

**AGENDA FOR A SPECIAL MEETING OF THE COUNCIL (VARIOUS) TO BE HELD IN
THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON
WEDNESDAY, 19 FEBRUARY 2003 COMMENCING AT 9.30 AM.**

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1 APOLOGIES



2 LOCAL GOVERNMENT ACT 2002 - BRIEFING AND INITIAL IMPLICATIONS

PURPOSE OF THE REPORT

The purpose of this report is to brief Council about the immediate implications of the Local Government Act 2002. In addition, Council will be asked to decide whether to adopt an Annual Plan or a Long Term Council Community Plan for the 2003/2004 year.

BACKGROUND

The Local Government Act 2002 was passed by Parliament in December 2002 and received the assent of the Governor General on the 24 December 2002. Parts of the Act came into force immediately. These are the sections relating to:

- planning and decision-making, consultation, reporting and financial management;
- obligations and restrictions relating to the provision of water services and the disposal of parks (that are not reserves);
- consequential repeal of legislation that is no longer necessary;
- transitional provisions and;
- schedules relating to Council plans and reports and rates relief on Maori freehold land.

The rest of the Act comes into force on 1 July 2003.

Council has actively participated in the development of this legislation making comprehensive written submissions on the initial discussion document and the draft Bill and also being heard by the Select Committee in support of these submissions. Copies of the new Act are available in the Councillors Lounge and it can be accessed electronically via the Council intranet.

STRATEGIC CONTEXT

The new Local Government Act is the fourth component in a group of legislative reforms aimed at modernising New Zealand's system of local democracy. The other three parts of this package are the Local Electoral Act 2001, the Local Government (Elected Member remuneration and trading Enterprises) Amendment Act 2001, and the Local Government (Rating) Act 2002.

The new Act explicitly charges local government with the leadership of their local communities. It empowers Councils but equally empowers communities by requiring a high standard of accountability. While Councils are encouraged to be flexible in how they meet the needs of their communities, they must ensure that their decision making processes are open to the influence and scrutiny of their communities.

The key to the whole act is set out in Section 10 - Purpose of local government

“The purpose of local government is-

- (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and*
- (b) *to promote the social, economic, environmental and cultural well-being of communities, in the present and for the future.”*

Council’s Eco-city vision is completely aligned to this newly articulated democratic and sustainable development focussed “Purpose” of local government.

ISSUES

The long term implications of the legislation will be the subject of discussion and debate for some time to come and it is not within the scope of this item to focus on those bigger issues. As some parts of the legislation are now in force and the balance will be operative within five months there are some issues that must be dealt with now.

The following table summarises the main actions which Council must take to respond to the legislation over the next twelve months.

Local Government Act 2002 - Actions needed in 2003 and 2004 (summary)

Action	Due date	Sections under LGA 2002
First Triennial agreement between local authorities within the region	31 December 2003	273
First local governance statement	31 December 2003	274 40 (1)
First policy on appointment of directors of Council controlled entities	30 June 2003	275 57(1)
First statement of intent, report and accounts of LATEs	1 July 2003	276 64 (2) 64 (1)
First policy on significance (of proposals in relation to issues, assets or other matters)	Before 30 June 2003	278 90 (1)
First Long Term Council Community Plan Optional Must	30 June 2003, or 30 June 2004 30 June 2006	279 (1) 93
Annual Plan If Long Term Council Community Plan not adopted in July 2003	30 September 2003	281 82 & 83 84
Funding & Financial Policies	June 2003	102
Liability management policy	June 2003	102(4)(b)
Investment policy		102(4)(c)
Partnership with private sector		102(4)(e)
Policy on determining significance	June 2003	90
Funding impact statement	June 2003	Clause 13 of schedule 10
LTFS-updated summary if related to pre July 2001	September 2003	281(2)

The most immediate issues are the need to develop policies on the appointment of directors to Council Controlled entities, a significance policy, a suite of financial management policies and a decision about whether to adopt an annual plan or a Long Term Council Community Plan for the forthcoming year. Staff are also considering how best to alter current quality assurance processes to ensure that Council complies with the technical obligations of the Act for decision making.

An annual plan or a Long Term Council Community Plan?

The transitional provisions of the LGA have made it optional for Council whether they adopt a Long Term Council Community Plan for the years beginning July 2003 or July 2004. All Councils must adopt a Long Term Council Community Plan for the year beginning July 2005. In any year in which an Long Term Council Community Plan is not adopted, Councils must adopt an Annual Plan.

For the 2003/2004 and 2004/2005 years there are certain transitional provisions that apply to the Long Term Council Community Plan or the Annual Plan. In relation to the Long Term Council Community Plan, these provisions relax the requirements to follow prescribed processes to ascertain community outcomes so that Councils are able to simply use the information available to them. In relation to both the Long Term Council Community Plan and the Annual Plan, certain financial management policies are not required until July 2005. There is no requirement to include a summary of an assessment of water services and sanitary services so long as this assessment has not been undertaken. There is an exclusion in relation to a summary of the local waste management plan but this does not apply to Waitakere City Council as we have a waste management plan. There is also no requirement to have audit reports certifying compliance with the new legislation.

A1-A3

An analysis of the requirements of the Annual Plan and the Long Term Council Community Plan has confirmed that Waitakere City Council would be able to complete a Long Term Council Community Plan this year. A copy of this analysis is attached at pages A1 to A3. This analysis shows that there are many new requirements for both the Annual Plan and the Long Term Council Community Plan. From the point of view of the effort involved in producing the plans for the current cycle, the most substantial difference between the Long Term Council Community Plan requirements and the Annual Plan requirements is the community outcomes and related processes and a requirement to provide considerable detail in relation to asset management plans.

The Strategic Review process the Council has followed to date plus many years of pursuing a strongly consultative approach means Council is well placed to describe community outcomes. Council is acknowledged as a leader in the area of community driven planning processes, and development of an early Long Term Council Community Plan would, in some ways, be an affirmation of the years of commitment to these processes.

While the detailed requirements of the asset management provisions (and the associated funding needs) are new, this information is the basis of the major Council budgets. It is a relatively straightforward matter to provide commentary on this financial material.

The major downside of adopting a Long Term Council Community Plan rather than an Annual Plan for the 2003/2004 year, is administrative; the Long Term Council Community Plan must be adopted by 30 June 2003 where the Annual Plan need not be adopted until 30 September 2003. Council has already approved a timeline which ended with the Annual Plan being adopted on 17 July 2003.

A decision to adopt a Long Term Council Community Plan will mean that the previously approved timetable will need to be altered and there will be an even heavier time commitment to hearings and deliberations meetings in June. However, it should be noted that, the new financial management policies and the significance policy must all be adopted by 30 June 2003 and must be open to consultation using the Special Consultative procedure. Logistically, these policies need to be produced, adopted in draft

by Council and published for consultation purposes, at the same time as the Annual plan or Long Term Council Community Plan.

In theory it would be possible to hold hearings and deliberations related to these policies and a special meeting to adopt the policies by 30 June and to then hold deliberations on the budget proper after 30 June 2003 (if Council were to adopt an Annual Plan rather than a Long Term Council Community Plan). In practice though, this would be messy to administer and potentially confusing to submitters. It would also mean that Council adopts its new policies without first considering any overall budget implications.

It is considered that overall, it is highly desirable, both philosophically and logistically, for this Council to produce a Long Term Council Community Plan rather than an Annual Plan this year and a new timetable and the associated meeting schedule changes will be proposed to Council through a separate item on this agenda.

Other Implementation issues

While the overriding thrust of the new Act is consistent with the approach this Council has advocated for ten years, there are many changes that will take time and effort to understand and fully implement. There are changes which will, in time, affect almost all aspects of Council business ranging from the governance of areas such as community boards and council controlled organisations to new powers, new funding instruments (financial contributions) and new restrictions. Local Government New Zealand has set up a major project, Local Government KNOWHOW to provide councils with the guidance, templates, "best practice" advice and ongoing training that will enable them to implement the new Local Government and Rating Acts successfully. The first major LGNZ training seminar will take place in March 2003 and Council will be asked to consider the attendance of elected members at this seminar in another item on this agenda.

RESOURCES

Implementation of the new requirements of the LGA 2002 will require both the commitment of staff, some additional assistance from consultants and legal advice. There is resourcing provided in current year budgets to undertake the anticipated work and future resourcing will form part of budget proposals in successive years.

CONCLUSION

The LGA 2002 is now in force, in part, with the balance of the Act becoming operational from 1 July 2003. This report outlines the main immediate actions that Council needs to take in order to comply with the legislation and signals that there are a much wider range of issues that will need to be worked through by the Council over time. It is also concluded that Council is well placed to be an "early adopter" by developing a Long Term Council Community Plan for the 2003/2004 - 2012/2013 period using the transitional provisions of the Act.

RECOMMENDATIONS

1. That the information be received.
2. That Council produce a Long Term Council Community Plan for the period 2003/2004 to 2012/2013 using the transitional provisions of the Local Government Act 2002.

Report prepared by Joy Hames, Manager Policy Development



3 **2003 MEETING SCHEDULE**

PURPOSE OF THE REPORT

The purpose of this report is to present to the Council the amended 2003 Meeting Schedule for consideration and adoption, to advise the Council of the new proposed timetable for the preparation of the 2003/2004 Long Term Council Community Plan and Annual Plan, and to reconfirm Community Board and Te Taumata Runanga representation in the Annual Plan process.

2003 MEETING SCHEDULE

The 2003 Meeting Schedule has been altered to meet the timing requirements of the Local Government Act 2002 for the Council to be an "early adopter" for the development of the Long Term Council Community Plan and Annual Plan

A4-A16

For convenience of Councillors, conferences and meetings that require Councillor or Community Board Member participation have also been shown in the schedule, but do not form part of the recommendation to the Council. They are, the 2003 Local Government Conference, the 2003 Community Board Conference, the LGNZ Zone One meetings, Te Roopu Rangatahi, Youth Council, Pacific Island Advisory Board and Keep NZ Beautiful. The 2003 Meeting Schedule is attached at pages A4 to A16.

CONCLUSION

The amended 2003 Meeting Schedule including the 2003/2004 draft Long Term Council Community Plan and Annual Plan meeting dates is presented to the Council for consideration. Also presented for consideration is the provision for the Chairpersons or their designated alternate of the Community Boards and Te Taumata Runanga being required to attend all meetings of the Long Term Council Community Plan and Annual Plan Special Committee as in previous years.

RECOMMENDATIONS

1. That the information be received.
2. That the amended 2003 Meeting Schedule for the Council, its Standing Committees (including Te Taumata Runanga), Special Committees, Subcommittees and Community Boards as attached to the agenda be adopted
3. That the Chairpersons of the Community Boards and Te Taumata Runanga or their designated alternates be required to attend as paid representatives all meetings of the Annual Plan Special Committee held to consider, progress and approve the 2003/2004 Annual Plan and further that they be accorded speaking rights at those meetings.

Report prepared by: Darryl Griffin, Manager Democracy and Support Services.



4 **LOCAL GOVERNMENT ACT 2002 - LOCAL GOVERNMENT NEW ZEALAND
KNOWHOW SEMINARS**

PURPOSE OF THE REPORT

The purpose of this report is to advise Council about Local Government New Zealand Know How seminars being organised to appraise Elected Members and staff on Local Government Act 2002 and to present some guidelines and best practise notes for its implementation.

BACKGROUND

The Local Government Act 2002 was passed by Parliament in December 2002 and received the assent of the Governor General on 24 December 2002. Parts of the Act came into force immediately and the rest of the Act comes into force on 1 July 2003. Local Government New Zealand have had a number of work groups comprising elected members, local authority officers, Local Government New Zealand staff and other advisors have been developing seven KNOWHOW Guides. Each KNOWHOW Guide deals with a different aspect of the new legislation; the full "product range" includes KNOWHOW Guides to:

- Rating (released July 2002);
- Governance (to be released February 24, 2003);
- Decision-Making (also to be released February 24, 2003);
- Regulation and Enforcement (to be released April 2003);
- Assessments of Water and Sanitary Services (to be released May 2003);
- The Local Government Act: An Overview (to be released May 2003);
- Development Contributions Under the Local Government Act (to be released June 2003).

A17-A21

The Governance and Decision-Making Guides will be supported by a series of six 3-Day KNOWHOW Seminars, to be held in Dunedin, Christchurch, Wellington, Palmerston North, Rotorua, and Auckland between 3 March and 15 March 2003. An additional date is currently being sought for a second Auckland seminar. The seminar programme is attached at pages A17 to A21.

STRATEGIC CONTEXT

The new Local Government Act is the fourth but most significant component in a group of legislative reforms aimed at enhancing and strengthening New Zealand's system of local government and democracy. The other three parts of this package are the Local Electoral Act 2001, the Local Government (Elected Member remuneration and trading Enterprises) Amendment Act 2001, and the Local Government (Rating) Act 2002.

The new Act explicitly charges local government with the leadership of their local communities. It empowers Councils but equally empowers communities by requiring a high standard of accountability. While Councils are encouraged to be flexible in how they meet the needs of their communities, they must ensure that their decision-making processes are open to the influence and scrutiny of their communities.

The key to the whole act is set out in Section 10 - Purpose of local government:

*"The purpose of local government is-
to enable democratic local decision-making and action by, and on behalf of,
communities; and
to promote the social, economic, environmental and cultural well-being of
communities, in the present and for the future."*

This purpose aligns well with Council's Eco-city vision which has been focused on sustainable development for a period of ten years now.

ISSUES

The Local Government Act is the principal Act under which the Council operates and it is important that Elected Members and staff are familiar with and understand its requirements. The Local Government New Zealand Know How seminars are designed specifically by people in local government to share collective wisdom with their peers. All Councillors and a number of Directors and Senior Managers should attend these seminars to increase their knowledge of the Act and to ensure Waitakere is able to meet or exceed legislative requirement. The Chief Executive will determine who will attend from among the staff.

RESOURCES

Training budgets are adequate to ensure staff training requirements are met. Councillors attending will have the direct costs met from the Civic services Elected Member cost centre.

CONCLUSION

All councillors should avail themselves of this excellent opportunity to gain knowledge about the Local Government Act 2002 at these purpose-designed seminars in March.

RECOMMENDATIONS

1. That the information be received.
2. That all Councillors who are available be authorised to attend these seminars with costs being met by the Council.

Report prepared by: Darryl Griffin, Manager Democracy and Support Services.



5 ELECTED MEMBERS REMUNERATION - HIGHER SALARIES COMMISSION DETERMINATION

This issue is to be considered at a Workshop of Councillors. Provision is made on this agenda for any matters arising to be considered at this meeting and any subsequent action taken.



6 URBANISM DOWNUNDER CONFERENCE: 20-22 MARCH 2003

PURPOSE OF THE REPORT

This report advises the Council of the *Urbanism Downunder 2003* conference, taking place 20-22 March 2003 in Auckland, sets out costs for attendance, and recommends that Waitakere City Council provides the registration fees for Councillors and Community Board Chairs to attend.

BACKGROUND

Waitakere City Council is helping to sponsor the *Urbanism Downunder 2003* conference. It is to be held at Sky City between 20 and 22 March 2003.

The conference will incorporate principles and practises common to the new Urbanism movement. It will also review the relevance of other international urban design practises unique to Southern Hemisphere cultures and environments.

Australian, New Zealand and international practitioners will present on the art and science of transforming cities. It will explore the multiple disciplines necessary for creating liveable towns and cities, including:

- urban design;
- architecture;
- landscape design;
- planning;
- economics;
- property development;
- transport;
- community development;
- communications.

The schedule of events comprises an exciting collection of topics for consideration. Waitakere City Council's achievements are showcased in two sessions:

- a site tour of Waitakere City, showing our efforts to create sustainability-based town centres in brown and Greenfield locations, main street based shopping malls, mixed use in marginal locations, and medium and mixed density housing solutions;
- a presentation on Waitakere City Council by Wendy Morris / Chip Kaufman of ESD Melbourne, on *Design tools for engaging communities*.

STRATEGIC CONTEXT

Urbanism Downunder 2003 is an important conference because it provides an overview of Urbanism consistent with, and relevant to our City's Strategic Plan.

It would be desirable for all Councillors and the Chairs of our Community Boards to be offered attendance at this conference, as the subject matter would support our Council's approach to strategic town centre development and the economic development that results.

RESOURCES

Training budgets are adequate to ensure staff training requirements are met. Councillors attending will have the direct costs met from the Civic Services Elected Member cost centre.

ISSUES

Registration for each attendee is \$495, discounted to \$450 if paid before 20 February 2003.

There is a welcoming reception, which is optional. It costs \$36 for attendees, and \$36 for each additional guest.

There is also an optional conference dinner, which costs \$81 for attendees and \$81 for each additional guest.

The conference convenors will allow a bulk discount of one free registration for every ten paid registrations.

Travel costs, parking, and accommodation (if any) are additional.

CONCLUSION

The conference subject matter is topical, and there would be considerable value to our community for all Councillors, Chair of Te Taumata Runanga and Community Board Chairs to attend. It is proposed that Council pay for the registration fees only.

RECOMMENDATIONS

1. That the information be received.
2. That the Chief Executive be requested to fund the registration fees for all Councillors and Community Board Members who wish to attend the *Urbanism Downunder 2003* conference, to be held 20-22 March 2003 in Auckland.

Report prepared by: Andrew L Cawston, Manager Executive Office.



7 NEW LYNN DEVELOPMENT - LAND ISSUES

PURPOSE OF THE REPORT

To pass all necessary resolutions to enable the implementation of the preliminary subdivision reconfiguring land within the New Lynn Commercial Centre and vesting McCrae Way and the remaining portion of Memorial Drive, and to update Council with respect to the outcome of negotiations with McDonald's Restaurants (New Zealand) Limited to effect a boundary adjustment by way of an exchange of lands on the basis of an equality of consideration including the surrender of certain existing right-of-way and parking easements.

BACKGROUND

NZ Post Limited/Henley Kiwi Co Limited

A22

At its August 2002 meeting Council received a report with respect to progress towards the vesting of the roading network serving the "Heart of New Lynn" as shown on Cato Bolam Consultant's plan attached at page A22 is now approved as to survey and referenced under No. DP 317094. Delivery of that outcome depended upon Council negotiating unconditional Agreements for Sale & Purchase with NZ Post Limited and Henley Kiwi Co Limited upon terms and conditions identified on that occasion.

At that time the negotiation with Henley Kiwi Co Limited had not in fact being concluded successfully and Council made alternative provision in lieu (2660/2002) for acquisition of the entire access strip to Great North Road presently associated with Lot 2 DP 146199 (the Henley property) under the provisions of the Public Works Act, and for betterment to be claimed in accordance with S.326 Local Government Act 1974 with respect to the construction of McCrae Way. Authority was also granted to seek to vary the NZ Post document so as to give effect to its terms independently.

At the December meeting of the City Development Committee it was advised that it had subsequently proved possible to conclude both Agreements on Council's behalf on the original basis for nil consideration in each case, and that implementation of the outcome demonstrated was currently being addressed in accordance with the conditions of the applicable subdivision consent.

Caveats have been lodged against the respective Certificates of Title to secure Council's position pending legal settlement in conjunction with the retitling outcome demonstrated by the said subdivision plan. The S.224(c) certificate has now issued and settlement is now contingent upon Council completing appropriate resolutions under S.230 Local Government Act 1974 and confirming that the provisions of the Public Works Act 1981 are excluded from application.

McDonald's Restaurants (New Zealand) Limited

Finalisation of those Agreements allowed fresh progress to be made with the adjoining landowner, now McDonald's Restaurants (New Zealand) Limited (formerly McDonald's System of New Zealand Limited). McDonald's proposed to demolish their existing building and relocate to new premises to be constructed with frontage to Memorial Drive, in conjunction with a land exchange with Council, effectively on the basis of an equality of consideration.

A23

This further subdivision proposal is shown on Cato Bolam Consultant's Plan No.V15177 Sheet No.S1, attached at page A23. An application for the necessary subdivision resource consent is currently under processing under No.SPW 21691, and implementation will result in Council acquiring from McDonald's a parcel of land containing 1403m² together with the surrender of certain right-of-way easements by McDonald's, and the vesting in McDonald's of a parcel of land containing 1183m² giving frontage to Memorial Drive. This outcome is integral to reconfiguration of the residual Council landholding derived from the preliminary subdivision in a manner which is consistent with the present attribution for public car parking while securing to Council flexibility to accommodate future development options.

Authority was granted by the City Development Committee (3530/2002) to undertake negotiations with McDonald's to effect that outcome subject to the proposed terms and conditions of any Agreement being reported back to Council early in 2003 for final approval.

CURRENT

Preliminary Subdivision

A24-A27

The only outstanding issues preventing legal settlement, Plan Deposit under No.317094, and retitling in conjunction with the road vestings shown are the passing of the required resolutions under S.230 Local Government Act 1974 in accordance with the public notices given attached at pages A24 to A27 respectively and confirmation that the lands concerned are exempt from any possible "offer back" requirement consistent with S.40 of the Public Works Act 1981.

It is clear that the original landholding vested in the former New Lynn Borough Council and now the subject of this transaction has been vastly altered in the intervening period by the creation and vesting of Memorial Drive and McCrae Way, merger with other adjoining lands acquired under the preliminary subdivision and so on. Simply for the avoidance of doubt and to achieve strict compliance it is proposed to resolve in accordance with S.40(2) of that Act that it would be impractical and unreasonable to cause the land to be offered back and that there has been a significant change in its character.

McDonald's Restaurants (New Zealand) Limited

A28-A29

A copy of the respective Agreements for Sale & Purchase as now entered into by the parties conditional upon Council passing a resolution complying with the provisions of S.230 Local Government Act 1974 and approving without reservation the terms of the transactions contained in those Agreements, have been circulated separately, and a copy of the Public Notice given in compliance with that statutory provision is attached at page A28 to A29. The requisite resolutions must be passed by 28 February 2003. Subject to the other conditions contained in the respective Agreements being satisfied, legal effect can then be given to the proposed exchange of land and fresh certificates of title issued.

Salient points under the Agreements are as follows:-

- the exchange is achieved at an equality of monetary consideration (subject to the possible financial obligation assumed by Council under Clause 29);
- McDonald's are responsible for arranging the demolition of the former Community Centre building and meeting all costs involved (subject to Council's right to some salvage of materials for commemorative purposes);
- the parties share 50/50 the costs of complying with any conditions of subdivision consent imposed by Council and implementation of the subdivision outcome (excepting some works deferred from the preliminary subdivision, such as provision of a watermain along McCrae Way, which will need to be accepted as solely Council's obligation);
- McDonald's agree to surrender without further or other consideration existing right-of-way and parking easements affecting the lands;
- any expenditures arising from the need to uplift, amend or adjust the existing electricity easements are shared 50/50;
- McDonald's redevelopment of Lot 1 is required to be in accordance with the proposed overall site plan depicted upon drawing No.SK350(7), subject to compliance with all regulatory approvals/conditions which may be imposed;
- McDonald's grant to Council the new right-of-way demonstrated on Cato Bolam Consultant's Plan No.V15177;

- McDonald's accept a building restriction imposed over all of Lot 1 not occupied by either the new building footprint or the small area adjacent to the NZ Post building to be used for other storage receptacles (i.e. over areas marked "A", "B", "C" and "D") and Council accepts a similar building restriction over that portion of Lot 2 marked "E" to secure to McDonald's an open frontage to Memorial Drive;
- a pedestrian access easement is granted in perpetuity by McDonald's over that portion of Lot 1 marked "D";
- McDonald's demolish their existing restaurant building, playground and all associated structures; and also the garage and storage facilities presently within their land but to be contained within the new Lot 2;
- McDonald's agree not to erect or place any fence, gate, signage or other obstruction on any portion of the boundary line between the proposed Lot 1 and Lot 2 except with Council's prior consent;
- Council's is responsible for obtaining not later than 17 April 2003 the surrender from Transportation Auckland Corporation Limited of its existing right-of-way easement entitlement affecting both Lot 1 and Lot 2.

Conditions to be met

The Agreements are initially conditional upon the following further matters:-

- McDonald's Board of Directors resolving to approve without reservation the transactions contained in the respective Agreements, no later than 28 February 2003;
- satisfactory completion of the preliminary subdivision demonstrated under DP 317094 to issue of separate Certificates of Title, no later than 17 April 2003;
- a resource consent for subdivision being granted on terms and conditions satisfactory to both vendor and purchaser, no later than 17 April 2003;
- Council obtaining surrender of the entitlements held by Transportation Auckland Corporation Limited upon terms and conditions satisfactory to Council, no later than 17 April 2003;
- McDonald's obtaining land use consent and any other District Plan approvals to implement the redevelopment of Lot 1 in accordance with the proposed overall site plan depicted upon drawing No.SK350(7) on terms and conditions satisfactory to McDonald's, no later than 16th day of May 2003.

Although some of these conditions can be expected to be satisfied in advance of the nominated date, it may be a further three months or so before the parties are unconditionally committed to achieve the outcome intended.

Transportation Auckland Corporation Limited

Negotiations have been undertaken through the Group Property Manager for Transportation Auckland Corporation Limited (Stagecoach) with respect to obtaining the surrender by that entity of the existing easement entitlements which affect both Lot 1 and Lot 2 shown on the proposed subdivision. These easements are effectively redundant and an historical anomaly, particularly now that Memorial Drive and McCrae Way have been created and will fully vest under the preliminary subdivision.

At the same time, that preliminary subdivision vests Lot 5 DP 317094 in Council, which is an unserviced allotment not intended for any future built construction, which interposes between the Stagecoach land and Memorial Drive but has been physically developed in substantial part to maintain useable vehicle access to that passenger transport station/terminus (except for areas constructed and planted as public gardens or otherwise retained by kerb and channel). Since completion of the physical construction of that final extension to Memorial Drive Council has therefore recognised and condoned the maintenance of access across Lot 5 by bus passenger transport vehicles using the transport station/terminus.

A30

In consideration of Council subsequently regularising that use by grant in favour of Lot 1 DP 146199 of a formal right-of-way corresponding with the existing user across parts of Lot 5, as shown on a dummy plan attached at page A30, so long as that parcel of land continues to be solely used as a bus or other passenger vehicle transport station/terminus, Stagecoach are prepared to act to surrender the existing right-of-way easements which continue to affect Lot 1 and Lot 2 on DP 317094.

This course of action is recommended by Council officers, on the basis that there is a significant public interest in maintaining the existing user across Lot 5 while the adjoining land continues to be used as a bus passenger transport station/terminus.

STRATEGIC

Completion of the preliminary subdivision, and implementation of the land exchange contemplated under the terms and conditions of the respective Agreement for Sale & Purchase with McDonald's will complete the currently intended reconfiguration of landholdings in the "Heart of New Lynn". Concurrently, Council has vested the remaining portion of Memorial Drive, and has legalised McCrae Way. Additionally, the historical right-of-way and parking easements which impeded logical development and have become effectively redundant as a result of the new roading links are surrendered/uplifted.

The final boundary adjustment reconfigures Council's landholding so as to provide flexibility for the future and yield an option for a library footprint without compromising the existing War Memorial area.

The removal by McDonald's of all existing buildings/structures and relocation to the former Community Centre site will open up the area, in perpetuity by virtue of the building restrictions committed by McDonald's and the new right-of-way from Great North Road will facilitate better access to the Council owned areas presently allocated for car parking. Additionally, McDonald's are prohibited from erecting fencing along the common boundary with the Council lands, which would otherwise have the potential to negate that open aspect and impact upon any future adjoining development undertaken.

RECOMMENDATIONS

1. That the information be received.
2. That Council, in consideration of the sum of \$10 plus GST together with the acquisition from Henley Kiwi Co Limited of lands for vesting as part of McCrae Way and for amalgamation with Lot 2 Deposited Plan 193492 already owned by Council, vest in Henley Kiwi Co Limited a parcel of land containing 52m² more or less marked "B" on the plan of subdivision to be deposited under No.317094 by inclusion in Lot 1 shown on the said Plan subject to a Consent Notice restricting the said land to vehicle parking purposes only.
3. That Council, in consideration of the sum of \$10 plus GST together with the surrender of an existing right-of-way easement created by Gazette Notice A53140 and affecting Lot 2 Deposited Plan 193492, vest in New Zealand Post Limited all that piece of land containing 125m² more or less being Lot 4 Deposited Plan 317094 and having frontage to the western side of Memorial Drive, New Lynn, for amalgamation with the adjoining Lot 2 Deposited Plan 52383 such land so transferred to be subject to an easement in gross in favour of the Council entitling public pedestrian access at all times.
4. That the transactions upon the terms and conditions set out in the Agreement for Sale & Purchase dated the 5th day of February and made between Council as vendor and McDonald's Restaurants (New Zealand) Limited as purchaser, as circulated, be approved.

5. That the transactions upon the terms and conditions set out in the Agreement for Sale & Purchase dated the 5th day of February and made between Council as purchaser and McDonald's Restaurants (New Zealand) Limited as vendor, as circulated, be approved.
6. That Council, in consideration of an equality of exchange between the parties together with the surrender of certain right-of-way easements by McDonald's Restaurants (New Zealand) Limited acquire from McDonald's a parcel of land containing 1403m² more or less and vest in McDonald's a parcel of land containing 1183m² more or less, such exchange to be effected by way of a boundary adjustment as depicted on a plan of proposed resubdivision of the parties existing lands being Lot 1 DP 79862 (McDonald's) and Lot 2 DP 317094 (Council) respectively prepared by Cato Bolam Consultants Limited described as Sheet S1 Job No.V15177.
7. That for the avoidance of doubt it is recorded with respect to that portion of the parcel of land containing 1183m² more or less depicted on the plan of proposed resubdivision previously acquired by the former New Lynn Borough Council that it would be impractical or unreasonable to cause the land to be offered back under S.40 of the Public Works Act 1981 and that there has been a significant change in its character by the creation and vesting of Memorial Drive and McCrae Way and merger with other adjoining lands in the intervening period.
8. That Council undertake to Transportation Auckland Corporation Limited that it will, in consideration of the surrender by that entity of all existing easement entitlements affecting Lot 1 and Lot 2 on Deposited Plan 317094, take all steps to create and grant in favour of Lot 1 DP 146199 a vehicle right-of-way over that of Lot 5 DP 317094 marked "A" as shown on the accompanying indicative plan prepared by Cato Bolam Consultants Limited, for so long as the said Lot 1 DP 146199 continues to be solely used as a bus or other passenger vehicle transport station/terminus.

Report prepared by: Philip Griffiths, Legal Services Manager and Lois Easton, City Project Manager.



8 LOT 22 DP 8400 - 1 RATANUI STREET, HENDERSON

PURPOSE OF THE REPORT

To update the circumstances applicable to the above property, intended to be acquired as to part for purposes associated with Henderson town centre development and revitalisation while being maintained as public car parking in the intervening period.

BACKGROUND

A31-A39 In February 2002 Council's Finance & Operational Performance Committee received the report, together with supporting annexures, now attached at pages A31 to A39. The recommendations set out were adopted (167/2002) as an interim measure.

A40-A41 Subsequently, at the Special meeting of Council on 9 December 2002 Council received the report attached at pages A40 to A41 and resolved as set out (3537/2002). Additionally, it was determined that the report and resolutions remain confidential until further notice. It is considered that stricture need no longer apply.

CURRENT

Action was taken to ensure the parties were made aware of Council's decision and that the matter needed to be reported back. At a "round table" meeting earlier this month involving the BNZ, its solicitor, the landowner (PMD Nola Limited) and its solicitor, and Council's representative it was identified that Mr Nola does not wish to resell the property to the BNZ. Additionally, it was requested that Council clarifies its position more explicitly by resolution with reference to the Public Works Act 1981.

As long term lessee of the premises (including the car parking area), and the potentially liable to Council for breach of contract, the BNZ wish to continue to remain involved on a tripartite basis and that is acceptable to the company. The parties acknowledged Council's intention to proceed under the Act, either by agreement, or by exercise of the compulsory acquisition power for public works.

The situation is further complicated by the lack of provision under the original Agreement for continued vehicle access to the basement level car parking constructed under the BNZ premises, and the lack of certainty about the final design outcome for the area intended by Council once any redevelopment proceeds. Neither has any party yet obtained valuation advice specific to the property or area involved. However, subject to the outcome of this meeting Council will commission Bristow Barbour & Walker to carry out that work to facilitate further negotiations.

For practical reasons it may be more appropriate to seek to acquire a larger area of land than stipulated under the original Deed i.e. including the additional land adjacent to the commercial building presently constructed, granted in favour of Council as R.O.W. under the original Deed.

RECOMMENDATIONS

1. That the information be received.
2. That authority be given to acquire from the registered proprietor that part of Lot 22 DP 8400 as is not occupied by the footprint of the existing commercial building leased by the BNZ, under the provisions of the Public Works Act 1981 for car parking purposes and town centre development, subject to the continued provision of practical vehicular access from Ratanui Street to the basement level of the building, and to acquire from the BNZ any related entitlement to occupy or use such part of Lot 22 DP 8400 for car parking or access purposes under memoranda of lease.
3. That the cost of acquisition be met from the strategic land acquisition loan at this time such expenditure to be claimed to be recovered in whole or part concurrently from the BNZ by virtue of Council's entitlements under the terms of the original Deed dated 12 May 1983.
4. That subject to the availability of valuation advice from Bristow Barbour & Walker negotiations be entered into initially with the registered proprietor and the lessee to seek a mutually satisfactory agreement can be reached but that formal notice under the Public Works Act be served at the discretion of the Chief Executive in the event that an early outcome not be achieved.

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



9 LOT 1 DP 209392 - 3533M² - 9-15 ALDERMAN DRIVE

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely, Lot 1 DP 209392 - 3533m2 - 9-15 Alderman Drive.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"> • Lot 1 DP 209392 - 3533m2 - 9-15 Alderman Drive 	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"> • enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). • 	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

The report contains information which if released would affect the Council's negotiations.

