



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

COUNCIL

I hereby give notice that a meeting of the Council will be held on:-

DATE: **Wednesday, 15 September 2010** **TIME:** **9.30 am**

MEETING
ROOM: **Council Chamber**

VENUE: **Waitakere Central, 6 Henderson Valley Road, Henderson, Waitakere**

to consider the business as set out herein and to take any necessary action connected therewith.

10 September 2010

Emma Joyce
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8114

MEMBERSHIP:

| | | |
|--------------|-----|--------------------|
| Mayor | RA | Harvey, QSO, JP |
| Deputy Mayor | PA | Hulse |
| Councillors | DQ | Battersby, QSM, JP |
| | BA | Brady, JP |
| | MFP | Chan, JP |
| | JM | Clews, QSO, JP |
| | RI | Clow |
| | LA | Cooper, JP |
| | AK | Corban, OBE, JP |
| | RP | Dallow, QPM, JP |
| | WW | Flaunty, QSM, JP |
| | MM | Jolley |
| | JP | Lawley, JP |
| | PG | Mitchell |
| | VS | Neeson, JP |

(Quorum 8 members)

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(Meeting Room could be subject to change)

(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE COUNCIL CHAMBER
AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON WEDNESDAY, 15 SEPTEMBER 2010,
COMMENCING AT 9.30 AM**

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**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE COUNCIL CHAMBER
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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 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 RESERVE REVOCATION AND DIVESTMENT PROPOSAL - HARBOURVIEW
CORNER RESERVE**

GLOSSARY

| | |
|---|-------------------|
| Harbourview Corner Reserve | (the Reserve) |
| Henderson Community Board | (the Board) |
| Long Term Council Community and Annual Plan Committee | (LTCCP Committee) |
| draft Plan Change 38 Te Atatu Town Centre | (Plan Change 38) |
| Reserves Act 1977 | (Reserves Act) |
| The Department of Conservation | (DoC) |
| Waitakere Parks and Open Space Strategic Plan 2009 | (Strategic Plan) |

EXECUTIVE SUMMARY

The purpose of this report is to present to the Council submissions received on the proposal to revoke the reserve status of Harbourview Corner Reserve (the Reserve), Te Atatu Peninsula to enable future divestment to occur.

The proposal was notified for public submissions on 15 July 2010 in response to a decision of the Henderson Community Board (the Board). The decision to notify was ratified by the Council. Seven submissions were received, including one from the Board. These submissions provide a mixture of conditional support and opposition.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Reserve Revocation and Divestment Proposal - Harbourview Corner Reserve report.
2. **Agree** that the classification of Harbourview Corner Reserve (Lot 286 DP 84406) as a recreation reserve be revoked under section 24 of the Reserves Act 1977 to enable the reserve to be sold and the proceeds from any sale to be allocated to the development or acquisition of open space within Te Atatu Peninsula.
3. **Agree** that the Chief Executive Officer be directed to seek the approval of the Minister of Conservation to the revocation of Harbourview Corner Reserve (Lot 286 DP 84406) as a recreation reserve.
4. **Agree** to authorise the Chief Executive Officer, following the Minister of Conservation's approval to carry out all necessary actions to give effect to resolutions 2 and 3 above to revoke the recreation classification of Harbourview Corner Reserve (Lot 286 DP 84406).
5. **Direct** the Chief Executive Officer to implement the appropriate District Plan processes for altering the zoning of Harbourview Corner Reserve (Lot 286 DP 84406) before the sale of the land.
6. **Agree** that, subject to resolution 6 below, the Chief Executive Officer be delegated authority to sell Harbourview Corner Reserve (Lot 286 DP 84406) once the actions in resolutions 2, 3 and 5 above have been taken.
7. **Note** that the Henderson Community Board's intention for revocation and divestment was to enable revenue received from any sale to be used to enhance reserves on Te Atatu Peninsula.
8. **Note** that resolution 6 above is subject to confirmation by the Auckland Transition Agency.
9. **Note** that the sale of Harbourview Corner Reserve (Lot 286 DP 84406) will be affected by the moratorium on the sale of property as set out in section 12 of the Local Government (Auckland Transitional Provisions) Act 2010.

BACKGROUND

The Reserve

- A1
1. The Reserve (Lot 286 DP 84406) is located on the corner of Harbour View and Beach Roads, Te Atatu Peninsula as shown on the map attached at pages A1. The Reserve is 600m² and is a grassed open space. There are no parks, structures or landscape features on the Reserve.

2. The Reserve was originally owned by the Crown for state housing purposes and transferred to the Council as a reserve contribution upon subdivision in 1995. It was classified as a recreation reserve by Gazette Notice on 28 November 1996. The Department of Conservation (DoC) have confirmed that owing to the manner in which the land was acquired and held by Council, any proceeds will be credited to the Council.

Previous Reports and Resolutions

3. The possible divestment of the Reserve was first raised in a public forum at the Board meeting on 6 August 2009 and the Board resolved for divestment to be investigated. The Board resolved as follows:

“The Henderson Community Board resolved to:

4. **Agree** that the Chief Executive Officer be requested to urgently bring back a report to the Henderson Community Board, investigating options to divest Council owned land on the corner of Harbourview and Beach Roads, and that any revenue from this be used to enhance the Reserves and Parks on Te Atatu Peninsula.”

1386/2009

4. Following that meeting several reports have been presented to the Board and the Long Term Council Community and Annual Plan Committee (LTCCP Committee). These reports have identified that:

- The Reserve does not hold significant value as a usable space;
- Divestment of the Reserve meets the Council’s criteria set out in the Waitakere Parks and Open Space Strategic Plan 2009 (Strategic Plan); and
- The Henderson Ward Reserves Management Plan 2009 identifies that investigations for divestment be undertaken for the Reserve with appropriate community consultation.

5. The Board and LTCCP Committee resolutions, in response to these reports, have supported resources being set aside to undertake public consultation and other administrative processes to support divestment. The Board resolutions have also supported any revenue obtained from any future sale of the Reserve being allocated to projects on the Te Atatu Peninsula.

6. On 16 March 2010 the LTCCP Committee resolved as follows:

“2. Approve the addition of \$20,000 to the draft Annual Plan 2010/2011 for the purposes of Harbourview Corner Reserve divestment.”

323/2010

7. On 8 July 2010 the Board agreed to publicly notify the proposal and made recommendations as to the allocation of any revenue. The resolutions were as follows:

“The Henderson Community Board resolved to:

2. **Agree** to the public notification under section 24 of the Reserves Act 1977 of the proposal to revoke the reserve status of Harbourview Corner Reserve, Lot 286 DP 84406 (600m²) as a recreation reserve.
3. **Agree** that in the absence of objections it be recommended to Council that the reserve classification of Harbourview Corner Reserve (600m²) as a recreation reserve be revoked under section 24 of the Reserves Act 1977.
4. **Agree** that in the absence of objections the Chief Executive Officer be directed to seek the approval of the Minister of Conservation to the revocation of the reserve classification of Harbourview Corner Reserve, Lot 286 DP 84406.

5. **Direct** the Chief Executive Officer, following the Minister's approval to revoke the reserve classification, in accordance with recommendation 3 above to implement the appropriate District Plan process for altering the zoning of Harbourview Corner Reserve.
6. **Agree** to recommend to the Council that the revenue from the sale of Harbourview Corner Reserve be allocated to the development or provision of open space within Te Atatu Peninsula Catchment of Waitakere including:
 - (a) Redeveloping the playground on the Village Green at Pringle Park, Te Atatu Peninsula in conjunction with the redevelopment of the Te Atatu Peninsula Community Centre and Library.
 - (b) The purchase of the former reserve at the corner of Waipani Road and Te Atatu Road, Te Atatu Peninsula currently occupied by the NZ Fire Service for creation of new playground."

950/2010

8. With respect to the Board resolutions of 8 July 1010, the Council resolved on 28 July 2010 as follows:

"The Council resolved to:

Agree to ratify the decision of the Henderson Community Board to publicly notify under section 24 of the Reserves Act 1977 the proposal to revoke the reservation of Harbourview Corner Reserve, Lot 286 DP 84406 (600m²) as a recreation reserve.

999/2010

"The Council resolved to:

Agree that if revocation proceeds that a report be submitted to either the Finance and Operational Performance Committee or Council considering the Henderson Community Board's recommended use of any revenue from any future sale of Harbourview Corner Reserve for the development or provision of open space within Te Atatu Peninsula Catchment area."

1000/2010

Policy Criteria for Divestment

- A2-A8
9. As noted above, the criteria for divestment of reserves is contained in the Strategic Plan. An assessment of the proposed divestment of the Reserve was set out in a 4 February 2010 report to the Board which concluded that the Reserve meets the divestment criteria of the Strategic Plan and that it was appropriate to consider divesting the Reserve pending public consultation. A full copy of this report is attached at pages A2 to A8.

Notification and Consultation

10. The proposed revocation was notified for public submissions on 15 July 2010 by way of public notice in the New Zealand Herald and Western Leader. A one month submission period (closing 17 August 2010) was allowed as required under the Reserves Act 1977 (Reserves Act).
11. In addition to the public notice, a mail drop was made to all residences within a 400m walking distance of the Reserve on 15 July 2010. A second flyer was distributed on 27 July 2010 providing additional information. Information was also posted on the Council's website and remained there for the duration of the submission period.

DECISION MAKING

- A9-A19
2. Seven submissions were received, including one from the Board. These submissions provide a mixture of conditional support and opposition. A summary of these submissions is attached at pages A9 to A10 and full copies of all submissions are attached at pages A11 to A19.
 13. Key concerns raised in submissions relate to:
 - Loss of amenity (or potential amenity) provided by the Reserve;
 - Potential development on the site if divestment were to occur; and
 - The use of revenue from any future sale of the Reserve.
 14. Section 24(2)(c) of the Reserves Act requires the Council to give consideration to issues raised in submissions in determining whether to proceed with reserve revocation and divestment. The Council has not delegated the authority to make this decision.

Issues

Loss of Open Space

15. Submissions noted that the Reserve had been set aside to provide amenity for the local area and should be used for what it was intended. Three submitters noted that if the Reserve were developed (e.g. with trees, gardens and seating) it would provide benefits to the community and environment.
- A2-A8 16. As noted in the assessment included at pages A2 to A8, there are a number of larger, more developed reserves within a 400m radius that provide recreation and visual amenity to the local area. These reserves include: Roby Reserve, Jack Pringle Sports Park, Waimanu Bay Reserve and Harbourview Orangihina.
17. No development is planned within the Long Term Council Community Plan 2009-2019 which would serve to enhance the Reserve.

Site Development

18. Four of the submissions expressed concern about potential development of the site if divestment were to occur. Particular concerns were expressed about multi-unit residential use, business use and the impacts of intensifying use on intersection safety and sight lines.
19. The operative Waitakere City District Plan identifies the Reserve as Open Space Environment. This Human Environment identification essentially provides only for works associated with park management as permitted activities. All other activities would be assessed as non-complying.
20. If Council were to divest the Reserve, it would be desirable to achieve a Human Environment identification which would facilitate the sale and development of the site for use other than as a reserve.
21. The draft Plan Change 38 Te Atatu Town Centre (Plan Change 38) which was endorsed by the Planning and Regulatory Committee on 13 July 2010 (resolution 969/2010) for pre-notification consultation with landowners and stakeholders includes the proposed reidentification of the Reserve to Living Environment. If Council resolves to proceed with the reserve revocation and Plan Change 38 is advanced by the Auckland Council, public consultation is mandatory and members of the public would have the opportunity to address their concerns regarding potential development of the site at this time.

Revenue use

22. The three submissions which raised issues regarding the use of revenue were concerned to ensure that any revenue from the sale of the land be used within the Te Atatu Peninsula area. Particular suggestions included:
 - Not less than 50% of the proceeds be spent on the upgrade of existing reserves within the Waimanu Bay neighbourhood and the balance of funds being spent within the Te Atatu Peninsula (e.g. completion of foreshore walkway); and
 - All proceeds being put back into reserves in the Waimanu Bay area, i.e. the playground on the reserve on Waimanu Bay Drive (this submitter specifically opposed the funds being used to fund play equipment at Jack Pringle Park or purchase new parks on Te Atatu Peninsula).
23. The Board resolutions from 6 August 2009 and 8 July 2010 also make specific recommendations for the proceeds to be used at Pringle Park and the purchase of a former reserve at the corner of Waipani and Te Atatu Roads.
24. As the Reserve did not derive title from the Crown, the Council has authority pursuant to s 25(1) of the Reserves Act and a delegation from the Minister of Conservation to determine how to allocate the proceeds of any sale.
25. The Strategic Plan includes the following as a condition for divestment:

“The proceeds of the sale are directed towards open space development or acquisition within the local catchment, unless it is a Citywide park.”
26. It is noted that there is insufficient time for divestment to be completed before 1 November 2010. This will mean that any sale will be delayed by section 12 of the Local Government (Auckland Transitional Provisions) Act 2010. This places a moratorium on the sale of certain council property from 1 November 2010 to 30 July 2012.
27. If the Council determines to proceed with the revocation and divestment, it would be consistent with the Strategic Plan for the Council to agree that the proceeds of any future sale be directed towards open space development or acquisition within Te Atatu Peninsula.

STRATEGIC CONTEXT

28. The recommendations of this report have been prepared within the context of the Council's Strategies and Strategic Outcomes. The Strategies particularly relevant to the divestment of the Reserve are Social and Growth Management.
29. The Social Strategy seeks to connect people and communities to services, facilities and activities that allow for healthy, safe and sustainable living. This strategy reflects the Strategic Outcome 'Great Living Places'. The size and location of the Reserve means that it does not provide suitable open space for the surrounding community. The proposed divestment of the Reserve will provide Council with revenue to better provide for the social needs of the Te Atatu Peninsula community.
30. The Growth Management Strategy seeks a dynamic network of vibrant town centres and neighbourhoods. The provision of open space is an important factor in creating vibrant neighbourhoods. It has been assessed that the size and location of the Reserve means that it does not contribute successfully to the outcome of this strategy. The revenue gained from the sale of the land will allow the Council to provide more suitable open space within Te Atatu Peninsula.

31. The divestment of the Reserve will not have any adverse affect on any of the relevant community outcomes: Strong Communities, Toiora - Healthy Lifestyles and Whaiora - Participation in Society; or other aspects of Council's Strategic Direction.
32. The assessment presented in this report demonstrates that the proposed reserve revocation and divestment of the Reserve meets the criteria contained in the Strategic Plan.
33. The Henderson Ward Reserves Management Plan 2009 identifies that investigations for divestment be undertaken for the Reserve in conjunction with appropriate community consultation.

CONSULTATION

34. Public consultation on the proposal to revoke the reserve status of the Reserve to provide for divestment to occur was undertaken consistent with the consultation requirements of the Reserves Act and Local Government Act 2002.
35. Under section 24(2) of the Reserves Act the Council's resolution on the proposed revocation must be forwarded to the Minister of Conservation for approval. The authority for granting this approval is delegated to the Regional Conservator.
36. The proposal has been discussed with the Community Relations Officer: Statutory Land Management of DoC. He has confirmed that provided the Council has consulted adjoining landowners, local iwi and considered issues raised in submissions, DoC's decision is likely to be favourable.
37. All residences within a 400 metre walk of the Reserve received information about the proposal via a mail drop and flyer. Local iwi will be contacted and the outcomes of these discussions reported at the meeting.
38. Legal Services have advised that section 12 of the Local Government (Auckland Transitional Provisions) Act 2010 regarding the moratorium on the sale of certain Council property would apply, in this instance, after 1 November 2010.

RESOURCES

39. A sum of \$20,000 is included in the Annual Plan 2010/2011 to undertake public consultation and other administrative processes to support the divestment of the Reserve.

IMPLEMENTATION ISSUES

40. Implementation for the revocation of the Reserve is as follows:
 - DoC endorsement of any decision to revoke the reserve status of the Reserve is required;
 - It is unlikely that revocation processes will be completed before 1 November 2010;
 - Revocation needs to be confirmed by a notice in the NZ Gazette;
 - A change to the Waitakere City District Plan would be desirable to achieve a zoning which would facilitate the sale and development of the site for use other than as a reserve;
 - Council can make a decision on the use of revenue from the sale of the Reserve. It is noted that these decisions could be revisited by the new Auckland Council at the time of sale; and

- A moratorium on the sale of certain council property would apply in this instance between 1 November 2010 and 30 July 2012.

AUCKLAND COUNCIL TRANSITION ISSUES

41. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on Waitakere City Council's decision making capabilities in respect of the disposal of assets under section 31(4)(f) and any decision made with respect to divestment of the reserve will be subject to confirmation by the Auckland Transition Agency.
42. There is no certainty that such approval will be forthcoming and if it is, that there will be insufficient time to divest the Reserve before 1 November 2010.
43. After 1 November 2010, the moratorium on the sale of property with a current rating valuation of \$250,000 or more as set out in section 12 of the Local Government (Auckland Transitional Provisions) Act 2010 will apply. The effect of this moratorium is to prevent the Auckland Council selling the property from 1 November 2010 to 30 July 2012.

Report prepared by: Sarah Smellie, Parks Strategic Planner and Gyles Bendall, Manager Parks Planning.



5 EARTHSONG ECO-NEIGHBOURHOOD UPDATE TO SEPTEMBER 2010

GLOSSARY

Earthsong Eco-Neighbourhood (Earthsong)
Memorandum of Understanding (MOU)

EXECUTIVE SUMMARY

The purpose of this report is to provide an update to the Council from Earthsong Eco-Neighbourhood (Earthsong) to September 2010. With the pending transition to the Auckland Council, the current relationship with Earthsong will come to an end. The potential for a future partnership relationship with the Auckland Council should be encouraged and Council's endorsement is recommended.

RECOMMENDATIONS

It is recommended that Council resolve to:

1. **Receive** the Earthsong Eco-Neighbourhood Update to September 2010 report.
2. **Agree** to receive the final report from Earthsong Eco-Neighbourhood 2 September 2010 representatives.
3. **Agree** to recommend to the Auckland Council that a continued partnership with Earthsong Eco-Neighbourhood be supported to ensure that the Auckland region continues to demonstrate sustainable development through flagship regional projects.
4. **Note** that Earthsong Eco-Neighbourhood is inviting key Auckland Council officers to visit the project to provide information to the relevant departments of the Auckland Council.

BACKGROUND

1. Council signed a Memorandum of Understanding (MOU) between the Council and Earthsong in July 2003. That MOU has supported the partnership between the Council and Earthsong and the establishment of the well recognised co-housing neighbourhood at Ranui. Earthsong chose to locate in Waitakere because of the Council's eco city philosophy and the Council and the region have benefitted greatly from this sustainable development initiative.
- A20-A22 2. Earthsong have reported to Council on a regular basis and as Council transitions to the Auckland Council it was considered important to invite Earthsong to submit a final report to the Council prior to 1 November 2010. Representatives from Earthsong are in attendance and would like to present their final report (attached at pages A20 to A22) to the Council.

DECISION MAKING

4. The Council is asked to receive the update from Earthsong representatives and support a recommendation to the Auckland Council to continue to partner with Earthsong as a key contributor to sustainable development across the region. Earthsong have already extended invitations to Auckland Council officers to visit the project and receive information to assist any future partnering agreement.

STRATEGIC CONTEXT

5. The Council's eco city vision aligns with the partnerships and support for significant sustainable development projects in Waitakere. Earthsong's vision to establish a co-housing neighbourhood based on the principles of permaculture, to serve as a model of a socially and environmentally sustainable community, directly connecting with the Council's sustainable development and lifelong learning strategic priorities, the Council's international commitments and the sustainable environment, urban and rural villages, healthy lifestyles and working together community outcomes.
6. The Council's seven strategies provide for the direction to plan an integrated and sustainable City for the future. Earthsong contributes to a number of the strategic outcomes and visions for the City's future development:
 - Transport Strategy for Waitakere - integrated land use/transport planning and increased local employment;
 - Economic Wellbeing Strategy for Waitakere - local economic growth maximised by integrated planning, investment and use of land and infrastructure;
 - Growth Management Strategy - neighbourhoods with a social, physical and natural fabric providing housing and employment opportunities for all; and
 - Social Strategy - strong resilient communities and leadership.

CONSULTATION

7. Council officers have continued to meet regularly with Earthsong to discuss priorities and support the wider programmes that Earthsong delivers. City Services and Strategic Planning Officers manage this relationship and involve other parts of the Council as required. There has no specific consultation undertaken for this update report.

RESOURCES

8. Funding the Earthsong relationship and partnering approach is funded from existing budgets.

IMPLEMENTATION ISSUES

9. There are no implementation issues related to this report.

AUCKLAND COUNCIL TRANSITION ISSUES

10. 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: Lesley Jenkins, Deputy Director Strategic Planning and Tony Miguel, Acting Director City Services.



6 KEN MAUNDER PARK COMMUNITY TRUST REQUEST FOR LOAN GUARANTEE

GLOSSARY

| | |
|----------------------------------|----------------|
| Ken Maunder Park Community Trust | (the Trust) |
| Auckland Savings Bank | (ASB) |
| Indoor training facility | (the Facility) |

EXECUTIVE SUMMARY

The Ken Maunder Park Community Trust (the Trust) has requested that the Council guarantee a \$200,000 loan from the Auckland Savings Bank (ASB). The Trust is currently undertaking the construction of a new indoor training facility (the Facility) at Ken Maunder Park which has received grants from various funding organisations as well as a grant from Council's Leisure Facility Partnership Fund. During the course of construction, the project has incurred additional costs which have resulted in the project having a shortfall of \$237,728 needed to complete the building.

A projected cashflow demonstrates the Trust's ability to repay the loan over the 10 year term from operating surplus, although it is the Trust's intention to repay the loan as early as possible through the marketing opportunities of the Facility.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Ken Maunder Park Community Trust Request for Loan Guarantee report.

2. **Agree**, subject to resolution 3 below, that a loan guarantee of up to \$200,000 be entered into between the Council and the Auckland Savings Bank to secure funding for the Ken Maunder Park Community Trust.
3. **Note** that resolution 2 above is subject to confirmation by the Auckland Transition Agency.

BACKGROUND

1. The Council is working in partnership with the Trust to develop the Facility on Ken Maunder Park which will be made available for community use. The indoor Facility is currently under construction, however, significant variations have resulted in an approximate shortfall of \$200,000.

DECISION MAKING

Issues

2. A request for a loan guarantee has been received from the Trust. The Council has already financially contributed to the Facility in three ways. A grant of \$250,000 plus GST was provided from the Leisure Facility Partnership Fund; new public toilets and changing rooms to the value of \$330,000 are incorporated into the Facility to help share costs; and an additional sum of \$75,000 was contributed to cover the variation cost of a wastewater pump station.
3. Unexpected variations have created a shortfall of approximately \$200,000. The Trust is seeking a loan from the ASB to the limit of \$200,000 and the ASB has requested that the borrowing be supported by a Council guarantee. A Council guarantee is required for the Facility as they are located on Council-owned land and, as such, the Trust cannot provide adequate security to the ASB. The request for a Council guarantee is common practice amongst financial institutions for occupiers on Council property.
- A23-A33 4. A projected cashflow and Business Plan attached at pages A23 to A33 provided by the Trust demonstrates their ability to repay the loan over the 10 year term from operating surplus. It is the Trust's intention, however, to repay the loan as early as possible through the marketing opportunities of the Facility. Although these opportunities are currently being explored they won't be available in time for the contractor payment.

Options Identified

5. The Council can either assist the Trust by providing a loan guarantee or decline the request.

Assessment of Options

6. The loan guarantee will be secured over the Trust's facilities and in case of default, the Council will have access to those assets. The likelihood of default of the Trust is considered low. If the Council declines the request, it is unlikely that the ASB would provide the loan, as the Facility is located on Council-owned land.

Consideration of Community Views

7. There is no requirement to consult on the matters contained within this report.

Preferred Option

8. In order for the Trust to secure the loan needed to complete the Facility, it is recommended that the request for a Council guarantee is approved.

STRATEGIC CONTEXT

9. Through the Strong Communities Community Outcome, the Council outlines its commitment to undertaking initiatives that will contribute to making Waitakere a safe, informed and healthy place to live and to improving local leisure and recreation opportunities and choices. Through adoption of First Call for Children, the Council has also stated its commitment to proactively supporting children, young people and their families in Waitakere. Direct financial assistance to organisations providing recreation facilities and activities assist the Council's commitment to these policies.
10. New facilities create more opportunities for residents to participate in sport and or physical activity and will complement the initiatives being implemented through the Active Waitakere 'Move It Waitakere' Action Plan. Making the facilities available for community use assists Council achieve the easy access pathway of the active recreation plan to get more of the west more active more often.

CONSULTATION

11. There is no requirement to consult on the matters contained within this report.

RESOURCES

12. There are no additional resources required for this approval apart from staff time to review and prepare documentation to the loan guarantee with the ASB.

IMPLEMENTATION ISSUES

13. The Trust will be advised of the outcome of their request and, if approved, will be required to submit documentation to the ASB for the Council to review and execute.

AUCKLAND COUNCIL TRANSITION ISSUES

14. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 subsection (4)(i),(i) and (ii) imposes restrictions on Waitakere City Council's decision making capabilities in respect of entering into any contract (other than an employment agreement) that imposes any obligation on the organisation after 30 June 2011 or is equivalent to \$20,000 or more:
 - (4) This subsection applies to a decision -
 - (i) to enter into any contract (other than an employment agreement);
 - (ii) that imposes, or will continue to impose, any obligation on the existing local authority after 30 June 2011; and
 - (iii) the consideration for which is, or is equivalent to, \$20,000 or more.
15. This report is impacted on by Section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 as above. Therefore, this report includes a recommendation to ensure compliance with the Local Government (Tamaki Makaurau Reorganisation) Act 2009. The recommendation to provide a loan guarantee is subject to the agreement of the Auckland Transitional Agency.

Report prepared by: Paul Edwards, Recreation Partnership Projects Leader and Andrew Pollock, Director: Finance.



7 STATUS OF LOANS TO VARIOUS COMMUNITY TYPE ORGANISATIONS

GLOSSARY

| | |
|--|------------|
| Waitakere Badminton Association | (WBA) |
| Waitakere City Association Football Club | (WAITCAFC) |
| Waitemata Athletic Club | (WAC) |
| Waterhole Swimming Centre Limited | (WSCL) |
| Waitemata City Association Football Club | (WCAFC) |

EXECUTIVE SUMMARY

At the meeting of the Finance and Operational Performance Committee held on Monday, 8 August 2010, it was requested that information be provided on the current status of Council loans provided to various community type organisations. This report outlines the nature of the loans provided and their current status.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Status of Loans to Various Community Type Organisations report.
2. **Agree** that the Community Sport Fund Loan to the Samanaki Tuvalu Pre-School be converted to a grant

BACKGROUND

1. The Council, over a number of years, has made loan funding available to various not-for-profit type organisations to assist them in undertaking capital improvements to their premises. Usually those premises are situated on Council-owned reserves and the benefits of those improvements provide enhanced access for the community or existing members to participate in those organisations' activities.
2. Since the early 1990's the Council has generally provided loan funds from the Community Sport Fund, which represents monies accumulated via grants from the former Hillary Commission. These funds are available to be allocated to sport and recreational groups using criteria laid down by the former Commission, and guidance from Sport and Recreation New Zealand. The interest charged on loans advanced is set by the Community Sport Fund Allocation Subcommittee and is generally not higher than 3%.
3. Obtaining bank finance can be problematic for some sport and recreational groups because of their tenure arrangements with the Council and not having the underlying ownership of land to be provided as security. Prior to the formation of the Waitakere City Council, the former Waitemata City Council also provided loan funding to various organisations to assist in upgrading premises or to reorganise their financial obligations where there was community benefit in doing so.

DECISION MAKING

Issues

Community Sport Fund Loans

4. The following loans are still current from the Community Sport Fund:

Waitakere Badminton Association (WBA)

5. A loan of \$100,000 was approved in 2005 for the purpose of retiring existing bank debt that the Council was guarantor for. This enabled the WBA to pay a lower interest rate on their debt and improve cashflow. At that time the WBA commenced substantial improvements to their facilities, estimated to cost \$1.7 million. The final instalment on this loan is due to be paid this month.

Waitakere City Association Football Club (WAITCAFC)

6. A loan of \$60,000 was approved in 2001 for the purpose of retiring existing bank debt that the Council was guarantor for. This enabled the WAITCAFC to pay a lower interest rate on its debt and improve its cashflow. During the term of the loan a deferral of payments was approved. The amount currently outstanding at September 2010 is \$8,558.22.
7. A further loan of \$30,000 was approved in 2003 for the purpose of retiring existing bank debt that the Council was guarantor for. This enabled WAITCAFC to pay a lower interest rate on its debt and improve its cashflow. During the term of the loan a deferral of payments was approved. The amount currently outstanding at September 2010 is \$15,718.56.
8. The WAITCAFC was advised in June 2010 that payments were to recommence from 31 August 2010. The required documentation has not been returned and further documentation has been sent to the WAITCAFC to commence repayments during September 2010.

Samanaki Tuvalau Pre-School

9. A loan of \$2,500 was provided in 1994 for the provision of playground materials. A request for the loan to be made a grant was declined and a deferment of payments was approved as the pre-school suffered financial difficulties. Over time there has been correspondence and discussion with the pre-school, which has not been in a position to repay. The historic amount outstanding at September 2010 is \$2,344.32. There have been changes in management over time and it is recommended that the outstanding balance be converted to a grant. This is allowable under the Community Sport Fund. The matter has been discussed with the Chairman of the Community Sport Fund Allocation Subcommittee, who supports the recommendation.

Former Waitemata City Council Loans

10. There are three outstanding loans that date back to approvals by the former Waitemata City Council. These were sourced from the Community Amenities Development Loan 1986. The Waitemata City Council obtained approval in 1986 from the Local Authorities Loans Board to raise a loan for up to \$750,000. Permission was given for the loan to be available to assist "any organisation or group whose object, or principal object, is conserving or promoting the welfare of the community or of any members of the community or whose object or principal object is the recreation, enjoyment, education, or instruction of the inhabitants of the district or any part thereof".
11. The loan provided a source of funds to enable the Council to provide grants, loans with or without interest, and meet any obligations for default on loan guarantees. In 1986 loans were provided to the then WBA of \$125,000 and to the Waitemata Athletic Club (WAC) of \$100,000. A grant of \$100,000 was also given to the WAC. The WAC loan was later extinguished in 2002 as part of a compensation payment for the WAC vacating its building on Central Park Drive to allow for the construction of the Trusts Stadium. In 1989 Waitemata City Council approved a loan advance of \$140,000 to the Waitemata City Association Football Club (WCAFC) and used loan funds of \$151,000 to assist the Waterhole Swimming Centre Limited (WSCL) to repay its debenture holders

12. Under the Local Authorities Loans Board rules, sinking fund instalments were required to be put aside to enable repayment of the loan when the sanction period expired. The sanction period for that loan was 25 years. In 1996 the requirement to collect sinking funds was no longer required and thereafter, as each loan was required to be refinanced, sinking funds were no longer collected. In 1998 the Council sold its Auckland International Airport Limited shareholding and proceeds of that sale of \$36,623,000 were used to retire existing debt and pay sinking fund instalments of \$4,992,386. Later in 2002 the Council divested of its shareholding in its Power New Zealand shares and \$56,503,735 was used to retire debt. It is most likely that this original loan has been repaid from those sources.

13. Details of the three outstanding loans are provided below:

Waitakere Badminton Association (WBA)

14. The WBA was provided with a loan of \$125,000 in 1986 from the former Waitamata City Council. The loan was provided to enable the WBA to refinance its existing loans that were at that time attracting interest of up to 18%. The balance of that loan stands at \$123,386. This loan has been considered by the Council on a number of occasions when requests for other funding have been received for upgrading their facilities. In July 2005 the WBA was advised that principal repayment of the loan was deferred until 1 August 2010. The WBA was also advised that interest payments on the loan would recommence from 1 August 2005, however, at that time the WBA also applied for, and was provided, a \$100,000 loan from the Community Sport Fund. The repayments on that loan to date have been met, but the recommencement of the payment of interest on the former Waitemata City Council loan has not occurred. Interest accrued amounts to \$43,185. The total sum outstanding is \$166,571.

15. The WBA has been proactive over many years in improving and developing its facility at the Council-owned site at 149-155 Royal Road, Massey. In 1997/1998, the Club replaced the super 12 asbestos exterior roof cladding, court surfaces, and 3 new courts were constructed. The Council assisted this development with a \$150,000 grant sourced from the Waitemata Asset Acquisition Fund. The WBA has recently built three new courts at a cost of over \$1.7 million. Funding for that project was secured from a grant of \$600,000 from The Trusts Charitable Foundation (from funds generated from the Waitakere Licensing Trust venues), \$400,000 from the Auckland Savings Bank Trust, the \$100,000 loan from the Community Sport Fund, and the balance from the Auckland Savings Bank secured by a personal guarantee.

16. The facility is considered to be the premier badminton venue in the Auckland region. It caters for 3,000 users through affiliated clubs and private hirers. Increasing usage is occurring from the Asian, Chinese, Malaysian and Indian communities and with the expected population increase in the surrounding areas, it is likely that participation in this sport will rise. The WBA has been innovative in its approach to hireage of the facility by providing 24 hour access. This allows different users to schedule their times effectively. The next project for the WBA, subject to funding, is an extension of its outdated office facilities and replacement of the ageing toilet, shower and change room facilities. This is estimated to cost over \$400,000.

17. Documentation was sent to the WBA in June 2010 to enable recommencement of payments of the outstanding loan and accrued interest on 31 August 2010. The WBA has not sent back the documentation and further correspondence has been sent requesting that loan prepayments must commence in September 2010.

Waitemata City Association Football Club (WCAFC)

18. The WCAFC was provided with a Council loan in 1989 to assist in securing full occupancy of their club rooms at McLeod Park. A loan of \$140,000 was provided from the Community Amenities Development Loan 1986. The WCAFC had constructed its club rooms in a joint arrangement with the Waitemata Cricket Club, and the Football Club wished to fully utilise the clubrooms and grounds as a soccer venue. The Waitemata Cricket Club approached the Football Club and agreed to relocate, but required a half share payment of their investment in the shared clubrooms. The joint arrangement of the two codes presented occupancy issues, as the centre wicket reduced the playing capacity of the three soccer fields to two and restricted the playing season to five months. In addition, pre-soccer training was severely restricted.
19. The original loan was set at a 10% interest rate and in 1992 that was approved to be reduced to 5%, as it was evident that the cash flow of the WCAFC was never strong enough to service the loan. From 1992, the WCAFC entered into a new arrangement, but in 1996 fell behind in payments. A further one-off payment of \$7,500 was received in October 1996. From that date no further payments have been made as there has been insufficient cash flow. The loan is secured over the WCAFC facilities. In 2003, the WCAFC was advised of the outstanding loan, but since that time has had marginal cash flow. Over the past few years, the WCAFC has accumulated some funds that would enable repayments to commence. The outstanding balance is \$94,291. The WCAFC has been advised of the loan balance and is being sent documentation requesting that repayments recommence from October 2010.

Waterhole Swimming Centre Limited (WSCL)

20. The WSCL has been active in Waitakere for nearly 30 years and since 1984 has operated the existing pool facility at Parris Park as a limited liability company. The WSCL has a ground lease of the building footprint from the Council for 33 years, with a further right of renewal, and constructed a privately owned swimming pool facility designed to permit emphasis on the teaching and coaching of swimmers as opposed to public swimming. The complex offers a wide range of activities for pre-schoolers to adults.
21. In 1984, when the building of the centre was commenced, the company raised a sum of \$179,000 from the public, secured by a first debenture and guaranteed by the former Waitemata City Council. Prior to local government reorganisation in 1990, and recognising its obligation as guarantor under the debenture, and to avoid any possibility of default by the company, the then Council entered into a second debenture arrangement and made advances from time to time as the public borrowing matured, as required to assist the company to meet its obligations. Concurrently the Council guarantee was extinguished and in 1992, when the original debenture holders were paid out, the first debenture was discharged and the former second debenture became the first charge security.
22. Since that time the Council has monitored the loan and has, upon review, deferred loan repayment. In 2004, arrangements were entered into for the repayment of the loan when a change of ownership occurred between the company directors. The principal loan balance as at 1 September 2010 stands at \$90,000 with \$15,733 (including interest) in arrears. Recent dialogue has occurred with WSCL and payments of current arrears are to be made in December 2010. This will reduce the overall loan balance to \$76,000.

STRATEGIC CONTEXT

23. In 2005 the Council identified a set of community outcomes for the community as required by the Local Government Act 2002. The Council must take these into account in the formulation of its Long Term Strategic Direction. The Community Outcomes that are seen to contribute to supporting the provision of loans and grants are: Strong Communities; Toiora; Urban and Rural Villages.
24. The Council has recently adopted its new strategic framework of six strategies. The provision of loans or grants assists in the delivery of the Social Strategy by assisting community facility development and contributes to the strategic priorities for First Call for Children and Safe City.

CONSULTATION

25. In the preparation of this report financial information has been obtained from the WSCL, the WBA and the WCAFC.

RESOURCES

26. This report has no resource implications.

IMPLEMENTATION ISSUES

27. There are no implementation issues in respect of this report.

AUCKLAND COUNCIL TRANSITION ISSUES

28. 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: Andrew Pollock, Director: Finance.



8 MASSEY NORTH TOWN CENTRE ASSETS

GLOSSARY

| | |
|----------------------------------|---------------|
| Massey North town centre | (town centre) |
| Auckland Transition Agency | (ATA) |
| Cannuck Holdings Limited | (CHL) |
| Infrastructure Funding Agreement | (IFA) |
| Kedgley Investments Limited | (KIL) |
| Local Government Act 2002 | (LGA02) |
| Long Term Council Community Plan | (LTCCP) |
| NZRP Management Limited | (NZRPG) |

EXECUTIVE SUMMARY

This report informs the Council of steps taken, since the last report to the Finance and Operational Performance Committee in September 2009, to finalise arrangements relating to the ownership of key network and community infrastructure assets in the new town centre at Massey North.

Approval is sought for additional minor land acquisitions in relation to the town square and the library site as a consequence of more detailed urban design of that public open space and the associated library development.

Approval is also sought to acquire the fee simple estate in the roads, non-riparian open space and the community park located within the land owned by Kedgley Investments Limited (KIL) as contemplated by the September 2009 resolution.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Massey North Town Centre Assets report
- A34 2. **Approve**, subject to resolution 5 below, the acquisition by the Council under the Public Works Act 1981 of those parts of lots 1 and 2 on DP 127335:
 - shown as lots 10A, 11A and 12 on the Cato Bolam plan attached to this report (job no. W/28364 – revision 7) at page A34 for, respectively: public open space (town square), library purposes and road; and
 - marked “B” on that plan for a right of way in favour of the library site (lots 11 and 11A on that plan).
3. **Agree**, subject to resolution 5 below, to delegate to the Chief Executive Officer full authority to negotiate and execute a variation to the Infrastructure Funding Agreement dated 23 October 2010, and the Memorandum of Encumbrance referred to in clause 40 of that agreement, to give effect to the transactions authorised by resolution 2.
- A35-A50 4. **Approve** the terms of the Road Agreement, Green Space Agreement and Cost Contribution Agreement in the form of attached at pages A35 to A50 and to authorise the Chief Executive Officer to sign those agreements on behalf of the Council.
5. **Note** that resolutions 2 and 3 above are subject to confirmation by the Auckland Transition Agency.

BACKGROUND

1. At its meeting held on Monday, 7 September 2009, the Finance and Operational Performance Committee resolved as follows:

“The Finance and Operational Performance Committee resolved to:

 1. **Receive** the Massey North Town Centre report.
 2. **Approve**, subject to resolution 6 below, the terms of the draft Infrastructure Funding Agreement as attached to the agenda report.
 3. **Agree** to authorise, subject to resolution 6 below, the Chief Executive Officer to sign the Infrastructure Funding Agreement on behalf of the Council.
 4. **Agree**, subject to resolution 6 below, to recommend to Council that the Chief Executive Officer negotiate the purchase from Kedgley Investments Limited of the reversionary estate in the non-riparian open space, the community park and the road land coloured black and brown depicted on the plan attached to the Infrastructure Funding Agreement at Schedule 1 (being parts of the land in Certificates of Title NA52C/1139 and NA52C/1140) under the Public Works Act 1981.

5. *Direct, subject to resolution 6 below, the Chief Executive Officer to ensure that the additional funding required to enable the purchase of the reversionary estate in the non-riparian open space and the community park from Kedgley Investments Limited can be funded from savings made in respect of other budgeted infrastructure projects in the Plan Change 15 area generally and the Northside Drive project in particular.*
6. *Note that resolutions 2 to 5 are subject to confirmation by Auckland Transition Agency."*

(1538/2009)

2. In summary, the Infrastructure Funding Agreement (IFA) provides for the Council to acquire ownership of the key roads in the Massey North town centre (town centre) together with land required for the town square, adjoining library site, open space land required for storm water management purposes under the Public Works Act 1981 (PWA). It also provides for the Council to make a contribution towards the costs of construction of roads within the town centre and for the sharing off some costs relating to the provision of water and wastewater infrastructure. Finally, the IFA provided for registration of the Memorandum of Encumbrance (which had been negotiated as part of the agreement to purchase the road through the middle of the existing Westgate shopping centre) and which records some important urban design agreements reached between the Council and Cannuck Holdings Limited (CHL), including an agreement related to the establishment of a piazza in the town centre partly on land owned by the Council and partly on land owned by CHL.

A51

3. The report on 7 September 2009 identified the fact that the land coloured blue on the plan attached at page A51 was owned in fee simple by KIL and that a further agreement would be required with KIL to secure fee simple ownership of the land within the KIL block required for road, stormwater management purposes and the community park. The report identified that the likely cost of these further acquisitions, on the basis that the road land would vest without consideration, was likely to fall in the range \$1 to \$2 million plus GST on the basis of valuation advice available at that time.

A35-A51

4. Negotiations with KIL have been completed resulting in agreement as to the terms of three proposed agreements, copies of which are attached at pages A35 to A50 (without copies of the plan, which is the document attached at page A51). Those agreements are:
 - (a) The Road Agreement, under which KIL agrees to vest under PWA the fee simple in the road land within the Kedgley block without requiring payment of compensation. If for any reason CHL fails to complete the construction of road marked R1a on the plan attached at page A51, Council will construct as much of the road as is necessary to give physical access to the KIL land. Under the IFA there is a final payment to be made of \$4 million plus GST at the time when construction of all of the roads is complete. That fund will provide sufficient security for the Council to meet this obligation in a worst case scenario;
 - (b) The Green Space Agreement, under which KIL agrees to vest under PWA the land required for stormwater management purposes and the community park. Vesting of the land required for the community park, in addition to the usual conditions relating to Council approval and Auckland Transition Agency (ATA) confirmation, is deferred until completion of the work to underground the electrical transmission lines which presently cross the KIL land. Negotiations with Transpower in relation to the agreement

necessary for that work to proceed are well advanced. It is a requirement of plan change 15 that the built development of land within the town centre cannot commence until this work is completed. KIL's requirement for deferred vesting of the community park (and for deferred payment of part of the consideration) is considered reasonable in the context of the agreement by KIL to vest the fee simple of the road land in the Council without requiring the payment of compensation and the plan change 15 requirements. If for any reason the transmission lines do not go underground some rethinking will be required and in that case both parties might want to revisit the size and location of the community park. However if all goes to plan the community park site is secured and the cost to Council is fixed on the current market.

- (c) The Cost Contribution Agreement, under which Council agrees to pay the sum of \$183,000 plus GST to KIL upon the agreement becoming unconditional and to pay the further sum of \$1,980,000 plus GST towards the cost of relocating the electricity transmission lines underground. This somewhat unusual contractual structure arises at the request of KIL. Officers are however satisfied, on the basis of valuation advice received (Mike Bristow from Darrochs), that the amounts to be paid represents the fair market value of the fee simple estate of the land required for stormwater management purposes and community park. This view was informed by the recent land valuation negotiation process which has been undertaken in relation to properties at the northern end of the plan change 15 area (around Northside Drive, Massey), which resulted in some upward revision of values from the earlier value estimates provided in the middle of 2009, particular in relation to the land required for storm water management purposes. The total cost is marginally in excess of the upper end of the value range estimate in the September report. The cost of the land required for storm water management purposes (\$183,000) is provided for in the Council's Long Term Council Community Plan (LTCCP) and will be recovered through development contributions in due course. The cost of the land required for the community park (\$1,980,000) is expected to be able to be from the strategic land purchase fund for Massey North and to be recoverable from development contributions in due course.
5. KIL has signed all three agreements in the form attached to this report. The transaction can be completed subject only to Council approval and ATA confirmation. This is relevant to the IFA which was conditional upon ATA confirmation (given on 17 November 2009 – ATA0219), mortgagee's consent (given in writing in April 2010), KIL's consent as Landlord (contained in the Road Agreement) and the Council entering into satisfactory agreements to acquire the fee simple estate in the road, stormwater management and community park land within the KIL block. Satisfaction of these last two points is well advanced but is not yet complete, pending the resolutions sought at this meeting and ATA confirmation. CHL is keen to progress earthworks across the whole of its site this earthworks season. It wanted the comfort of an unconditional IFA before doing so. Equally Council requires the comfort of securing ownership of the roading network which defines the shape of the town centre (as well as the land for stormwater management and other key community infrastructure) before 31 October 2010. Weighing all of these issues the Chief Executive Officer decided to waive the two remaining conditions of the IFA on Friday 3 September 2010. ATA confirmation of a decision in that regard had been obtained in anticipation on 30 June 2009 (ATA 0702).

- A34 6. In parallel with these negotiations work has been proceeding with concept design of the library and town square. Agreement has been reached in principle to an amended configuration for the library and the piazza, as depicted in the plan attached at page A34. The negotiation in the lead up to execution of the IFA contemplated the possibility of some adjustment of boundaries at the time of final design and consequential adjustment to the compensation paid if necessary. The changes depicted on the plan can be summarised as follows:
- (a) a library site with an “L” shaped dimension but with an additional 230 m² required to accommodate the design (shown as Lot 11A on the plan at page A34)
- A52 (b) a town square with an offset alignment to match the shape of the piazza as originally provided for in the proposed Memorandum of Encumbrance (the scope of which is shown in the plan attached at page A52 but with an increased width involving an area of 324 m² (lot 10A on the plan);
- (c) an additional parcel (shown as lot 12 on the plan) to be required, as part of the road but to secure the form of the piazza on the other side of the road. thereby obviating the necessity to control building on that land through the Memorandum of Encumbrance.
7. Compensation for the original library site and town square under the IFA was agreed, in accordance with valuation received, at \$600 plus GST a square metre and \$250 plus GST a square metre respectively. On that basis an additional consideration would be payable for the land required for the library site (lot 11A) of \$138,000 plus GST and for the land required for the town square (lot 10A) additional consideration of \$81,000 plus GST. The funding of this additional cost can be accommodated within the strategic land purchase fund for Massey North which is provided for in the LTCCP and will be able to be recovered over time by way development contributions.
8. It is proposed to accommodate the additional requirement for lot 12 by amending the shape of the piazza as originally agreed (and as depicted on the plan at page A52) by reducing the depth of the piazza within land owned by CHL at the eastern end from a minimum dimension of 20 meters to a minimum dimension of 16.3 metres (which is a reduction in area of 175 m²). Council’s urban designers and architectural advisers believe that this is a fair and workable arrangement which will not compromise in any way the broad principles of the original concept.
- A52 9. The last thing that needs to be addressed in relation to the amended arrangements for the town square and the library site is the need to provide for vehicular access to the rear of the library site. There is a clear requirement for the right way marked “B” on the plan at page A52. The need for the easement marked “A” is not presently so obvious because final design of the library building has yet to be completed and the precise location of any loading bay is not known. From the Council’s perspective the means by which vehicular access is available to the rear of the likely building is not as important as ensuring that at all times practical vehicular access is available by some route or other over the adjoining land. This sort of arrangement can be protected by memorandum of encumbrance and obviates the need for survey. The parties can vary the arrangements by agreement from time to time to accommodate their own requirements. If, as seems likely, the adjoining land is laid out for car parking then the vehicular access to the library site loading bay can be integrated within the car park design to achieve optimal outcomes (and can be easily amended subsequently by agreement if the agreed solution proves to be less than perfect).

A34

10. To achieve the outcomes discussed in paragraphs six to nine above, an amendment needs to be negotiated to the IFA, which can also incorporate the requirements for the easement over the area marked "B" on the plan at page attached at page A34 and an amendment needs to be negotiated to the Memorandum of Encumbrance under the IFA to accommodate the altered dimensions of the piazza and to provide for the vehicular access to the rear of the library site.

DECISION MAKING

Options, community views, consistency and significance

11. The Council has limited decision making options in relation to the current proposals:
- (a) "do-nothing" will result in sub-optimal ownership and urban design outcomes.
 - Territorial authorities have traditionally preferred outright ownership for key infrastructure such as public open space, roads and community infrastructure such as libraries in preference to leasing options. A decision to purchase assets however does not exclude the future possibility of sale and lease back if that is the preferred ownership model for some of these assets in the future. The land will not get any cheaper as development proceeds at Massey North.
 - The achievement of best practice urban design outcomes has been a key Council requirement for planning the new town centre. Officers are satisfied that the amended dimensions are superior to the original proposal and the costs involved in purchase of the additional land are modest compared to the urban designations that will be achieved. The opportunity to make minor adjustments in the manner proposed may be quickly lost as the adjoining land develops;
 - (b) The proposals put forward for approval by the Council in this report result from extended negotiations. The purchase price of assets is in all cases supported by advice from a registered valuer;
 - (c) The assessment of the benefits and costs, the achievement of community outcomes and the impact of the wider options have all been assessed as part of the policy analysis for Plan Change 15. The decisions required in this report are a natural progression of, and the final step in, the land purchase programme that started with the decision to approve Plan Change 15. While the Plan Change is not yet operative, none of the outstanding appeals relate to the location or dimensions of the roads, town square or library site.
12. The Local Government Act 2002 (LGA02) requires the consideration of community views at all relevant stages of the decision-making process (s 78 LGA02) but permits the Council under s 79 LGA02 to exercise discretion as to how it may achieve compliance with that obligation. In respect of the decisions required in this report, there has been extensive public consultation during the course of the process under the Resource Management Act 1991 relating to the approval of Plan Change 15. As noted above, none of the appeals against Plan Change 15 relate to the dimensions or location of the town square or the library site and the proposals in this report are a fine tuning exercise of earlier decisions. Proposals to acquire land for storm water management purposes and for the community park were also contemplated by Plan Change 15. The proposals to fund the acquisition of these assets has also been the subject of extensive public consultation through the LTCCP process, including the public consultation process associated with the adoption of the current version of the Council's development contributions policy in 2009. It is therefore considered that there is underlying community support for a decision by the Council to secure the best ownership and urban design outcomes for community infrastructure related to the new town centre within the Plan Change 15 area.

13. The proposed decisions are consistent with Plan Change 15 and the LTCCP. The special consultation requirements of the LTCCP are not triggered, nor are they considered to be significant decisions in terms of the Council's significance policy.

STRATEGIC CONTEXT

14. The new town centre is a key element of the City's long-term sustainable growth strategy. It is one of the sub regional centres of the City which is intended to assist the transformation of dormitory suburbs into communities, each with access to a town centre and to local services and jobs.
15. A 2006 estimate of GDP increase in the Massey North - Hobsonville area projected an increase of \$500 million per year by 2021 and \$1 billion a year by 2050. The area is projected to provide 15,000 new jobs. The City has a great deal at stake in the development of the Plan Change 15 area generally and in the town centre in particular and needs to do everything reasonably within its power to ensure that this sub regional centre is successful.

CONSULTATION

16. External consultation in respect of these decisions is not considered necessary given the extensive consultation undertaken during plan change 15. There has been direct consultation with the parties directly involved and extensive internal consultation.

RESOURCES

17. The availability of the financial resources to give effect to these decisions has been discussed earlier in this report. It is considered that there are no staff resulting issues in these decisions and that any necessary agreements will be able to be negotiated by existing staff without course to external providers. If course to external providers is required budget is available.

IMPLEMENTATION ISSUES

18. There are no implementation issues associated with this report.

AUCKLAND COUNCIL TRANSITION ISSUES

19. Since the decisions sought by this report relates to matters within the wider Northern Strategic Growth Area confirmation of these decisions by the Auckland transitional agency in accordance with will be required, in accordance with the advice given by ATA under s 20 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 at the time of approval of the Council's 2009 – 2019 LTCCP.

Report prepared by: Denis Sheard, Legal Services Manager.



PUBLIC EXCLUDED MATTER

9 STATE HIGHWAY 18 COST SHARE UPDATE

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, State Highway 18 Cost Share Update.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to 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 each of the matters to be considered. | Reason for passing this resolution in relation to each of the matters. | Ground(s) under Section 48(1)(a) for the passing of this resolution. |
|--|--|--|
| State Highway 18 Cost Share Update | 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.*

