Consultants. The Project Manager will receive instruction from and report to the PCG on all issues regarding the Project;

“**Shared Costs**” means the costs to be shared by the parties pursuant to clause 9.1;

“**Site**” means the land owned by WCC between Ratanui Street and Trading Place, Henderson, Waitakere City, which is legally described as:

Lot 33 DP8400 – CT416/263

Lot 32 DP8400 – CT308/232

Lot 15 DP45417 – CT14B/293

Lot 11 DP45417 – CT14B/290

Lot 12 DP45417 – CT10B/720

Lot 13 DP45417 – CT8D/933

Lot 14 DP45417 - CT 1661/79 (subject to acquisition by WCC)

and such other sites as may be acquired by WCC for creation of a pedestrian link to Great North Road and parking facilities.

#### 1.2 Construction of certain references: In this Agreement unless the context otherwise requires, any reference to:

a “**working day**” means a day (other than Saturday or Sunday) on which registered banks are open for business in Auckland.

1.3 **General construction:** in interpreting this Agreement the following rules must be applied unless the context otherwise requires:

- a. Headings to clauses are for reference only and are not an aid in interpretation.
- b. References to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.
- c. References to clauses or schedules are to clauses of or schedules to this Agreement, and any schedules referred to form part of this Agreement.
- d. References to currency are to New Zealand currency.
- e. References to a party are to a party to this Agreement and include that party’s successors in title and permitted assigns.
- f. All periods of time include the day on which the period commences and also the day on which the period ends.
- g. Any date which is not a working day, upon or by which anything is due to be done by any party, will be deemed to be a reference to the next working day.
- h. Words importing the plural include the singular and vice versa and words importing gender import all genders.
- i. Any obligation not to do something will be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- j. All warranties, representations, indemnities, covenants, agreements and obligations given or entered into by more than one person will be deemed to have been given or entered into jointly and severally.
- k. Any statement in this Agreement stated to be to the best of a party’s knowledge or to be so far as a party is aware (or any similar expression) will be deemed to include an additional statement that it has been made after due and careful enquiry.

## 2 **Good Faith**

2.1 Each party acknowledges for the benefit of the other that it will:

- a. At all times act with good faith and goodwill towards the other to endeavour to achieve the successful completion of the Project to each party’s mutual benefit; and
- b. Not do anything which might prejudice the other party’s successful involvement in the Project.

## 3 **Confidentiality**

3.1 The parties shall observe strict confidentiality as to the terms and conditions of this Agreement and its subject matter including any information relating to the Project that may come to their knowledge under this Agreement. Neither party shall divulge or communicate

to any third party any such information nor make use of such information to gain any advantage for itself or any other person or to cause any harm or damage of any nature directly or indirectly to the other party or any other person.

- 3.2 The parties acknowledge that the provisions of clause 3.1:
- a. shall continue to endure for the benefit of the parties notwithstanding the termination of this Agreement, without limit as to time;
  - b. are subject to any legal requirements of disclosure to which either party may be subject;
  - c. do not apply to any information which is already in the public domain; and
  - d. do not apply to any communications by either party to its professional advisers.

#### **4 Agreement on Design**

- 4.1 The parties agree that they will engage the Design Consultants to carry out the Preliminary Design.
- 4.2 The purpose and intent of this Agreement is for the parties to reach agreement on the Preliminary Design. For this purpose the parties will meet and consult with each other, via the Project Control Group.
- 4.3 The parties commit to pursuing the most cost-effective, sustainable and fit-for-purpose design solutions. The parties agree to review any design options to identify opportunities for reduction in cost, prior to adoption of the Preliminary Design.
- 4.4 The parties agree that the Preliminary Design should:
- a. Be based around the “Waitakere Character” and embody, as far as is possible, the uniqueness and heritage of Waitakere City;
  - b. Incorporate Waitakere City’s eco-design principles;
  - c. Comprise buildings for WCC and UNITEC which are aesthetically compatible;
  - d. Incorporate landscaping design and development of the area surrounding the built environment in a manner that is mutually compatible; and
  - e. Provide an equitable and satisfactory solution to the legal and physical parking requirements for the Complex including provision of any permanent or temporary parking facilities to offset existing parking on the Site, which will be demolished during the construction phase.

#### **5 The Complex**

- 5.1 It is intended that the Complex will include:
- Office space for WCC of 10,000m<sup>2</sup>.
  - Campus space for UNITEC of 5000 m<sup>2</sup>.
  - A public library of 3,000m<sup>2</sup> incorporating the Henderson public library, library support services and city-wide reference and other resources.

- A library facility for UNITEC of 800 m<sup>2</sup>, to be operated on a shared basis with the public library.
- Both internal and external civic spaces incorporating performance and exhibition space with appropriate linkages through to the Henderson town centre.
- Car parking to replace the existing public parking on the Site and to provide for some of the parking which will be needed to meet resource consent requirements (with the balance being provided off site).

## 6 Engagement of the Design Consultants

- 6.1 Prior to engagement of the Design Consultants, each party shall ascertain its own requirements in relation to the content, quality, intent and performance of its respective components of the Complex. This shall be achieved by way of a survey of user groups and in such other manner as the parties may consider to be appropriate.
- 6.2 In addition to ascertaining their own requirements, the parties will work together to endeavour to agree the broad scope of the space which they will share together in the Complex, such as the entranceways, entrance hall, shared car parking and landscaped areas and library.
- 6.3 Having established their respective requirements, the parties shall proceed to select and engage the Design Consultants using such procedure for selection and engagement as the parties may agree upon.
- 6.4 Prior to the engagement of the Design Consultants, the parties will procure the Design Consultants to provide details of satisfactory professional indemnity and public liability cover and to acknowledge to the parties that they are liable to them for any errors made in their designs.
- 6.5 The terms and conditions of the Design Contracts shall be agreed upon between the parties, provided that the terms of tender must comply with WCC's standard procurement procedures and requirements. The tender process will be undertaken by WCC using WCC's standard tender and contract management processes.
- 6.6 Once the Design Contracts have been signed, the parties shall supply the Design Consultants as soon as practicable thereafter with full particulars of each party's requirements in relation to the content, quality, intent and performance of their respective components of the Complex (except to the extent that the particulars have already been supplied as part of the engagement process).
- 6.7 Each party shall provide all information for the designs of the Complex which the Design Consultants may reasonably require from time to time.
- 6.8 The Design Contracts shall be between the Design Consultants and WCC. Payments to the Design Consultants shall be payable by WCC after certification of payment by the Project Manager to the PCG and after approval of the payment by the PCG. UNITEC shall pay to WCC, UNITEC's agreed portion as defined in clause 9.1. Payments shall be made by WCC to the Design Consultants and by UNITEC to WCC within 20 working days of approval by the PCG.

## 7 Project Manager

- 7.1 In order to facilitate the completion of the Project the parties shall proceed to engage the Project Manager at such time and using such procedures for selection as the parties may agree upon. The terms and conditions of engagement of the Project Manager shall be agreed upon between the parties and the Project Manager.

**8 Project Control Group**

- 8.1 The parties shall form and establish the PCG which shall consist of:
- a. The Project Manager (once appointed),
  - b. Three representatives of WCC, and
  - c. Three representatives of UNITEC.
- 8.2 Once appointed, the Project Manager shall chair all meetings of the PCG. Prior to the Project Manager's appointment, the PCG shall elect its own chairperson.
- 8.3 Each party:
- a. Will ensure that its representatives on the PCG are available to carry out the functions of the PCG and attend all meetings of the PCG;
  - b. May replace any of its representatives;
  - c. May appoint an alternative representative to act in place of a current representative;
  - d. May request the presence of any expert they feel necessary at any PCG meeting, subject to that expert not being accorded voting rights; and
  - e. May appoint up to two ex officio members each who may attend PCG meetings as they see fit.
- 8.4 The functions of the PCG will be:
- a. To act as a forum for discussion of all matters which must be carried out by the parties pursuant to this Agreement;
  - b. To monitor, review and coordinate the design process;
  - c. To assist in the selection and approval of designs which are acceptable to both parties; and
  - d. To assist in the resolution of any disputes that may arise between the parties.
- 8.5 The PCG will meet formally at a time convenient to each member between the hours of 8.30am and 5pm on weekdays until completion of the Project or any earlier termination of this Agreement and, in any event, not less than fortnightly.
- 8.6 Each party shall within 10 working days after the date of this Agreement give notice to the other of the name, address, business phone number, mobile phone number and business email address of its representatives on the PCG. All notices of meetings of the PCG must be given to every member.
- 8.7 If at any time there is any change in the personnel of the PCG, then the party whose personnel changes shall immediately advise the other party of the change and the contact details of the new member or members.
- 8.8 Either party may give notice to the other party requiring a special meeting of the PCG, provided that not less than 48 hours' notice of a meeting must be given.

8.9 The PCG will make binding decisions by way of unanimous vote, with each party having one vote. The vote for WCC shall be exercised by John Dragicevich (Director: City Services) or his nominee and the vote for UNITEC shall be exercised by Roger Paul (Vice-President – Campus Development) or his nominee. If agreement cannot be reached within 2 working days, then the matter shall be referred to the Chief Executives of both parties. If agreement cannot be reached by the Chief Executives within 2 working days after having been referred to them, then the matter will be referred to mediation and the provisions of clauses 27.4 and 27.5 shall apply.

## 9 Project Costs

9.1 The parties shall share all external costs of and incidental to the Project, including the Design Consultants' fees and expenses, initially in the following proportions:

WCC – 70%

UNITEC – 30%.

These proportions shall be reviewed upon completion of the Preliminary Design and if necessary adjusted, based on the respective estimated costs of construction of those parts of the Complex of which each party shall have the exclusive use and each party's respective proportions of the estimated costs of construction of those parts of the Complex where the use will be shared by the parties (such proportions to be such fair proportions agreed upon between the parties).

9.2 Each party will, unless otherwise agreed, bear its own internal costs.

9.3 As soon as practicable after execution of this Agreement, the parties will set a budget for the Project.

9.4 The parties, through the Project Manager, will consistently monitor the budget.

9.5 The parties will arrange for the Project Manager to prepare and distribute to the parties at the end of each month a budget report which outlines:

- a. The Shared Costs paid to date and during the last month under this Agreement;
- b. Any deviations from the budget during the last month; and
- c. Any amendments required to the budget in light of the report.

9.6 Within 10 working days after the Project Manager distributes a copy of the budget report, the PCG must be convened to consider and approve the budget report and if necessary amend the budget.

9.7 Every month, each party must pay into a bank account set up for the purpose of payment of the Shared Costs, the amounts specified by the PCG to ensure:

- a. The sufficiency of funds to pay any Shared Costs which are due and owing; and
- b. That each party bears its proper proportion of the Shared Costs.

9.8 If a party fails to pay an amount required within 10 working days of the date specified by the PCG, that party shall pay to the other party an amount equivalent to interest at the rate of 12% per annum on all outstanding amounts until payment.

9.9 The PCG shall not approve for payment any Shared Costs unless the request for payment is accompanied by a written invoice, together with such further information as may be required by the PCG to verify the incurring of such cost.

**10 Accounts and Records**

10.1 The parties must open and maintain a current account for the purposes of complying with their payment obligations under this Agreement.

10.2 All cheques and other negotiable instruments drawn on the current account must be signed by one representative of each party on the PCG or as the PCG otherwise directs.

10.3 The parties shall ensure that full and accurate records and accounts are kept in respect of the Shared Costs and all other relevant matters relating to the Project and such records and accounts shall be made available for inspection or copying by either party as and when reasonably required.

**11 Target Completion Dates**

11.1 The parties agree that they shall use their best endeavours to ensure:

- a. that the Design Contracts are signed by 31 December 2002; and
- b. that the Preliminary Design has been completed and approved by both parties by 31 May 2003 .

**12 Entire Agreement**

12.1 This Agreement contains all of the terms, representations and warranties made between the parties and supersedes all prior discussions and agreements covering the subject matter of this Agreement.

**13 Further Assurances**

13.1 The parties must each sign, execute, procure, pass and do all such further documents, acts, matters, resolutions and things as may be necessary or desirable for effecting the transactions contemplated by this Agreement.

**14 Amendments**

14.1 No amendment to this Agreement will be effective unless it is in writing and signed by both parties.

**15 Waiver**

15.1 No exercise or failure to exercise or delay in exercising any right or remedy will constitute a waiver by that party of that or any other right or remedy available to it.

**16 Termination on Default**

16.1 This Agreement may be terminated immediately by one party (“**the first party**”) giving notice in writing to the other party (“**the other party**”):

- a. upon the other party committing any breach of this Agreement which is incapable of being rectified; or

- b. upon the other party committing any breach of this Agreement which is not rectified within 20 working days of written notice of the breach having been given to the other party by the first party; or
- c. upon the other party becoming insolvent; or
- d. upon a receiver or manager of any asset of the other party being appointed, or an order made or resolution passed for the liquidation of the other party.

**17 Termination on Notice**

- 17.1 This Agreement may be terminated by either party giving 20 working days' notice in writing to the other party to this Agreement of its intention to do so.
- 17.2 Upon any termination of this Agreement pursuant to clause 17.1, neither party shall have any right to recover any costs expended and each party must pay its proportion of any Shared Costs that have been incurred to the date of the termination, including costs of any commitments under existing contracts that are in effect at termination.

**18 Licence to Use Information on Termination**

- 18.1 Following termination of this Agreement, if only one party wishes to proceed with that party's portion of the Complex, or a revised version thereof, that party shall have the exclusive licence to use all information, drawings and other materials related to the Project that were developed during the collaboration of both parties. If both parties wish to proceed in this manner, then the parties shall share all such information, drawings and other materials in a fair and reasonable manner to be agreed between them.

**19 No Partnership**

- 19.1 Nothing contained in this Agreement will be deemed or construed to constitute any party to be a partner, agent or representative of any other party, or to create any trust or commercial partnership.
- 19.2 No party shall have the authority or right or hold itself out as having the authority or right to assume, create or undertake any obligation of any kind whatsoever on behalf of or in the name of the other party.

**20 No Assignment**

- 20.1 No party may assign or be relieved of its rights or obligations under this Agreement without the prior consent in writing of both parties.

**21 Partial Invalidity**

- 21.1 If any provision of this Agreement or its application to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of this Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.

**22 Third Parties**

- 22.1 Except as specifically provided nothing in this Agreement is intended to confer a benefit upon any third party under the Contracts (Privity) Act 1982.

23 **Counterparts**

23.1 **Copies:** This Agreement may be executed in 2 or more counterpart copies each of which will be deemed an original, and all of which together will constitute one and the same instrument.

23.2 **Execution:** A party may enter into this Agreement by signing a counterpart copy and sending it to the other parties. Each of the parties shall promptly sign the original copies of this Agreement (such copies to be signed by all the parties) after the execution of counterparts.

24 **Time of Essence**

24.1 Time will be of essence in the performance by any party of its obligations under this Agreement.

25 **Rights Cumulative**

25.1 The rights of the parties under this Agreement are cumulative and are not exclusive of any other rights and remedies available to any party.

26 **Notices**

26.1 **Service of notices:** Any notice given pursuant to this Agreement will be deemed to be validly given if personally delivered, posted, or forwarded by facsimile transmission to the address of the party to be notified set forth below or to such other address as the party to be notified may designate by written notice given to all other parties.

WCC's address is:

Civic Centre  
6 Waipareira Avenue  
Waitakere City

Facsimile no: 836 8001

Attention: Mr Ross McLeod

UNITEC's address is:

UNITEC Institute of Technology  
Private Bag 92 025  
Auckland

Facsimile no: 815 2901

Attention: Mr Roger Paul

26.2 **Time of service:** Any notice given pursuant to this Agreement will be deemed to be validly given:

- a. in the case of **delivery**, when received;
- b. in the case of **facsimile transmission**, when sent;
- c. in the case of **posting**, on the second day following the date of posting;

provided that any notice personally delivered or sent by facsimile either after 5 pm on a working day or on any day that is not a working day will be deemed to have been received on the next working day.

## 27 Alternative Dispute Resolution

- 27.1 **Disputes:** Subject to the final subclause of this clause, where any question, dispute or difference arises between the parties concerning or in any way arising out of this Agreement or the performance of either party of this Agreement, or of the circumstances, representations, and conduct giving rise thereto, no party may commence any court or arbitration proceedings relating to any question, dispute or difference unless that party has complied with the procedures set out in this clause.
- 27.2 **Representatives for negotiations:** The party initiating the question, dispute or difference (“**the first party**”) must provide written notice of the same to the other party (“**the other party**”) and nominate in that notice the first party’s representative for the negotiations. The other party must within 5 working days give written notice to the first party naming the other party’s representative for the negotiations. Each representative nominated will have authority to settle or resolve the question, dispute or difference.
- 27.3 **Referral to Mediation:** If the parties are unable to resolve the question, dispute or difference by discussion and negotiation within 5 working days of receipt of the written notice from the other party, then the parties must immediately refer the question, dispute or difference to mediation.
- 27.4 **Conduct of Mediation:** The mediation must be conducted in terms of the LEADR New Zealand Inc. Standard Mediation Agreement. The mediation must be conducted by a mediator and at a fee agreed by the parties. Failing agreement between the parties, the mediator will be selected and his/her fee determined by the Chair for the time being of LEADR New Zealand Inc. The mediator’s fees and disbursements shall be met by the parties in equal shares. Each party shall pay its own expenses of and incidental to the mediation.
- 27.5 **Referral to Arbitration:** If the dispute remains unresolved after the mediation, then the dispute must be submitted to the arbitration of a single arbitrator agreed on between the parties, or in default of agreement to be nominated by the President of the New Zealand Law Society. The arbitration will be conducted in accordance with the Arbitration Act 1996 and the provisions of the Second Schedule of the Act will apply. The parties reserve the right to appeal to the High Court on any question of law arising out of an award.
- 27.6 **Urgent interlocutory relief:** Nothing in this clause will prevent any party from taking immediate steps to seek urgent interlocutory relief before an appropriate court.

## 28 Legal Capacity

- 28.1 Each party warrants, covenants and represents to the other that:
- a. It is duly incorporated or otherwise constituted, organised and validly existing;
  - b. It has the legal right and power to enter into this Agreement; and
  - c. The signature, delivery and performance of this Agreement has been duly and validly authorised by all necessary resolutions or other action on its part and the agreements made in this Agreement are valid and binding agreements in accordance with their terms.

29 **Indemnity**

29.1 Each party (“**first party**”) hereby indemnifies and holds harmless the other party from and against any or all losses, claims, damages, expenses and liabilities arising from any breach by the first party of its obligations under this Agreement.

30 **Governing Law and Jurisdiction**

30.1 This Agreement will be construed and take effect as a contract made in New Zealand and will be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

31 **Costs of this Agreement**

31.1 Each party shall bear its own costs in relation to the negotiation, preparation and execution of this Agreement.

32 **Conditional Upon Councils’ Approval**

32.1 This Agreement is conditional upon the Councils of each party approving this Agreement in all respects. Each party must give written notice of approval to the other party.

32.2 In consideration of the benefit of this clause, each party shall forthwith on demand pay to the other party the sum of \$1.00.

32.3 Should this condition not be satisfied within 10 working days after the date of this Agreement, this Agreement shall be voidable at the option of either party and in the event of cancellation pursuant to this clause, neither party shall have any further right or claim against the other.

**Execution**

Signed for The Waitakere City Council by

[ \_\_\_\_\_ ]

pursuant to delegated authority:

\_\_\_\_\_  
Name [ \_\_\_\_\_ ]  
Position

\_\_\_\_\_  
Name [ \_\_\_\_\_ ]  
Position

Witness to the above signatures:

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Address

**Signed** on behalf of **UNITEC Institute of Technology** by:

\_\_\_\_\_  
Name [ ]  
Position

\_\_\_\_\_  
Name [ ]  
Position

Witness to the above signatures:

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Address

# BRISTOW BARBOUR & WALKER

REGISTERED VALUERS AND PROPERTY CONSULTANTS

Waitakere

Please refer .....Office

3 October, 2002  
REF: CB02-3645A

Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY

Attention: Ross McLeod

Fax: 836 8057

Dear Sir,

**Re: CIVIC CENTRE DIVESTMENT STRATEGY**

We refer to a document prepared for Waitakere City Council (Ref:CB02-3645) dated 30 January, 2002 which outlined a range of alternative uses, potential values and divestment strategies etc for the Civic Centre building in Waipareira Avenue, Henderson. The purpose of this report was to establish a value and use profile to the property to be considered in conjunction with the accommodation review being undertaken at that time.

Since that time Council has resolved to progress with the Henderson option for its accommodation requirements and therefore divest of the Civic Centre. Within our earlier report we set out a range of issues in relation to the divestment strategy, and extract those comments directly as follows:

If the decision is taken to divest of the Civic Centre it is important a clear strategy is developed in the context of the wide range of alternative uses for the property. In our opinion this strategy should take into account the following:-

- The property is relatively unique.
- The property is of high monetary value in the context of the local Real Estate market.
- The property is suitable for a limited range of uses.



**BRISTOW BARBOUR & WALKER LIMITED**

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55-65 Shortland Street  
PO Box 733  
Shortland Street  
Auckland  
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Fax 300-7565

**Waitakere Office**  
379 Great North Road  
PO Box 21-322  
Henderson  
Phone 838-9999  
Fax 837-0737

**North-West Office**  
Kumeu Village  
PO Box 521  
Kumeu  
Phone 412-9170  
Fax 412-9172

**Registered Valuers**

Michael J. Bristow *Director*  
David J. Walker *Director*  
Campbell N. Barbour *Director*  
Geoff R. Maxwell *Associate Director*  
David J. Grubb *SNZPI*  
Karen A. Cooke *SNZPI*  
Edward A. Bell *ANZPI*  
Stephen L. Doyle *ANZPI*  
Michael D. McLean *ANZPI*

**Associate Valuers**

Richard A. Papps *B.B.S.*  
Adam G. Boon *B.Prop.*  
Nicola H. Leotta *B.Prop.*

**AIS**

### **CIVIC CENTRE DIVESTMENT STRATEGY**

- A limited number of potential purchasers for the property under each use scenario could be identified.
- The property must be sold to a potential use which is considered appropriate in terms of Council's strategic objectives.
- There is no significant time constraints on achieving a sale.
- Council's exit from the property would need to be structured over a period of time.
- Working closely with a prospective purchaser through issues such as Resource Management etc will result in maximising the property's value.

In light of the points noted above, we conclude that any divestment strategy will need to be tailored specifically to the characteristics of the Civic Centre. Typically properties of this nature would be sold off market, this meaning the properties are not advertised for public sale but rather by way of introduction to qualified and appropriate potential purchasers. An off market strategy is often undertaken by property consultants often through contact with the Real Estate agency industry. Due to the complexity of the potential transaction, it is often negotiated by the vendor or its consultants directly although often through agency avenues.

Under each of the alternative use scenarios, the most appropriate approach is to contact the key potential purchasers within the market place. This would not only serve to "off market" the property but also to gain feedback as to the market's expectations of value levels, the property's limitations for each use, and to provide additional information relating to issues such as wider economic benefits etc.

Once a prospective purchaser has been identified for the property detailed negotiations as to the conditions of sale of the property would be undertaken. Significant added value could be secured through this process, particularly in regard to providing for ease of resolution of Resource Management issues, and by structuring the transaction in the most appropriate way, dependent upon the potential purchaser's requirements. In our opinion this mode of negotiation would be attractive to Council as it would retain control through the process, therefore being able to ensure political acceptability of the final outcome.

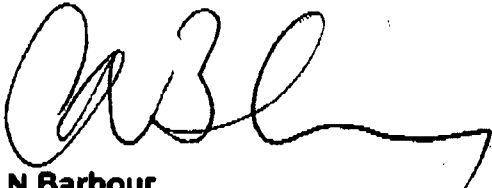
Given the range of potential configurations in which the property could be sold, the consultant handling the negotiation would need to be particularly mindful of the potential to maximise value through the sale of the property either in part, in full, or with it subject to a subdivision. In our opinion these issues would need to be considered prior to marketing the property although ultimately contact with the market would resolve the highest and best use of the property i.e. the configuration which delivered the best value to Council.

A16

**CIVIC CENTRE DIVESTMENT STRATEGY**

We trust these brief comments are sufficient to your requirements at this stage, and look forward to being of assistance in the future.

Yours faithfully,  
**BRISTOW BARBOUR & WALKER LTD**

A handwritten signature in black ink, appearing to be 'C N Barbour', written in a cursive style.

**C N Barbour**  
**REGISTERED VALUER & PROPERTY CONSULTANT, SNZPI, ANZIV**

# **MISSION, GOALS AND PRINCIPLES**

## **Waitakere eco-city**

**Sustainable**

**Dynamic**

**Just**

## **PRINCIPLES**

**Open honest communication**

**Responsiveness**

**Accountability**

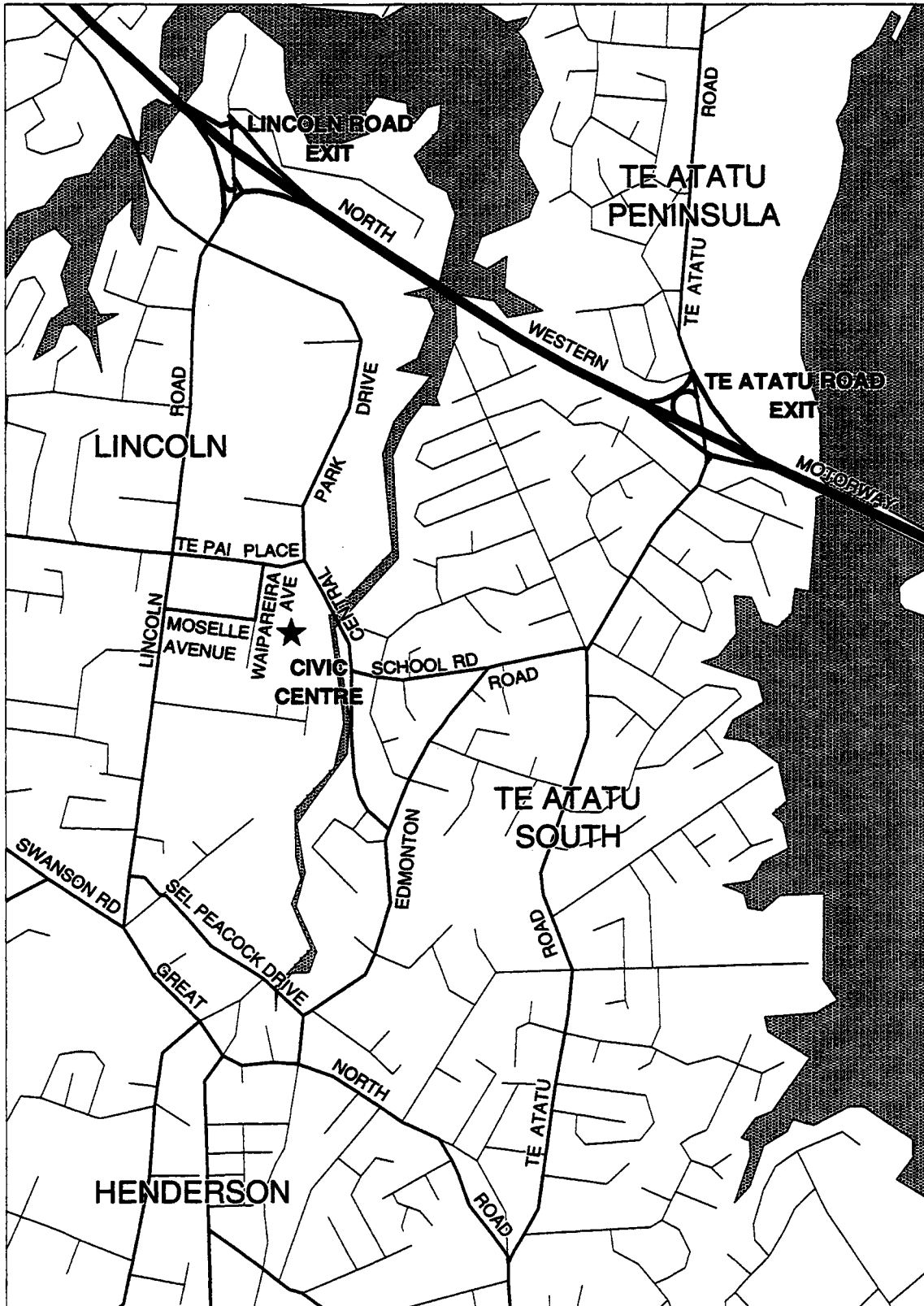
**Partnership**

**Innovation**

**Excellence**

**Integrity**

# WAITAKERE CITY COUNCIL CIVIC CENTRE



**6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY**