

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD AT WAITAKERE CENTRAL,
6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON WEDNESDAY,
20 AUGUST 2008, COMMENCING AT 9.30 AM**

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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the Council by resolution so decides; and
- (ii) the Chairman has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Council may make a decision on a matter determined to be urgent.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFLICTS OF INTEREST

The Council has acknowledged in its Code of Conduct that Elected Members need to be vigilant to stand aside from decision making when a conflict arises between their role as a member of the Council and any private or other external interest they might have. This note is provided as a reminder to members to check that no such conflicts arise in relation to any items on this agenda.



4 **DELEGATED AUTHORITY TO BORROW**

EXECUTIVE SUMMARY

The purpose of this report is to formalise delegated authorities associated with the Council's borrowing programme and financial risk management activities for the 2008/2009 financial year. This report is prepared annually after the adoption of the new Annual Plan. The passing of the recommendations provides evidence to meet the Council's borrowing security arrangements under its Debenture Trust Deed.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Delegated Authority to Borrow report.
2. **Agree** for the purpose of borrowing, that the projects identified in the Annual Plan 2008/2009, or carried forward from any previous Annual Plan, or for any project approved by the Council subsequent to the adoption of such Plan, be carried out or continued:
 - a) The security for such borrowing may be a charge over rates under the Debenture Trust Deed if the Chief Executive Officer considers it appropriate.
 - b) The benefits of such borrowing are to enable the Council to carry out the projects identified within the Annual Plan 2008/2009 and Long Term Council Community Plan 2006-2016 while spreading the costs for those projects over time to recognise the future benefits, while the risk is that interest rates may vary in the future resulting in higher debt servicing costs to the Council.
 - c) The raising of loans, financial instruments and other incidental agreements associated with the Council's debt portfolio comply with the Council's Liability Management and Investment Policy.
 - d) The Chief Executive Officer be authorised to borrow funds to finance the new loan funded capital works, loan funded capital works carried forward from prior years, and to refinance existing debt consistent with the adopted Annual Plan 2008/2009.
 - e) The Chief Executive Officer be delegated the authority to negotiate and agree the terms, interest rates payable by the Council, frequency of interest payments, timing of draw downs, number of loans or issues of commercial paper, medium term floating rate notes or fixed coupon bonds which make up the borrowings, and all other terms and conditions of such loans or facilities as may be necessary for the obtaining of such loan or loan facilities and to execute any agreements, documents and certificates in respect of such loans or loan facilities on behalf of the Council.
3. **Approve** that the Chief Executive Officer be authorised to sub-delegate the powers, duties and discretions delegated to her under the resolutions above to the Director: Finance or other Council officers as she considers appropriate.
4. **Approve** that the Chief Executive Officer and the Director: Finance be delegated authority to act as Council's authorised representatives for the purposes of negotiating various facility agreements necessary to facilitate the strategic direction outlined within the Council's Long Term Council Community Plan 2006-2016.

5. **Approve** that the Chief Executive Officer and the Director: Finance be delegated authority to act as Council's authorised representatives, subject to satisfactory review by the Council's solicitors, whether internal or external, for the purpose of executing under seal any facility agreements necessary to facilitate the strategic direction outlined within the Council's Long Term Council Community Plan 2006-2016.

BACKGROUND

1. Under the Local Government Amendment Act (No.3) 1996 the Council was required under section 122ZD to raise loans or to enter into any incidental agreements by resolution passed at a meeting open to the public. Such resolutions were required to document the purpose of the loans or incidental agreements, describe the security offered, indicate the considerations of risk and benefits, and indicate that such loans, incidental agreements and security were in accordance with the adopted Borrowing Management Policy.
2. Under the Local Government Act 2002, section 122ZD was repealed with no new section enacted requiring such a resolution to be passed. However, while the effect of adoption of a Long Term Council Community Plan and an Annual Plan is to provide a formal and public statement of the local authority's intentions in relation to matters covered by such plans (including the borrowing programme), section 96(2) of that Act provides that a resolution to adopt does not necessarily constitute a decision to act on any specific matter included within the Plan.

DECISION MAKING

Delegated Authorities

3. The Council adopted its Annual Plan 2008/2009 on 24 June 2008 which includes the Council's borrowing programme. When loans are raised from investors the Council provides security under its Debenture Trust Deed. This provides investors with rates income as security for the repayment of the loan. It is unclear whether the adoption of the borrowing programme, as outlined within the Annual Plan, is explicit to meet the Council's borrowing security arrangements under its Debenture Trust Deed.
4. In order to clarify the Council's intent and approval to borrow from investors, a number of resolutions have been prepared. The resolutions are similar to the previous resolutions that were required under the repealed provisions of the Local Government Amendment Act (No.3) 1996.
5. The Liability Management and Investment Policy includes reference to the use of incidental agreements for hedging risks associated with debt. In recognition of this, Council's Fund Management function actively monitors and trades in financial instruments for the purpose of minimising both the overall borrowing cost and interest rate risks. It is therefore desirable that the use of financial instruments continues as a valid means of reducing risks in interest rate volatility.
6. The Council also has significant undrawn committed facilities that are used to eliminate the risks associated with liquidity. Again, there is a desirability for such facilities to continue and to renegotiate these on the basis of the Council's Standard and Poor's +A rating.

7. To ensure clarity, it is prudent that robust delegations be put in place to address the 2008/2009 borrowing programme. With respect to the Long Term Council Community Plan borrowing patterns, some alterations to delegated authorities are required to minimise the overall costs associated with developing such new facilities, which will provide the Council with a significant future advantage.
8. The Council uses borrowings, financial instruments and other incidental agreements for the management of its debt requirements. The Council no longer appears to require a separate resolution to enter into specific borrowing arrangements as previously prescribed. However, internal legal advice recommends that resolutions be passed encompassing the borrowing requirements for the Annual Plan 2008/2009 and formalising certain delegated authorities. It is also equally appropriate to clearly resolve that the borrowing programme, as outlined in the resources section of this report, is approved.

Consideration of Community Views

9. The views of the community were addressed through the Annual Plan 2008/2009 submissions and hearings process.

STRATEGIC CONTEXT

10. Council uses various funding options to achieve strategic goals. These options are outlined within a number of policy documents adopted during the course of the Long Term Council Community Plan.

CONSULTATION

11. No further consultation is necessary.

RESOURCES

12. The Annual Plan 2008/2009 shows a total current borrowing programme of \$280.478 million. This comprises new the borrowing programme, refinancing of existing debt maturing in the 2008/2009 financial year and carry forward projects from the previous financial years.

IMPLEMENTATION ISSUES

13. There are no implementation issues.

Report prepared by: Bruce Wilkin, Treasury Manager.



PUBLIC EXCLUDED MATTER

5 LAND ACQUISITIONS: NEW LYNN TRANSIT ORIENTED DEVELOPMENT

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 parts of the proceedings of this meeting namely, Land Acquisitions: New Lynn Transit Oriented Development.

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.
Land Acquisitions: New Lynn Transit Oriented Development.	The withholding of information is necessary in order to: <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). 	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

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 could affect Council's negotiations.*

