

# LOCAL Government KNOW HOW

Seminar Programme for March 2003

Dunedin - Christchurch - Wellington - Palmerston North - Rotorua - Auckland



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## Day Three: Decision Making

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9.00am Introduction

9.05am Session Eleven: The Long Term Council Community Plan and Annual Plan

- ⌘ What an LTCCP actually is;
  - ⌘ How the LTCCP links with the requirements of this Act
  - ⌘ How the LTCCP links with other types of plans and strategies
  - ⌘ The content of a good LTCCP; and
  - ⌘ How to go about producing an LTCCP
- At the end of this session you will be able to:
- ⌘ explain what an *LTCCP* is and why it's different from an *LTFS*
  - ⌘ develop an LTCCP and be confident with its content
  - ⌘ develop an Annual Plan and be confident with the contents
  - ⌘ know when to produce an LTCCP, an amended LTCCP and an Annual Plan
  - ⌘ know the critical areas to concentrate on.

10.05am Morning Tea

10.30am Session Twelve: The Annual Report

- ⌘ The purpose of the Annual Report;
  - ⌘ Linkages between the Annual Report, the LTCCP, and the Annual Plan
  - ⌘ The content of an Annual Report; and
  - ⌘ The process in preparing an Annual Report.
- At the end of this session you will be able to:
- ⌘ explain the role of an annual report under the new Act and how this differs from the present role;
  - ⌘ list the contents of an annual report;
  - ⌘ identify processes for preparing an annual report.

10.50am Workshop Four: Tying It All Together

11.50am Summing Up/Questions and Discussion

12.30pm Lunch/Conclusion of Seminar

Approvals

Registered Provisions

I hereby certify that this plan was prepared by the Waitakere City Council pursuant to Section 223 of the Resource Management Act 1991, on the 11th day of 2000 subject to the conditions of approval set out hereon and compliance upon his granting or reserving of the easements shown in the memorandum endorsed heron.

Authorised Officer

AMALGAMATION CONDITION

This Lot 4 hereon is transferred to the owner of Lot 2 DP 52383 (CT 678-756) and first one Certificate of Title is issued to include both parcels. See CSMA639470

MEMORANDUM OF EASEMENTS IN GROSS

Purpose	Shown	Servient Tenement	Grantee
Pedestrian Access	⊙	Lot 1	Waitakere City Council
Water Supply	⊙	Lot 4	City Council
	⊙	Lot 3	
	⊙	Lot 5	

AREA SHOWN ⊙ TO BE SUBJECT TO A LAND COVENANT

DIAGRAMS ARE NOT TO SCALE

NEW GET ALLOCATED

- LOT 1 - CT 67082
- LOT 2 - CT 67083
- LOT 3 - CT 67084
- LOTS 6 and 8 - ROAD TO BE DEDICATED
- LOT 7 - ROAD TO WEST

CLASS OF SURVEY - 1

Total Area 0.7488ha

Comprised in CT 590-943

CT 866-839, CT128-914

TIMOTHY JAMES SPEDLEY

being a person entitled to practise as a licensed cadastral surveyor

of the Survey Act 2002 on the Survey-General's Plan for

Geological Survey 2002/22

As this plan is a certificate, and has been created in accordance with the Act and the Rules.

Structural

Field Book

References Plans

Examined

Approved as to Survey by Land Information New Zealand on

Deposited by Land Information New Zealand on

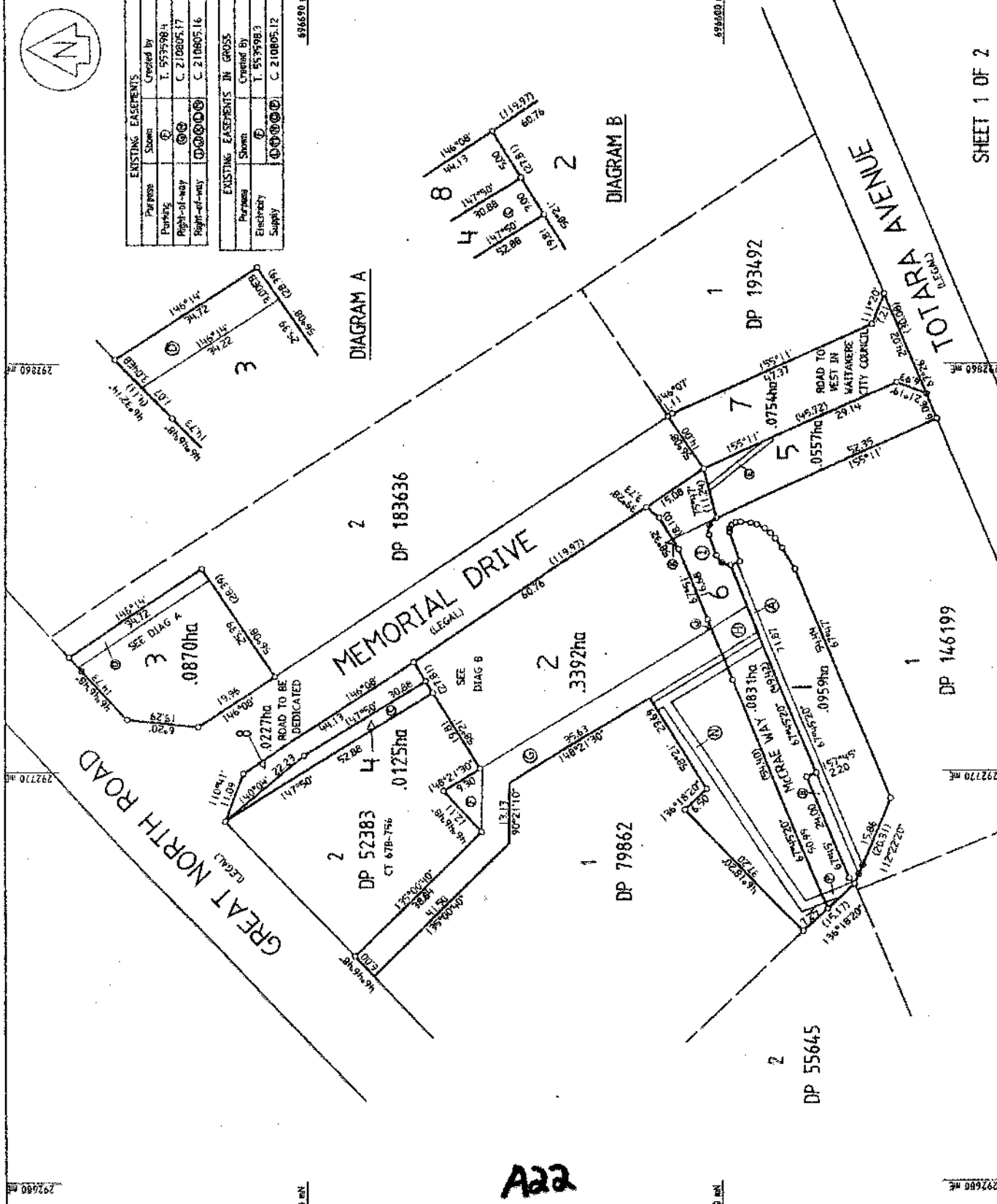
File No. 114936 (68761)

Approved

Approved and/or

DP 317094

10 JAN 2002



LOTS 1 - 7 BEING SUBDIVISION OF LOT 5 DP 107435,

LOT 2 DP 146199, LOT 1 DP 183636 and LOT 2 DP 193492

NO DISTRICT NORTH AUCKLAND

RVEY BLK. & DIST. ■ TITIRANGI

MS 261 SH1 RECORD MAP No.

TERRITORIAL AUTHORITY WAITAKERE CITY

Surveyed by CATO BOLAM CONSULTANTS LIMITED

Scale 1 : 600 Date NOVEMBER 2002

SHEET 1 OF 2

Aaa

The owner warrants that the information provided in this plan is true and correct to the best of their knowledge and belief.

This plan and the accompanying information have been prepared for the purpose of obtaining a Resource Consent and/or a Resource Modification. It is not intended to be used for any other purpose.

Local Authority: Waitakere City  
 Comprised in: CT36C/824 & CTNA67093  
 Total Area: 6788m<sup>2</sup>  
 Levels are in terms of Loids & Survey Datum  
 Areas and measurements are subject to survey

*[Signature]*  
 J. HERRY REGD SURVEYOR

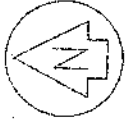
Revision	Description	Name	Date
1	Surveyed	AC	12/03
2	Proposed	JV	12/03
3	Drawn	JV	27/02
4	Checked	JV	12/02
5	Approved	JV	12/02

**CATOBOLAM CONSULTANTS**  
 SURVEYORS PLANNERS  
 LAND DEVELOPMENT ENGINEERS  
 CATOBOLAM CONSULTANTS LTD  
 20 Waikare Avenue, Henderson Phone 09-837 0486  
 Auckland PO Box 21-355 Fax 09-837 0504  
 Auckland 1008 email: catobolam@catobolam.co.nz

Client:  
**McDonalds System of NZ Ltd.  
 and Waitakere City Council.**

Drawing Title:  
**Proposed Subdivision of  
 Lot 1 DP79862 & Lot 2 DP317094**

Original Scale	1:500	Original Size	A2	Revision No	
Date	Dec 2002	Codification	DWG 177A	Sheet No	S1
Directory		Job No			V15177



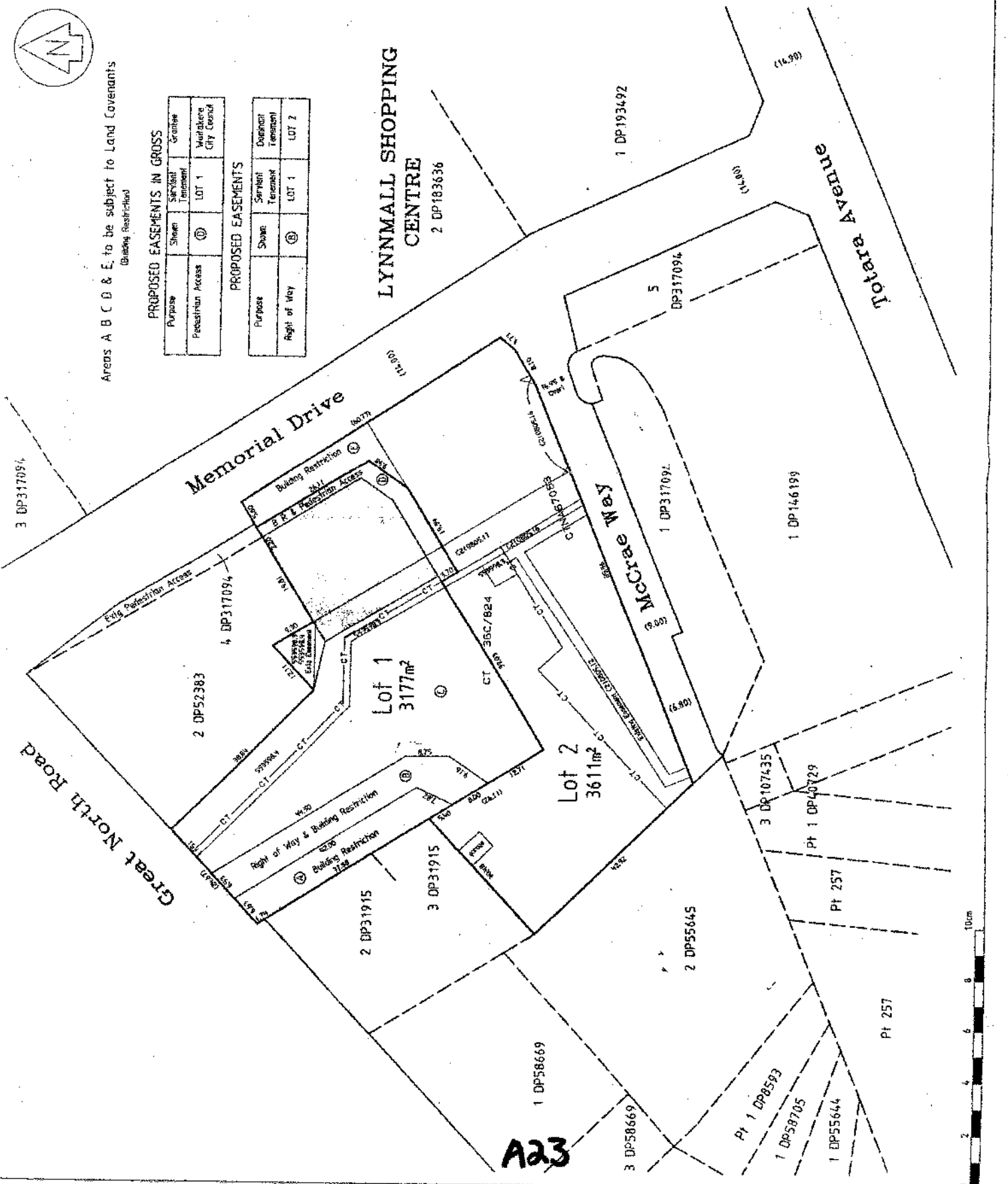
Areas A B C D & E, to be subject to Land Covenants  
 (Building Restrictions)

PROPOSED EASEMENTS IN GROSS			
Purpose	Shown	Survival Termination	Grantee
Prescription Access	(A)	LOT 1	Waitakere City Council

PROPOSED EASEMENTS			
Purpose	Shown	Survival Termination	Overseas Termination
Right of Way	(B)	LOT 1	LOT 2

**LYNNMALL SHOPPING CENTRE**  
 2 DP783636



**CLASSIFIED ADVERTISING ORDER REQUEST**

**WAITAKERE CITY COUNCIL**

**AND**


**HENLEY KIWI CO LIMITED**

**PROPOSED EXCHANGE OF LAND  
VICINITY McCRAE WAY, NEW LYNN**

Public Notice is hereby given in accordance with S.230 Local Government Act 1974 that at a Special meeting of Council to be held on Wednesday, 19 February 2003 at 9.30am in the Council Chamber, Civic Administration Building, 6 Waipareira Avenue, Lincoln, Waitakere City, it is proposed to consider a resolution 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, New Lynn and for amalgamation with Lot 2 Deposited Plan 193492 already owned by Council, vest in Henley Kiwi Co Limited a parcel of land containing 52m<sup>2</sup> 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 use of the said land to vehicle parking purposes only.

Any enquiries/requests for further information should be directed to Council's Acting Legal Services Manager, Philip Griffiths, who can also provide a copy of the said Plan.

H V O'Rourke  
Chief Executive

Newspaper:	NZ HERALD	Date(s):	Thursday, 30 January 2003
Classification:	PUBLIC NOTICES	Columns:	Single
		Authorised by:	
<b>Records only</b> E-mailed to Haines: Proofed: Composite:		Cancellations: Re-runs: Credits:	
<b>Accounts only</b>			



Wairakere City Council  
*Te Take o Waikare*

**WAIKARE CITY  
COUNCIL AND  
HENLEY KIWI CO  
LTD**

**Proposed  
Exchange of Land  
Vicinity McCrae  
Way, New Lynn**

Public Notice is hereby given in accordance with s.200 Local Government Act 1974 that at a **Special Meeting of Council** to be held on **Wednesday, 19 February 2003 at 9.30am** in the **Council Chamber, Civic Administration Building, 6 Waiapanahua Avenue, Lincoln, Wairakere City**, it is proposed to consider a resolution that Council, in consideration of the sum of \$10 plus GST together with the acquisition from **Henley Kiwi Co Ltd** of lands for vesting as part of **McCrae Way, New Lynn** and for amalgamation with **Lot 2 Deposited Plan 298492** already owned by Council, vest in **Henley Kiwi Co Limited** a parcel of land containing **52m<sup>2</sup> 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 use of the said land to **vehicle parking purposes only**. Any enquiries/requests for further information should be directed to Council's Acting Legal Services Manager, **Philip Griffiths**, who can also provide a copy of the said Plan.  
**H.V. O'Rourke**  
*Chief Executive*

**"SUSTAINABLE,  
DYNAMIC, JUST"**

NZ Herald 30/1/03

CLASSIFIED ADVERTISING ORDER REQUEST

WAITAKERE CITY COUNCIL

AND

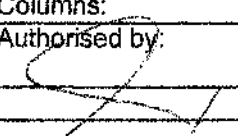
NEW ZEALAND POST LIMITED

**PROPOSED TRANSFER OF LAND  
VICINITY MEMORIAL DRIVE, NEW LYNN**

Public Notice is hereby given in accordance with S.230 Local Government Act 1974 that at a Special meeting of Council to be held on Wednesday, 19 February 2003 at 9.30am in the Council Chamber, Civic Administration Building, 6 Waipareira Avenue, Lincoln, Waitakere City, it is proposed to consider a resolution 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 125m<sup>2</sup> 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.

Any enquiries/requests for further information should be directed to Council's Acting Legal Services Manager, Philip Griffiths, who can also provide a copy of the plan of subdivision intended to be deposited under No.317094.

H V O'Rourke  
Chief Executive

Newspaper: NZ HERALD	Date(s): Friday, 31 January 2003
Classification: PUBLIC NOTICES	Columns: Single
	Authorised by: 
<b>Records only</b> E-mailed to Haines: Proofed: Composite:	Cancellations: Re-runs: Credits:
<b>Accounts only</b>	



Waitakere City Council  
*To Whaea o Waitakere*

**WAITAKERE CITY  
COUNCIL AND  
NEW ZEALAND  
POST LTD**

**Proposed Transfer  
of Land**

**Vicinity Memorial  
Drive, New Lynn**

Public Notice is hereby given in accordance with S.230 Local Government Act 1974 that a Special Meeting of Council to be held on Wednesday, 13 February 2003 at 9.30am in the Council Chamber, Civic Administration Building, 6 Waipareira Avenue, Lincoln, Waitakere City, it is proposed to consider a resolution 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 Ltd all that piece of land containing 125m<sup>2</sup> more or less being Lot 4 Deposited Plan 317694 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.

Any enquiries/requests for further information should be directed to Council's Acting Legal Services Manager, Philip Griffiths, who can also provide a copy of the plan of subdivision intended to be deposited under No. 317694.

**R.V. O'Rourke**  
*Chief Executive*

NEW ZEALAND  
POST LTD

NZ Herald 31/1/03

**CLASSIFIED ADVERTISING ORDER REQUEST**

**WAITAKERE CITY COUNCIL**

**AND**

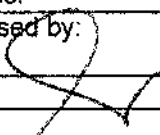
**McDONALD'S RESTAURANTS (NEW ZEALAND) LIMITED**

**PROPOSED EXCHANGE OF LAND  
VICINITY MEMORIAL DRIVE, NEW LYNN**

Public Notice is hereby given in accordance with S.230 Local Government Act 1974 that at a Special meeting of Council to be held on Wednesday, 19 February 2003 at 9.30am in the Council Chamber, Civic Administration Building, 6 Waipareira Avenue, Lincoln, Waitakere City, it is proposed to consider a resolution that Council, in consideration of the sum of \$10 plus GST together with the surrender of certain right-of-way easements by McDonalds and the acquisition from McDonalds of a parcel of land containing 1403m<sup>2</sup> more or less, vest in McDonalds a parcel of land containing 1183m<sup>2</sup> more or less, such exchange to be effected by way of a boundary adjustment as depicted on a plan of proposed resubdivision of the existing lands being Lot 1 DP 79862 (McDonalds) and Lot 2 DP 317094 (Council) respectively prepared by Cato Bolam Consultants Limited described as Sheet S1 Job No.V15177.

Any enquiries/requests for further information should be directed to Council's Acting Legal Services Manager, Philip Griffiths, who can also provide a copy of the said Plan.

H V O'Rourke  
Chief Executive

Newspaper: NZ HERALD	Date(s): Saturday, 1 February 2003
Classification: PUBLIC NOTICES	Columns: Single
	Authorised by: 
<b>Records only</b> E-mailed to Haines: Proofed: Composite:	Cancellations: Re-runs: Credits:
<b>Accounts only</b>	

N2H 1/2/03



Waitakere City Council  
*To Teitaki o Waitakere*

**WAITAKERE CITY  
COUNCIL AND  
MCDONALD'S  
RESTAURANTS  
(NZ) LTD**

**Proposed  
Exchange of Land  
Vicinity Memorial  
Drive, New Lynn**

Public Notice is hereby given in accordance with S.230 Local Government Act 1974 that at a **Special Meeting of Council** to be held on **Wednesday, 19 February 2003 at 9.30am** in the Council Chamber, Civic Administration Building, 6 Waipareira Avenue, Lincoln, Waitakere City, it is

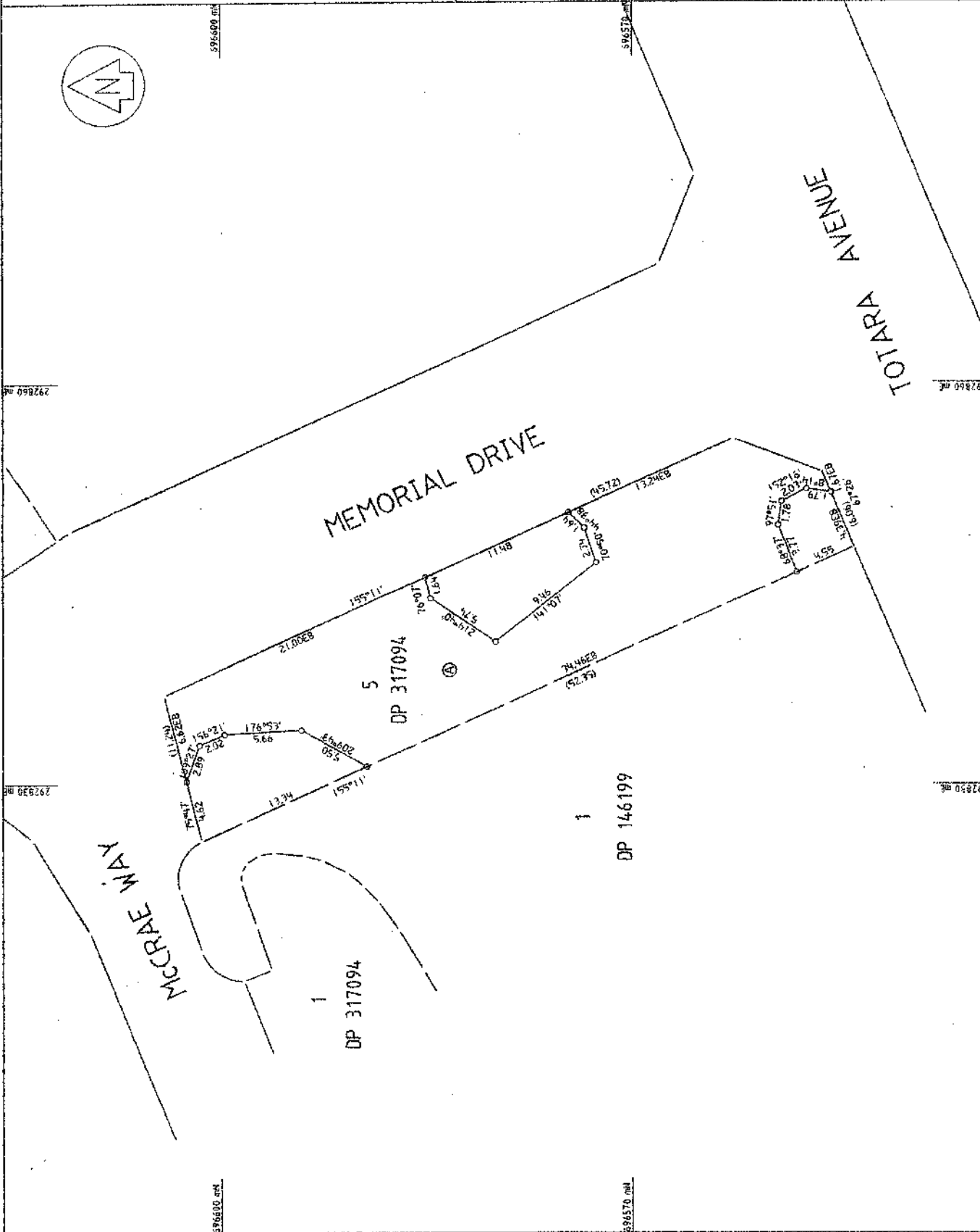
proposed to consider a resolution that Council, in consideration of the sum of \$10 plus GST together with the surrender of certain right-of-way easements by McDonalds and the acquisition from McDonalds of a parcel of land containing 1403m<sup>2</sup> more or less, vest in McDonalds a parcel of land containing 1183m<sup>2</sup> more or less, such exchange to be effected by way of a boundary adjustment as depicted on a plan of proposed subdivision of the existing lands being Lot 1 DP 79662 (McDonalds) and Lot 2 DP 317094 (Council) respectively prepared by Cato Boman Consultants Limited described as Sheet S1 Job No. V15177.

Any enquiries/requests for further information should be directed to Council's Acting Legal Services Manager, Philip Griffiths, who can also provide a copy of the said Plan.

**H.V. O'Rourke**  
*Chief Executive*

NZ Herald 1/2/03

Approvals



PROPOSED EASEMENTS

Purpose	Shown	Surveyed Easement	Overlaid easement
Right-of-Way	⊗	LOT 5 DP 317094	LOT 1 DP 146199

CLASS OF SURVEY - I  
Total Area  
Comprised in CT 67986 (Easement)

TIMOTHY JAMES SPEDLEY  
Being a person entitled to practice as a Licensed cadastral surveyor  
I hereby certify that this plan is a true and correct copy of the original plan as shown to me  
in the office of the Registrar-General of Land on the 14th day of October 2002 and that I have  
checked the accuracy of the plan in accordance with the provisions of the Survey Act 2002  
and the Survey Regulations 2002/21.  
This plan is correct and has been checked in accordance with  
the Act and the Rules.

Examined  
Field Book A  
Reference Plans  
Correct

Approved as to Survey

Chief Surveyor  
Deposited this day of 20

Registrar-General of Land  
Reviewed  
Approved  
1 FEB 2003

LAND DISTRICT NORTH AUCKLAND  
SURVEY BLK & DIST. # TIRANGI  
NZMS 261 SHT RECORDED MAP NO.

PROPOSED RIGHT-OF-WAY EASEMENTS  
OVER LOT 5 DP 317094

TERRITORIAL AUTHORITY WAITAKERE CITY  
Surveyed by CATO BOLAM CONSULTANTS LIMITED  
Scale 1 : 200 Date

8 LOT 22 DP 8400 - 1 RATANUI STREET, HENDERSON

**PURPOSE OF REPORT**

The purpose of this report is to advise the circumstances now identified as applicable to the above property, and to discuss a basis to seek to resolve consequential issues.

**BACKGROUND**

A28 - A29

Lot 22 DP 8400 is contained in Certificate of Title Volume 299 folio 201, copy attached at pages A28 to A29. The land is situated on the corner of Ratanui Street and Great North Road, in the heart of the Henderson Commercial Centre. Historically, a small portion on the Great North Road frontage has been caused to vest by gazette notice as legal road. A substantial commercial building utilised as the Henderson Branch of the Bank of New Zealand has been constructed on the corner, and the rear of the site is utilised as a public carparking area and provides vehicle access to the building's underground basement level.

A30 - A33

In 1983 the predecessor Henderson Borough Council and the then registered proprietor, Bank of New Zealand, entered into a Deed of Settlement, copy attached at pages A30 to A33. The Deed was an agreement whereby the Council acquired 355m<sup>2</sup>, being the rear portion of the allotment, for a public carpark in lieu of the Bank's obligation as a developer to provide 25 carparking spaces in conjunction with the erection of the building. In fact, 16 carparks have been laid out on the land concerned and utilised for public parking since that time, currently with a 30 minute parking restriction applied and enforced by Council officers. The cost of removal of an old dwelling-house at that time and the subsequent sealing and maintenance of that area were borne by the former authority.

That land is contiguous to other land in Council ownership also applied as public parking serving the Henderson commercial area. The Transitional District Plan (Henderson Section) contained a designation for parking applied to the rear portion of the three adjoining commercial premises having frontage to Great North Road. That designation has not been continued under the Proposed District Plan issued by the Waitakere City Council, although there is a current Council project intended to evaluate the future development and utilisation of this area as part of the overall Henderson Commercial Centre revitalisation exercise. Completion of this work has not been able to be prioritised because of the resources presently applied towards the comparable New Lynn and Glen Eden revitalisation projects.

A34

Council was also intended to acquire pursuant to the Deed a right-of-way easement over part of the further portion of Lot 22 intended to be retained in the ownership of the Bank of New Zealand, as shown marked "A" (attached at page A34) on the plan attached to that document.

The files relating to the transaction indicate there were delays in implementing the required subdivision and subsequent conveyancing necessary to cause the land concerned to be vested in the then Council, and the right-of-way easement to be created. The exercise did not achieve finality prior to the comprehensive Local Government Reorganisation in 1989. However, in 1990 the matter was the subject of further communication between the former Borough's Solicitors, Martelli McKegg Wells & Cormack, and the Bank's Solicitor, Buddle Weir & Co. The subdivision plan was prepared and lodged under No.139297 at the Land Transfer Office, and the pencilled notation evidencing that lodgement was entered on the particular Certificate of Title. Nevertheless, it is evident that the final steps to cause the plan to deposit, the easement to be created, and the new Certificate of Title to issue, and transfer to the Waitakere City Council of Lot 2 shown on the said plan, were not finally implemented via the solicitors then involved in the transaction on behalf of the parties.

In 1991, and contrary to the terms of the Deed of Settlement, the Bank of New Zealand acted to transfer the landholding concerned to BNZ Branch Properties Limited, a wholly owned subsidiary company. In 1999, and in further contradiction of that agreement, BNZ Branch Properties Limited has caused the property to be transferred to PMD Nola Limited subject to a lease back arrangement entitling the BNZ to continue in occupation and use the commercial premises for banking purposes. It is plain that the purchaser entity will contend it has acted bona fide and obtained indefeasible title to the entire property under the Land Transfer Act.

While the BNZ's lease is reasonably long term, and encompasses all the residue of Lot 22 DP 8400, the actual entitlement under the lease has not been fully appreciated and the Bank has not sought in the intervening period to interfere with the continued application of land for public parking. As tenant, BNZ has utilised the carparking located in the basement of the premises, and further, in recognition of its parking requirements for staff, has separately leased five carparks from the private owner of the immediately adjoining property, also on a longstanding basis. Now that the situation extant has been drawn to the Bank's attention it has agreed, without prejudice to its position, to a continuation of the casual public carparking, limited in duration to 30 minutes, pending further notice.

### **COMMENT**

While the status quo has been facilitated to continue, the situation which has arisen is not readily addressed unless with the active co-operation of the present registered proprietor, without recourse to the provisions of the Public Works Act 1981. That party will obviously be concerned, for example, that the original arrangement did not in fact guarantee practical legal access to the building's basement level, and further, that there is some obvious uncertainty at the moment with respect to the future application/utilisation of the proximate lands under Council control and ownership.

There are a number of options as to how to "step on". Because the continued application of the land concerned for public parking is not under any immediate threat, the best course of action seems to be to formalise continued use by means of a sub-lease (which suggests the Council needs to commit to reimburse an appropriate proportion of the ongoing land rates levy) and to complete the Strategic Project's Group analysis and decision-making exercise before further review.

### **RECOMMENDATIONS**

1. That the information be received.
2. That authority be given to enter into a sub-lease with the BNZ for public carparking purposes on terms and conditions satisfactory to the Corporate Solicitor, providing for continued access to and utilisation of the existing 16 carparking spaces, with a 30 minute time limitation for such casual parking.
3. That the circumstances outlined in the agenda report, and future application of the land concerned, be given further consideration as part of the Henderson Commercial Centre Revitalisation project analysis and be the subject of a further formal report to the Finance and Operational Performance Committee in due course.

Report prepared by: Graham Wakefield, Manager: Legal Services.

29 NOV 2001

PART - CANCELLED  
PART TAKEN BY GAZETTE  
NOTICE

Land and Deeds - A  
Consol. B.

Reference: Vol. 112, Folio 201  
Transfer No. 12650/97  
Application No.  
Order for N/C No.

Register-book,  
Vol. 299 folio 201

299/201

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT.

This Certificate, dated the 15th day of January one thousand nine hundred and twentieth  
under the hand and seal of the District Land Registrar of the Land Registration District of Auckland (Witneseth that  
George Reaney of Henderson the Grantor of Part of Blockland  
Blockland)

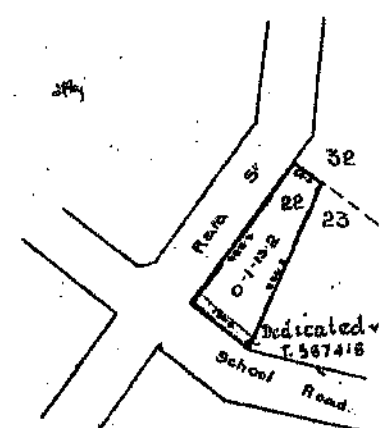
OBSOLETE

is seized of an estate in fee-simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial under written  
or endorsed hereon, subject also to any existing right of the Crown to take and lay off roads under the provisions of any Act of the General Assembly  
of New Zealand) in the land hereinafter described, as the same is delineated by the plan hereon bordered thereon be the several admeasurements  
a little more or less, that is to say: All that parcel of land containing one acre and three tenths and two hundredths  
of an acre more or less being Lot 123, Blockland, as shown on the plan deposited in  
the District Registrar's Office at Auckland, under No. 12650/97, which says parcel of  
land is portion of Blockland, 154 acres of the Parish of Henderson



John Lee  
District Land Registrar.

OBSOLETE



NET  
AREA IS 12.11m<sup>2</sup>  
Scale & chains to air met  
T.M.F. Duff.

George Reaney to the  
Widow of George Reaney  
Mortgage No. 192695 George Reaney to the  
Widow of George Reaney  
Produced 15/1/29 at 460/-

OBSOLETE

Transmission of 1913/8 to Bertha  
Barbara Reaney of Henderson  
Widow of George Reaney  
Produced 15/1/32 at 460/-

OBSOLETE

Transfer of 1914/4 to Hans Christian Hansen  
to the Land of New Zealand  
Produced 28-10-1914 at 136/-

OBSOLETE

Ch. Cantindge att.

# REGISTER

29 NOV 2001

299/201

*Transfer SR7418 dedicating part  
as a public road. Produced  
25.10.57 at 9.14.56. (U.S. Document)  
M.R.*

THIS REPRODUCTION (ON A REDUCED SCALE)  
CERTIFIED TO BE A TRUE COPY OF THE  
ORIGINAL REGISTER FOR THE PURPOSES OF  
SECTION 215A LAND TRANSFER ACT 1952.  
*L. G. Staman*  
D.L.R.

Plan 139297 Lodged

C.320112.1 Transfer to BNZ Branch  
Properties Limited at Wellington  
5.11.1991 at 2.57 o'clock

*Arthur Lee* A.L.R.

D457984.1 Transfer to P.M.D. Nola Limited  
2.12.1999 at 11.17

*B. Manuara*  
for RGL

299/201

DATED

1982

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BETWEEN BANK OF NEW ZEALAND

BANK

A N D HENDERSON BOROUGH COUNCIL

COUNCIL

---

DEED OF SETTLEMENT

---

---

MARTELLI, McKEGG, WELLS & CORMACK  
SOLICITORS  
AUCKLAND

0112C:pab

~~A30~~ A35

THIS DEED made the 12<sup>th</sup> day of May

1982<sup>3</sup>

BETWEEN The BANK OF NEW ZEALAND (hereinafter called "the Bank") of the one part

A N D The HENDERSON BOROUGH COUNCIL (hereinafter called "the Council") of the other part.

RECITING THAT:-

- (a) THE Bank is the registered proprietor of an estate in fee simple subject to the encumbrances liens and interests underwritten in all that piece of land containing ONE THOUSAND TWO HUNDRED AND TWELVE SQUARE METRES (1,212m<sup>2</sup>) more or less being part of Lot 22 Deposited Plan 8400 and being the residue of the land comprised and described in Certificate of Title Volume 29B Folio 201 (North Auckland Registry).
- (b) THE Bank has erected on part of its said land an office building.
- (c) A condition of the issue of a permit from the Council for erection of the said building was that twenty-five (25) carparking spaces be provided on the said land.
- (d) THE Bank has requested the Council to accept payment of a sum of money pursuant to the provisions of Section 295 of the Local Government Act 1974 instead of enforcing the parking condition.
- (e) THE Council wishes to acquire as and for a public carpark that portion of the said land shown as Lot 2 on the Plan annexed hereto.

~~A31~~ A36

A A

- (f) THE Council wishes to acquire a right of way over that part of the said land marked "A" on the plan annexed hereto.
- (g) THE Council has agreed to waive the recited carparking condition in consideration of the Bank waiving any right or claim for compensation or payment in respect of acquisition by Council of the part of the said land shown as Lot 2 on the plan annexed and for the grant of a right of way over the portion of the land marked "A" on the land annexed.

NOW THIS DEED WITNESSES AND IT IS AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO as follows:

1. THE Council shall approve the Plan annexed hereto as a scheme plan of subdivision on condition that Lot 2 thereon be transferred to Council and on the further condition that Council be granted a right-of-way over the part thereon marked "A".
2. THE Bank will forthwith caused to be prepared a Land Transfer Plan in accordance with the Plan annexed hereto and shall sign such documents and do such things as are required to enable such plan to deposit in the Land Transfer Office at Auckland. The Bank will instruct surveyors nominated by the Council and the Council will meet any survey costs and Land Transfer Office costs relating to the deposit of the said plan.
3. THE Bank agrees pursuant to the provisions of Section 17 of the Public Works Act 1981 to transfer to the Council all that piece of land comprising THREE HUNDRED AND FIFTY-FIVE SQUARE METRES (355m<sup>2</sup>) more or less being the land shown as Lot 2 on the plan annexed for the consideration expressed in the Agreement and will upon or to enable deposit of the said Land Transfer Plan execute in favour of and hand to the Council a registrable Memorandum of Transfer thereof.

~~A32~~ A37



4. THE Bank further agrees pursuant to the provisions of Section 28(b)(ii) of the Public Works Act 1981 to transfer to the Council a right of way over the land marked "A" on the plan annexed hereto with the rights and powers set out in the 7th Schedule of the Land Transfer Act 1952<sup>\*</sup> and will upon or to enable deposit of the said Land Transfer Plan execute in favour of and hand to the Council a registrable Memorandum of Transfer granting such right of way.

5. IN consideration of the Bank waiving any claim for compensation or payment in respect of the foregoing provisions of Clause 3 and 4 of the Deed Council waives the condition requiring provision of carparking spaces on the said land on the issue of a permit to the recited building.

6. SAVE as hereinbefore provided each party shall bear their own costs in relation to the preparation and execution of this Agreement and in relation to the Transfers herein referred to.

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written.

~~THE COMMON SEAL of the BANK OF NEW ZEALAND was hereunto affixed in the presence of:~~  
THE COMMON SEAL OF THE BANK OF NEW ZEALAND WAS HERETO AFFIXED PURSUANT TO AN ORDER OF THE BOARD OF DIRECTORS IN THE PRESENCE OF:

*[Signature]*  
MANAGER BRANCH BANKING 2)

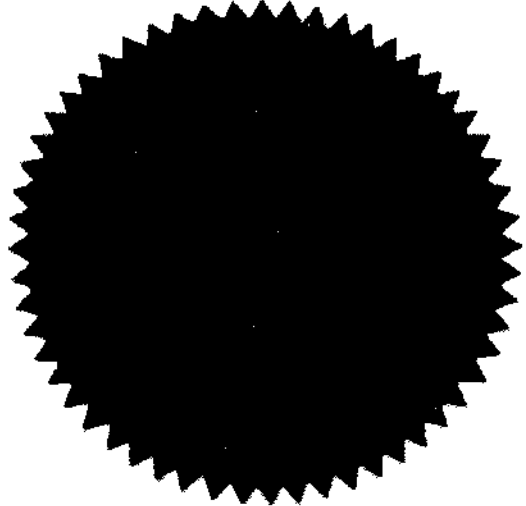
*[Signature]*  
MANAGER BRANCH BANKING

THE COMMON SEAL of the Body Corporate called the HENDERSON BOROUGHS COUNCIL was hereunto affixed in the presence of :

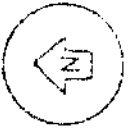


*[Signature]* Mayor

*[Signature]* Town Clerk



maintain and repair the surface of the right of way so as to be suitable for vehicular access



698 8400

698 8400

32  
D.P. 8400

1  
D.P. 44119

182 2508

RATANUI ST.  
LEGAL ST.  
(21/02)

GREAT NORTH RD.  
LEGAL RD.  
(26/15)

2  
355m<sup>2</sup>

1  
857m<sup>2</sup>

(52 52) TOT. ROW

(51 14) TOT. ROW

ROW  
(A)

28 ST. ROW

16.13 39.40 ROW

35.21 38.51 ROW

72.16

7.37

7.20

39.1

35.21

35.21

35.21

35.21

35.21

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APPLICANT  
PURPOSE  
ROW

Lot Area 7212  
Composed in C1

1. The area shown on this plan is the same as that shown on the plan of subdivision D.P. 8400 and D.P. 44119.

2. The area shown on this plan is the same as that shown on the plan of subdivision D.P. 8400 and D.P. 44119.

3. The area shown on this plan is the same as that shown on the plan of subdivision D.P. 8400 and D.P. 44119.

4. The area shown on this plan is the same as that shown on the plan of subdivision D.P. 8400 and D.P. 44119.

LOCAL AUTHORITY HENDERSON BOROUGHS  
Surveyed by [Signature] & Thornley  
Year 1-2508  
Date May 1980

LOTS 1 & 2 BEING SUBDN. OF  
PT. LOT 22 D.P. 8400

SECTION NORTH AUCKLAND  
IN 1978 DIST II TITIRANGI  
SWFT #

~~A39~~ A39

[Handwritten signature]

4 **CIVIC FUTURE PROJECTS - RELATED DEVELOPMENT ISSUES**

**PURPOSE OF THE REPORT**

The purpose of this report is to consider the situation now extant at No.1 Ratanui Street, Henderson (Lot 22 DP 8400) and to confirm that Council requires ownership of part of the land concerned in conjunction with its delivery of the Civic Future Project within the Henderson Commercial area.

**BACKGROUND**

C1-C9 At its February 2002 meeting, the Finance & Operational Performance Committee received the report attached at pages C1 to C9, when the recommendations were adopted (167/2002) as an interim measure.

A number of significant decisions have since been made affecting the Henderson Commercial Centre, and in particular the general area bounded by Ratanui Street, Great North Road and Trading Place. In addition, UNITEC have committed to a campus expansion at Ratanui Street, in conjunction with the commissioning of a joint Civic/UNITEC Library amenity involving the reconfiguration of existing Council landholdings between Ratanui Street and Trading Place.

These determinations, and other strategic considerations involving the revitalisation of the town centre, mean that it is no longer appropriate that the status quo at No.1 Ratanui Street remain, even though public utilisation of the existing 16 car parking spaces has been maintained courtesy of an informal sublease with the BNZ in the intervening period.

**CURRENT**

Now that Council's intentions have achieved greater definition further discussions have recently been held with representatives from the BNZ and their legal advisor. As a consequence, and in the light of the history previously outlined to the committee, the current landowner PMD Nola Limited has been invited by the BNZ to enter into negotiations, presumably with the intent that the bank reacquire the property concerned at current value.

Such an outcome would avoid the necessity for Council to negotiate and/or apply the provisions of the Public Works Act 1981 to that third party, who acquired the land by bona fide purchase in 1999, and recognises the bank's present long-term commitment to occupation of the existing building on site for its business activities, and would facilitate an appropriate outcome between Council and the bank as owner in due course.

Firstly, therefore, it is desirable that Council's requirement to obtain title to the relevant portion of the land concerned in lieu of any alternative outcome is signalled clearly at this stage. Secondly, that Council recognises that the original arrangement did not in fact guarantee practical legal vehicular access to the bank's basement level and that design issues associated with advancement of the Civic Future Project should involve an indication of intent by Council to preserve an adequate opportunity for vehicle ingress/egress to that building on a practical basis. That can be the subject of further discussion in due course.

However, consideration of the possible timelines involved suggest the bank should be encouraged to achieve agreement with the existing owner not later than in January 2003, or Council itself will need to open negotiations under the Public Works Act 1981 with that party in the normal manner. Should the latter circumstance eventuate, the BNZ and its advisor

*This has now been released.*

are aware that Council will separately seek to recover from it appropriate compensation, and will not hesitate to issue legal proceedings directed to that objective.

**RECOMMENDATIONS**

1. That the information be received.
2. That action be authorised to be taken as outlined in the report.
3. That the Bank of New Zealand be advised of the terms of the report and this decision forthwith.
4. That an update report with respect to this matter be provided to the City Development Committee at its February 2003 meeting.

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