

**AGENDA FOR AN EXTRAORDINARY MEETING OF THE COUNCIL TO BE HELD IN THE
COUNCIL CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD,
HENDERSON, WAITAKERE, ON TUESDAY, 14 JULY 2009
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 **MAORI COMMUNITY APPOINTMENT TO THE PLANNING AND REGULATORY COMMITTEE GAMBLING VENUE POLICY HEARING PANEL**

EXECUTIVE SUMMARY

Te Taumata Runanga has requested that a community representative be appointed to the Planning and Regulatory Committee's Hearing Panel on the Gambling Venue Policy.

Te Taumata Runanga has further endorsed Denal Meihana, as the community representative if the request is approved by Council.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Maori Community Appointment To The Planning And Regulatory Committee Gambling Venue Policy Hearing Panel report.
2. **Approve** the appointment of Denal Meihana to the Planning and Regulatory Committee Gambling Venue Policy Hearing Panel.

BACKGROUND

1. The Gambling Act 2003 requires that councils review their gambling venue policies relating to the control of gambling machines referred to as class 4 gambling, at least every 3 years. Where a council intends to change a gambling venue policy, the Gambling Act 2003 requires that any proposed changes are included in information that is being made available as part of a public consultation process (special consultative procedure) as set out in the Local Government Act 2002.
2. The Planning and Regulatory Committee at its meeting held on 10 June 2008 considered policy options for the control of class 4 gambling, and at its meeting on 8 July 2008, confirmed two preferred options for consultation with the community. As required by the Racing Act 2003, the policy options also cover consent for any new New Zealand Racing Board venues without gambling machines.

“The Planning and Regulatory Committee resolved to:

2. *Agree that the community be consulted on whether to include in the Gambling Venue Policy:*
 - a. *Maintaining the status quo of the current cap on venue and machine numbers as stated in the existing policy, or*
 - b. *Including a sinking lid policy, where the cap on venue and machine numbers as stated in the existing policy will reduce each time a venue closes and no new venues be permitted.*
3. *Agree that the Council determine its position on the Gambling Venue Policy after consultation with the community.*

1186/2008

3. A process for public consultation through submissions commenced on 16 February 2009. The submissions period closed on 25 March 2009. Hearings on the draft Gambling Venue Policy are scheduled for 20, 21 and 22 July 2009, prior to the drafting of the final policy and its presentation to the Planning and Regulatory Committee for adoption and implementation.

Maori consultation on the Gambling Venue Policy to date

4. The process for public consultation expressly provided for Maori participation in the decision making process. To that end, a workshop was facilitated on 12 March 2009 by Council's Maori Relationships Team - Te Paparewa A Uru, with Te Taumata Runanga and other Maori stakeholders. That workshop resulted in a draft submission on the Gambling Venue Policy review, which was presented for discussion as part of the Gambling Venue Policy report to Te Taumata Runanga at their 16 March 2009 meeting.
5. In relation to the Gambling Venue Policy and draft submission on 16 March 2009, where it was resolved:

“Te Taumata Runanga resolved to:

1. **Kua Whiwhi / Receive** the Gambling Venue Policy report.
2. **Whakatau / Approve** that the Chairman be given authority to approve Te Taumata Runanga's draft submission to the Council on the Gambling Venue Policy.
3. **E Whakae Ana / Agree** to recommend to Council that an appropriately skilled member of the Māori community be co-opted to the Planning and Regulatory Committee and/or the Hearings Committee during their deliberations on the Gambling Venue Policy to advise regarding the impacts of the Gambling Venue Policy on Maori.
4. **E Whakae Ana / Agree** to recommend to Council Te Taumata Runanga's preference for a sinking lid policy, which would see the level of gambling machines reduced by natural attrition as premises close.

369/2009

6. On Monday, 15 June 2009, where it was resolved:

“Te Taumata Runanga resolved to:

E Whakae Ana / Agree that it be recommended to Council that Te Taumata Runanga nominate the Chairman of Te Taumata Runanga, W Paki to the Planning and Regulatory Committee Hearing for the Gambling Venue Policy.”

976/2009

7. On Friday, 19 June 2009, where it was resolved:

“Te Taumata Runanga resolved to:

1. **Kua Whiwhi / Receive** the Planning and Regulatory Committee Gambling Venue Policy Hearing Panel - Maori Community Representation report.
2. **E Whakae Ana / Agree** that the resolution 976/2009:
“E Whakae Ana / Agree that it be recommended to Council that Te Taumata Runanga nominate the Chairman of Te Taumata Runanga, W Paki to the Planning and Regulatory Committee Hearing for the Gambling Venue Policy.”
be rescinded.

985/2009

“Te Taumata Runanga resolved to:

3. **E Whakae Ana / Agree** that Te Taumata Runanga nominate and recommend Denal Meihana as community representative to the Council to sit as part of the Planning and Regulatory Committee Hearing on the Gambling Venue Policy.

987/2009

DECISION MAKING

8. The Council is requested to approve Te Taumata Runanga's recommendation to have a Maori community member co-opted to the Planning and Regulatory Committee Gambling Venue Policy Hearing Panel.
9. Section 101(2) of the Gambling Act 2003 sets out a mandatory statutory requirement that the Council has regard to the social impact of gambling within Waitakere in adopting a class 4 Gambling Venue Policy. Te Taumata Runanga's request for a Maori community representative to participate in the Gambling Policy Venue Hearing may contribute to and enhance Council's decision making on the social impacts of gambling in Waitakere.
10. Schedule 7 of the Local Government Act 2002 provides that a local authority has the power to appoint any member of a committee or a subcommittee (clause 31(1)), and that the committee member may, but need not be, an Elected Member of the local authority if, in the opinion of the local authority, that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee (clause 31(3)).

STRATEGIC CONTEXT

11. The opportunity for participation of a Maori community representative in the Gambling Venue Policy deliberations process enhances Council's commitment to the Treaty of Waitangi principles, and gives effect to Council's Active Democracy Strategic Platform which supports the involvement of citizens in the Council's decision making process through education, removing barriers, developing partnerships, improving information flows and supporting communities' own ways of interacting with the Council.
12. The above decision contributes to the following community outcomes:
 - Nga Manukura - Maori leadership;
 - He iwi kaha - Strong Communities;
 - Toiora - Healthy lifestyles;
 - Te Mana Whakahaere - Autonomy;
 - Whaiora - Participation in society; and
 - Te Mahi tahi - Working together.

CONSULTATION

13. Consultation with Council's Maori Relationships Team, Te Taumata Runanga, iwi and other Maori stakeholders has taken place.

RESOURCES

14. The Maori Community appointee will be reimbursed for their time on the Planning and Regulatory Committee Gambling Venue Policy Hearing Panel at the same rate as councillor members.

IMPLEMENTATION ISSUES

15. There are no implementation issues arising from this report.

AUCKLAND COUNCIL TRANSITION ISSUES

16. The decision making proposed in this report is not constrained by section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, as it does not directly or because of its consequences: significantly prejudice the reorganisation, significantly constrain the powers or capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation, or have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.

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



5 DISPOSAL OF LAND AT BUCKLEY AVENUE, HOBSONVILLE

GLOSSARY

Whenuapai Pony Club	(Pony Club)
Public Works Act 1981	(PWA 1981)
Public Works Act 1928	(PWA 1928)
Long Term Council Community Plan 2009-2019	(LTCCP 2009-2019)
Comprehensive Development Plan	(CDP)
Local Government Act 2002	(LGA 2002)
Local Government (Tamaki Makaurau Reorganisation) Act 2009	(LGTMRA)
Hobsonville Land Company Limited	(HLC)
Local Government Act 1974	(LGA 1974)
Resource Management Act 1991	(RMA 1991)
Auckland Transition Agency	(ATA)

EXECUTIVE SUMMARY

The last report to the Council in respect of the remnants of the land known as Duke Park was provided in June 2008. Council resolved that the land would not be surplus pending relocation of the Whenuapai Pony Club (Pony Club). Since that time, Council has been negotiating for the purchase of other land for recreation purposes at Hobsonville from three property owners. Settlement of the purchase of one of those properties is imminent and will provide a suitable temporary base for the Pony Club.

The Council has no further recreation uses for this land. Council officers have considered the possibility of undertaking housing development on the site, but do not consider that this is the appropriate time or location for the commitment of ratepayers' money to a housing project.

The Crown has indicated an interest in acquiring this land for housing purposes under section 50 of the Public Works Act 1981 (PWA 1981) and this report recommends that the Council agree to that request.

The Crown has also expressed an interest in acquiring an adjacent parcel of unformed road from the Council. This report also recommends that the Council agree to that request.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Disposal of Land at Buckley Avenue, Hobsonville Report.
2. **Agree** the remnants of the land known as Duke Park (3.2226 hectares approximately being parts of lot 2 DP 9613) as surplus to the Council's requirements, for any purpose.
3. **Approve** the transfer of the land referred to in resolution 2 above to the Crown for housing purposes, pursuant to section 50 of the Public Works Act 1981 at a consideration of not less than \$2,141,000 plus GST.
4. **Agree** to consent, both as territorial authority and as owner of adjoining land, to the proposed stopping of the area of unformed road marked "C" on the Harrison Grierson plan (drawing no. 127291-LT, dated 15 August 2008) attached to this report.
5. **Agree** that, subject to the completion of road stopping procedures to sell the land referred to in resolution 4 above to the Crown for housing purposes for a sum not less than \$169,000 plus GST subject to a condition, imposed under section 345(2) of the Local Government Act 1974, that the land sold will be held by the Crown with adjoining land owned by the Crown for housing purposes and will not be disposed of individually except with the consent of the Council.
6. **Approve** the Chief Executive Officer be authorised to do all things reasonably necessary to give effect to resolutions 2 to 5 above.
7. **Agree** that resolutions 3 to 5 above be subject to final confirmation by the Auckland Transition Agency.

BACKGROUND

1. The Council acquired land at Hobsonville from Squadron Leader Duke in 1972 for road purposes by agreement under the Public Works Act 1928 (PWA 1928). The taking of the land for road created a severance containing 6.0121 hectares approximately being part lots 1 and 2 on deposited plan 9613. The land owner also required Council to acquire this land. The land was taken and continues to be held by the Council, "for the use, convenience, or enjoyment of a limited access street". The land became known as "Duke Park" and has been used by the Council for recreation purposes and has been leased to the Pony Club.
2. In 2006, the Crown acquired 3.3830 hectares of Duke Park for State Highway Purposes, related to the construction of the new State Highway 18. That land is shown marked A and B on the plan attached at page A1. The Pony Club was required as a consequence of the taking of that land to restrict its activities to the remaining land, which is now no longer of a sufficient size and dimension to enable the Pony Club to carry on the full range of activities. The need for the Pony Club to relocate has been recognised. The Council has acknowledged some responsibility to assist the Pony Club in that regard and negotiated on behalf of the Pony Club for arrangements under which the Crown would meet costs relating to the relocation of the Pony Club.

A1

3. One of the other consequences of the construction of State Highway 18 was that a strip of land was required through the middle of land owned by the Council adjoining Hobsonville Domain, which it had acquired for the future development of playing fields in the northern part of the City. The Council negotiated for the sale of that land to the Crown under the PWA 1981 on the basis that the Crown would purchase other property in the locality by way of equivalent reinstatement. The selected site for the new playing fields facility is in Clark Road, Hobsonville and is currently owned by three property owners. The Council has been negotiating with those owners. To date it has concluded an agreement with one property owner and is negotiating with a second property owner. A third owner has not responded to the Council's invitation to negotiate and compulsory acquisition action may be necessary.
4. Settlement of the purchase of the first parcel of land occurred on 2 July 2009. There is sufficient space on this land to provide temporary accommodation for the Pony Club. It is anticipated that once the adjoining land has been acquired there will be a sufficient land area to accommodate the full range of Pony Club activities on a temporary basis. The temporary period will continue until the Council requires the land for the development of playing fields. The timing of that development will depend, to a degree, on the speed of development of housing at Hobsonville. Budget for the development of the playing fields is currently sitting outside the current Long Term Council Community Plan 2009-2019 (LTCCP 2009-2019) timeframe.

A2

5. At its meeting on 25 June 2008 the Council resolved:

The Council resolved to:

“2. Agree that the Duke Park land is not yet surplus to the Council's requirements, pending the relocation of the pony club, and that in the meantime Council officers investigate the suitability of the land for use for other public work purposes, and in particular for housing.”

982/2008

6. The Council gave some consideration to the future of the remaining land at Duke Park that the land was still required by the Council for recreation purposes and would not become surplus to the Council's requirements pending relocation of the Pony Club. Now that relocation of the Pony Club can occur, the Council must give some thought to the future of the remaining Duke Park land. Attached at page A2 is a plan prepared by Harrison Grierson (drawing no. 127291 - LT, dated 15 August 2008) which shows the remaining areas of Duke Park marked A and B. For convenience, references in the balance of this report to "Duke Park" are references to these remaining areas
7. That plan also shows an area of land marked C. This is a parcel of unformed road land which at some point was intended for the continuation of Buckley Avenue. As the plan shows, the unformed road leads nowhere and creates some awkward dimensions to the parcels of land on either side owned by the Crown for housing purposes. The Crown proposes to seek ministerial approval to stop this parcel of road under section 116 of the PWA 1981 and if it is successful in that action, has invited the Council to sell that portion of stopped road to it for housing purposes. For convenience this parcel of land is referred to in the balance of this report as "the road land".

DECISION MAKING

Issues

Duke Park

8. The decisions to be made in accordance with this report are to be made in the context of a significant decision-making background over time, relating to the decision by the Auckland Regional Council to move the Auckland Metropolitan Urban Limit; the adoption by the Council of Plan Change 13; and the approval by the Council of the first stage Comprehensive Development Plan (CDP) for the Hobsonville Peninsula on 24 March 2009 (resource consent LUC 2009/339).
9. While the aspects of the CDP were the subject of appeal, all of those appeals have now been resolved by agreement. Consent orders have been drafted and referred to the Environment Court for approval. This process usually takes around 3 weeks and should be completed no later than the end of July. There is therefore no impediment to the commencement of work at Hobsonville and earthworks are scheduled to begin in October 2009. Significantly, in the context of the decisions required by this report, the disposal of those appeals signals the end to an extensive process of formal public consultation in relation to the future land form and uses of the former Hobsonville airbase generally, including all of the land under discussion in the is report. In the decisions on Plan Change that land was identified as suitable for urban development and the first stage CDP specifically identified that land as suitable for medium density residential housing.
10. The Crown's proposals for the development of its land for housing purposes at Hobsonville include the provision of an extensive network of reserves and other public open spaces. The Council's assessment of the extent of that reserve and public open space land is that it exceeds in quantum and also in quality, that which might ordinarily be required to be provided for reserves by a subdivider. That assessment was made on the basis that Duke Park would be developed for housing or other purposes in accordance with the general planning indications contained in Plan Change 13, as now confirmed by the first stage CDP.
11. The remnants of Duke Park are two relatively small parcels of land which are located on either side of the Buckley Avenue off ramp from State Highway 18. They cannot reasonably function together and their location is not ideal for useful recreation purposes. As noted previously the overall development proposals for Hobsonville Peninsula will result in more than sufficient reserves and open space land being set aside in the immediate locality. It is therefore considered that Duke Park is surplus to the Council's requirements for recreation and open space land in this locality.
12. There is a potential argument that the sale of Duke Park is not caught by section 40 PWA 1981, since the land in question was never acquired or held for a public work, as it was acquired as severance at the request of the original owner. The land was acquired under the PWA 1928 which was silent on this issue. The 1981 Act however makes clear that land acquired in those circumstances can be dealt with freely, without any offer back requirement. Putting that argument to one side however the offer back ordinarily arises where land is held for a public work and becomes surplus to that requirement. The offer must be made to the former owner or the former owner's successor. Inquiries made have confirmed that Squadron Leader Duke has died but is survived by his widow and that she is his successor for the purposes of section 40 PWA 1981. However, the obligation to make an offer back under section 40 PWA does not arise if the land become surplus to the public work for which it is held but is required for another public work.

13. Thought has been given to whether it would be appropriate for the Council to now resolve to hold this land for housing purposes with a view to undertaking its own housing development on all or parts of the land in accordance with Plan Change 13. Housing development is a public work for the purposes of the Local Government Act 2002 (LGA 2002). The conclusion reached was that this action could not be recommended for the following reasons:
 - a) The level of time, expertise and human resources that would be required to give effect to a significant development of this type was beyond the Council's current resources. Planning would be made more difficult by the need to coordinate with the works of the Crown on adjoining land. There is much potential in those circumstances for duplicated effort and wasted expenditure;
 - b) The level of financial commitment required in uncertain economic times at a time when there are other capital pressures on the Council's budget and a desire to limit the level of rates increases;
 - c) Uncertainty over the future direction of the new Auckland Council and the likely reluctance of that new body to be involved in this type of activity at this time;
 - d) The lack of ability or willingness of the Council to give effect to a housing development within a reasonable timeframe, when compared to the willingness of the Crown to take over the land and develop it for medium density housing development in accordance with the comprehensive development plan at an early date. The Crown has continued to demonstrate over recent time its continuing commitment to the residential development of the land it owns at Hobsonville.
14. The Crown had signalled to the Council in June 2008 that it was interested in acquiring the Duke Park land (and the road land) for housing purposes under section 50 PWA 1981. It has undertaken much, if not all of the relevant infrastructure planning for a comprehensive development of its land, including the Duke Park land and it has a first stage CDP in place. Agreement to settle the appeals in respect of the comprehensive development plan was reached at the end of June. It has set up a special purpose development company (Hobsonville Land Company Limited) [HLC] to give effect to the development proposals. If the land is transferred to the Crown for housing purposes it is more likely than not that a medium density development of the Duke Park land will occur without undue delay, thereby fulfilling the Council's housing aspirations in respect of this land without incurring any of the financial risks necessarily inherent in a housing development of that type.
15. The Crown has recently confirmed its continuing interest in acquiring the Duke Park land for housing purposes under section 50 PWA 1981. That section provides for the transfer of land held by one requiring authority for a particular public work to another requiring authority for another public work, whether of the same type or not, on terms agreed between the two authorities. Where a transfer occurs and the land is taken by declaration under section 20 PWA 1981 the provisions of PWA 1981 as to the disposal of land held for a public work shall not apply. In other words the obligation to offer the land back to the former owner under section 40 PWA 1981 is avoided.
16. Given that the transfer of Duke Park to the Crown for housing purposes will directly assist to achieve the Council's housing aspirations in respect of this land with a minimum of delay, officers recommend that the land be transferred under section 50 PWA 1981.

17. The Council's valuer and the Crown's valuer have met with a view to endeavouring to agree the value of the land for the purposes of a transfer under section 50 PWA 1981. The valuers were unable to agree. The Council's valuer assesses the fair market value of the Duke Park land and the road land for the purposes of a medium density housing development at \$2,310,000 plus GST. The Crown has indicated that it will accept this value on that basis.
18. In addition to this the Council's valuer has pointed out that if the land was developed for a less intensive housing development he would have assessed a market value of \$3,570,000 plus GST, because of lower costs incurred for the provision of infrastructure. The Crown does not consider that to be an appropriate basis for assessment of the consideration for a transfer under section 50 PWA 1981, given the "bias" of the Council's District Plan under Plan Change 13 towards medium density housing development.
19. These matters have been discussed with the Crown. The compromise position agreed is that the land will be transferred at a value of \$3,570,000, but that on settlement only \$2,310,000 would be paid. The difference, \$1,260,000 will only become payable if at some time in the future the Crown decides to develop the Duke park land and the road land for some purpose other than medium density housing in accordance with the approved CDP.
20. A further potential complication to the disposal of Duke Park arises from the provisions of section 138 LGA 2002. That section provides that where land is "used for community, recreational purposes" but is not held as a reserve under the Reserves Act 1977 (as noted above the land continues to be held by the Council in fee simple) there is an obligation to "consult" before entering into any proposal for the disposal of that land.
21. There is only one decided case relating to section 138 and it relates to reclaimed land so that the conclusions reached in that case are not easily applied in this case. There is no doubt that the use of the land by the Pony Club comes within the broad ambit of a "recreational" activity, but it is doubtful whether the private recreational activities of a club falls within the range of purposes intended to be caught by the requirements of section 138 LGA 2002. The language of the section is broadly expressed to reflect the circumstances where there is wider public use.
22. The other difficulty with section 138 LGA 2002 is that it is far from clear what level of consultation might be required to satisfy the requirements of that section. One view might be that the public notification of the comprehensive development and its subsequent appeal might satisfy that requirement, given that none of the appeals which were subsequently lodged related to the future use of Duke Park for housing purposes.
23. This report was in preparation before thought turned to the possible application of section 138 LGA 2002. The decision was made, without determining the applicability or otherwise of section 138 LGA 2002 to the circumstances, to undertake further specific consultation with parties who might have an interest in this issue. Accordingly there has been consultation with the Massey Community Board, NorSGA Urban Development Committee, Westharbour/Hobsonville Residents and Ratepayers Association, the Pony Club and representatives for Mrs Duke. An oral update as to the outcome of that consultation will be given at the time of presentation of this report.

The Road Land

24. This portion of unformed road has never been used by the public for road. The indicative roading pattern in Plan Change 13 and confirmed by the first stage comprehensive development plan does not provide for development of a road on this land. The road goes nowhere in the sense that it does not provide access to a river or the sea. While theoretically it could provide road frontage to part of Duke Park and to adjoining land owned by the Crown, the reality is that the location of this road land is such that it hinders best practice development of the adjoining land for housing purposes.
25. The Crown has indicated that it wishes, rather than proceeding down the road stopping process provided by the Local Government Act 1974 (LGA 1974), to pursue road stopping under section 116 PWA 1981. That process occurs without public notification, subject only to consent by the relevant territorial authority and the owner of any land having frontage to the road to be stopped. In this case the Council needs to consent in both capacities.
26. This unformed road has not been used for that purpose (at least in recent memory) by adjoining land owners or members of the public, there are no other adjoining landowners who might be affected by a proposal to stop the road. Current planning for roads in this locality has confirmed that this land will not be required for road in the future, as evidenced by the first stage CDP. The CDP was publicly notified. No submissions we received in respect of the proposal to use this unformed road land for housing purposes and as noted above, none of the appeals which have been settled related to this aspect of the CDP. It is therefore recommended that Council consent to the road stopping both in its capacity as territorial authority and as adjoining land owner.
27. If the Crown is successful in its application to have the road stopped disposal of the land then proceeds in accordance with section 117 PWA 1981, which provides that "notwithstanding anything in section 40 PWA" the Council may deal with the land "in the same manner and in all respects as if the road had been stopped pursuant to LGA 1974", which provides for (inter alia) the sale of stopped road to an adjoining owner at a price to be fixed by competent valuer. Under section 345(2) LGA 1974, the Council may require when selling stopped road to the adjoining owner to require that land to be held in common ownership with other adjoining land, so that is not capable of being disposed off individually except with the consent of the Council. It is recommended that the stopped road be sold to the Crown under section 345 LGA 1974 and be made subject to a condition imposed under section 345(2) LGA 1974.
28. The Council's valuer valued the stopped road land on the same basis as the Duke Park land. Accordingly the value attributed to that land on the basis of the medium density housing development is \$169,000 plus GST. It is proposed that any agreement for the sale of the land will require a further payment, if at some future time the Crown develops the land for any purpose other than medium density housing.

Community Facility at the Landing

29. As part of the discussion related to the possible sale of these parcels of land the opportunity has been taken to advance discussions with the Crown relating to the requirement for the provision of space for a community managed facility on the Landing (hardstand area) of Plan Change 13. Under Plan Change 13 a further plan change is required before development can take place at the Landing (other than the ferry, marine and launch road infrastructure). Some initial concept planning work has been undertaken with key stakeholders on the future use of the Landing and as part of this work the need for a space for a community managed facility has been identified. The Crown has committed, subject to final Ministerial discretion, to providing space for a building with a minimum footprint of 400 square metres to cater for water based recreational and other community uses. It is envisaged that the facility would be owned by the Crown but managed by a community based organisation. This agreement will be captured in the recitals to any agreement to sell the Duke Park land and road land. The exact size and location of this facility will be further refined during the finalisation of the subsequent plan change during 2009-2010.

Consideration of Community Views

30. Planning for Hobsonville Peninsula has been ongoing since 2001, with a number of opportunities during this time for the wider community to have its say and be heard through the comprehensive consultation process provided through the Resource Management Act 1991 (RMA 1991).

STRATEGIC CONTEXT

31. Hobsonville Peninsula is identified in the Council's 2009 Growth Management Strategy as one of the City's future urban growth areas. Significant growth is expected to occur in Hobsonville as urban development and intensification takes place in residential, retail and employment areas, as part of the implementation of Plan Change 13. This growth contributes to the Council's Strong Economy and Urban and Rural Villages community outcomes.

CONSULTATION

32. Consultation with Council officers, relevant external agencies and iwi took place during the development of Plan Change 13. Public consultation occurred through the plan change and more recently through the CDP processes under the RMA 1991. There has also been further limited conversation as outlined in this report.

RESOURCES

33. There are no resources implications arising from this report.

IMPLEMENTATION ISSUES

34. Staff resources are available to finalise and implement the disposal of land at Buckley Avenue, Hobsonville. Staff resources are available to work with HLC and other stakeholders to develop the plan change for the Landing during 2009 to 2010.

AUCKLAND COUNCIL TRANSITION ISSUES

35. A decision to dispose of land requires confirmation by Auckland Transition Agency (ATA) under section 31(4)(f) of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 (“LGTMRA”) if the decision is not “in accordance with [the Council’s] long term council community plan”. The LTCCP 2009-2019 includes a capital receipt of \$2,300,000 in the 2009-2010 year. This item was inserted into the LTCCP at a fairly late stage, after the likely consideration for the sale of this land was known. Arguably therefore there is no need for an approval from ATA.
36. However, when the ATA confirmed the Council’s decision in respect of the LTCCP it notified the Council that, notwithstanding the confirmation given to the LTCCP, it wished to review under section 20 LGTMRA any decisions relating to the “wider NorSGA project”. This land is located within the area affected by the wider NorSGA project. On that basis it is felt that the decisions in recommendations 3 and 5 require a confirmation from the Auckland Transition Agency.

Report prepared by: Denis Sheard, Legal Services Manager and Stephanie Jowett, Strategic Planner, Strategic Projects.



PUBLIC EXCLUDED MATTERS

- 6 **NEW LYNN TRANSIT ORIENTED DEVELOPMENT PROJECT - LAND ACQUISITIONS AND DISPOSALS FOR THE BUS INTERCHANGE**
- 7 **NEW LYNN TRANSIT ORIENTED DEVELOPMENT PROJECT - LAND ACQUISITIONS AND DISPOSALS FOR CLARK STREET BYPASS**

These items will be considered in the Confidential Supplement of the agenda and will be circulated to members separately at the meeting.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely, New Lynn Transit Oriented Development Project - Land Acquisitions And Disposals For The Bus Interchange and New Lynn Transit Oriented Development Project - Land Acquisitions And Disposals For Clark Street Bypass.

The general subject of the matters to be considered while the public is excluded, the reason for passing this resolution in relation of the matters, 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 matters to be considered.	Reason for passing this resolution in relation to the matters.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
New Lynn Transit Oriented Development Project - Land Acquisitions And Disposals For The Bus Interchange	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.

General subject of the matters to be considered.	Reason for passing this resolution in relation to the matters.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
New Lynn Transit Oriented Development Project - Land Acquisitions And Disposals For Clark Street Bypass	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 parts of the proceedings of the meeting in public as follows:

- *These reports contain information which if released could affect Council's negotiations.*

