



**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, 29 SEPTEMBER 2010,  
COMMENCING AT 5.30 PM**

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WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,  
WAITAKERE, ON WEDNESDAY, 29 SEPTEMBER 2010,  
COMMENCING AT 5.30PM**

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**PART A - OPENING OF MEETING**

**1 OPENING PRAYER**

Sister Mary Foy from the Auckland Sisters of Mercy - Ranui will say the Opening Prayer.



**2 APOLOGIES**



**3 CONFIRMATION OF MINUTES**

Meeting Minutes – Wednesday, 25 August 2010  
Wednesday, 15 September 2010

**RECOMMENDATION**

It is recommended that the Council resolve to:

**Receive** the minutes of the meetings of the Council held on Wednesday, 25 August 2010 and Wednesday, 15 September 2010, as circulated, and that they be taken as read and now be confirmed.

*Part H*

The public excluded minutes are attached to the confidential supplement labelled Part H.



**4 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.



## 5 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.



## PART B - REPORT OF THE MAYOR

### 6 REPORT OF THE MAYOR

The Report of the Mayor will be circulated under separate cover with this agenda.

#### RECOMMENDATION

**It is recommended that the Council resolve to:**

**Receive** the Report of the Mayor.

RA Harvey, QSO, JP  
**MAYOR OF WAITAKERE**



## PART C - REPORTS OF NEW LYNN COMMUNITY BOARD, WAITAKERE COMMUNITY BOARD, MASSEY COMMUNITY BOARD, HENDERSON COMMUNITY BOARD AND WAITAKERE YOUTH COUNCIL

### 7 NEW LYNN COMMUNITY BOARD

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 30 AUGUST 2010.**

#### MATTERS CONSIDERED

*Pages 1-14  
Part C*

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 1 to 14 in the supplement labelled Part C.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the New Lynn Community Board held on Monday, 30 August 2010.

GPJ Marshall  
**CHAIRMAN**



8 **WAITAKERE COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 31 AUGUST 2010.**

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**MATTERS CONSIDERED**

*Pages 15-25  
Part C*

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 15 to 25 in the supplement labelled Part C.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Waitakere Community Board held on Tuesday, 31 August 2010.

KJP Witten-Hannah, JP  
**CHAIRMAN**



9 **MASSEY COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON WEDNESDAY, 1 SEPTEMBER 2010.**

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**MATTERS CONSIDERED**

*Pages 26-31  
Part C*

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 26 to 31 in the supplement labelled Part C.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Massey Community Board held on Wednesday, 1 September 2010.

JG Riddell  
**CHAIRMAN**



10 **HENDERSON COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 2 SEPTEMBER 2010.**

1. **CHAIRMAN'S REPORT**

**It is recommended that the Council resolve to:**

1. **Agree** that a road/avenue/street/open space within the Whenuapai Development Area (previously known as NorSGA) be named in honour of the former Chief Executive Officer, Mr Harry O'Rourke.
2. **Agree** that Council take any action required to preserve the Council Chamber for the use of the community of Waitakere and formal ceremonies and local board meetings of the Western area.
3. **Agree** that the Peace Bell gifted to Waitakere by our Sister City Kakogawa, Japan and located in the Japanese Garden adjacent to Waitakere Central, be placed under the co-management of the West-based Local Boards, to be led by the Henderson-Massey Local Board.

2. **OTHER MATTERS CONSIDERED**

*Pages 32-38  
Part C*

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 32 to 38 in the supplement labelled Part C.

**Receive** the report of the meeting of the Henderson Community Board held on Thursday, 2 September 2010.

EAG Grimmer, MNZM

**CHAIRMAN**



11 **WAITAKERE YOUTH COUNCIL**

**THE WAITAKERE YOUTH COUNCIL SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 30 AUGUST 2010.**

**MATTERS CONSIDERED**

*Pages 39-42  
Part C*

The Waitakere Youth Council dealt with a number of items for which a copy of the minutes of the meeting is attached at pages 39 to 42 in the supplement labelled Part C.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Waitakere Youth Council held on Monday, 30 August 2010.

A Hawea

**CHAIRMAN**



## PART D - REPORT OF THE CHIEF EXECUTIVE OFFICER

### 12 SUMMARY OF FORECASTED FINANCIAL POSITION AS AT 31 OCTOBER 2010

#### GLOSSARY

Auckland Transition Agency (ATA)  
Long Term Council Community Plan 2009-2019 (LTCCP)

#### EXECUTIVE SUMMARY

The purpose of this report is to seek approval from the Council for additional funding to provide for the accommodation and property capital works in order to fund local board accommodation requirements. This report also seeks approval for additional funding from operational surpluses.

The forecasted position for Council's four month budget has resulted in no identified savings of significance. The \$1.2 million of capital works to accommodate local boards as requested by the Auckland Transition Agency (ATA) will require Council to authorise an additional loan as there is no offsetting capital expenditure savings.

#### RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Summary of Forecasted Financial Position as at 31 October 2010 report.
2. **Approve**, subject to resolution 4 below, that additional loan funding be made available to provide for the accommodation and property capital works up to \$1.2 million in order to fund local board accommodation requirements.
3. **Approve** additional budget for McCahon House Renewal, Shadbolt House Renewal, Solar Panel Consent Incentive and EnviroSchools Funding to be funded by operational surpluses.
4. **Note** that resolution 2 above is subject to confirmation from the Auckland Transition Agency.

#### BACKGROUND

1. The ATA has approached Council with a request for it to provide funding requirements necessary to accommodate the local boards for Auckland Council. Similar requests have been made of the other Auckland councils.
2. The Council was provided by Council officers with an indication that there could be capital savings from the Annual Plan 2010/2011. In addition to the tentative capital savings a number of other projects were also identified, which were not included in the Annual Plan 2010/2011 and which could be funded from the allocation of any surplus.
3. At the Council meeting on 25 August 2010 a list of additional projects was reported on. At that meeting it was resolved as follows:

*"The Council resolved to:*

1. **Agree** that the Budget Review Group be reconstituted to provide an overview of the first quarter 2010 / 2011 financial reporting, noting Council's immediate work programme and the additional funding request from the Auckland Transition Agency and also noting that if

*this exercise results in adjustments to the budgets then these adjustments will need to be approved by the Auckland Transition Agency.*

2. *Agree that the financial impact of the immediate work programme be reported to the Council meeting scheduled to be held on Wednesday, 29 September 2010 for decision.”*

1152/2010

## DECISION MAKING

### Issues

#### Analysis of Forecasts

4. Recent forecasts of expenditures through Council's monthly forecasting process have yielded no significant savings. This has been reported back to the Finance and Operational Performance Committee with the proviso that a further detailed examination of the capital budgets would follow and be reported back to Council. The subsequent review has shown that while there are indeed some savings identified from better than expected tender results and reassessed land costings, these savings have been offset by other budget shortfalls.
5. Due to the fact that no significant surpluses have been identified this limits Council's ability to redirect funding into other budget priorities. The decisions that need to be considered are:
  - How will Council accommodate the ATA request for a further \$1.2million?
  - Is there some latitude for Council to authorise some of the additional priorities that have been identified?
6. The accommodation capital works required for the local boards is necessary for the functioning of the new Auckland Council. These works need to be carried out immediately so that the local boards can be operational for the new Auckland Council. There is a only one funding option and it will be necessary for Council to approve an additional loan for these works as no other funding is available. This will require approval from the ATA under the legal requirement for them to approve any asset purchases inconsistent with the Annual Plan and the Long Term Council Community Plan 2009-2019 (LTCCP).
7. In regards to the additional projects requested for review by Council there are some minor surpluses in operational expenditure available, which have arisen mainly due to amounts (over accrued for in the previous financial year). In this regard it is recommended that the following items be approved as additional expenditure to be funded from operational surpluses:

| Additional Project            | Expenditure |
|-------------------------------|-------------|
| McCahon House Renewal         | \$ 50,000   |
| Shadbolt House Renewal        | \$ 50,000   |
| Solar Panel Consent Incentive | \$ 20,000   |
| EnviroSchools Funding         | \$ 40,000   |

**Table 1: Additional Projects to be Funded from Operational Surplus**

8. Funding of the additional items can be provided from surpluses specifically arising in Council's four month budgets and there is no specific requirement under the legislation to obtain ATA approval as detailed below.

## STRATEGIC CONTEXT

9. The Annual Plan 2010/2011 aligns with the Council strategic goals as stated in the LTCCP.

## CONSULTATION

10. The Annual Plan 2010/2011 was not subject to a special consultative process under current legislation on the basis that it was not inconsistent with year two of the LTCCP. Significant changes to Council's Annual Plan are subject to approval by the ATA.

## RESOURCES

11. Budget surpluses are minor and only adequate to fund the projects noted in this report.

## IMPLEMENTATION ISSUES

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

## AUCKLAND COUNCIL TRANSITION ISSUES

13. Section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2002 provides legislative guidelines to the existing local government organisations on decisions that need to be confirmed by the ATA during the transition period.
14. The Local Government (Tamaki Makaurau Reorganisation) Act 2002 identifies a number of criteria to be used in establishing whether ATA confirmation is required. Those particularly pertinent here include if the decision:
  - (a) Significantly prejudices the organisation;
  - (b) Significantly constrains the powers or capacity of Auckland Council;
  - (c) Has significant negative impact on the assets or liabilities transferred to Auckland Council;
  - (d) Is significantly inconsistent with or will have consequences that will be significantly inconsistent with any policy or plan adopted by the existing local authority;
  - (e) Relates to the purchase or disposal of assets other than in accordance with its long-term council community plan; and
  - (f) Enters into any contract (other than an employment agreement)-
    - (i) That imposes, or will continue to impose, any obligation on the existing local authority after 30 June 2011; and
    - (ii) The consideration for which is, or is equivalent to, \$20,000 or more.

**Report prepared by:** Stephen Drumm, Associate Director of Finance.



## 13 CONTRACT NO. NL08002ZZH – NEW LYNN TRANSIT ORIENTED DEVELOPMENT – CONSTRUCTION OF STAGES 2 AND 3 – APPROVAL TO AWARD

### GLOSSARY

|  |                |
|--|----------------|
| Auckland Transition Agency   | (ATA)          |
| Deep Soil Mixing   | (DSM)          |
| Dempsey Wood Civil Contractors Limited                               | (Dempsey Wood) |
| Downer EDI Works Limited   | (Downer)       |
| Fulton Hogan Limited   | (Fulton Hogan) |
| Hawkins Infrastructure a Division of<br>Hawkins Construction Limited | (Hawkins)      |
| HEB Construction Limited   | (HEB)          |

|                              |        |
|------------------------------|--------|
| New Zealand Transport Agency | (NZTA) |
| Price Quality Method         | (PQM)  |
| Registration of Interest     | (ROI)  |
| Request for Tender           | (RFT)  |
| Supplier Quality Premium     | (SQP)  |
| Tender Evaluation Team       | (TET)  |
| Transit Oriented Development | (TOD)  |
| Weighted Attributes Method   | (WAM)  |

## **EXECUTIVE SUMMARY**

The purpose of this report is to seek approval from the Council to award Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3.

## **RECOMMENDATIONS**

It is recommended that the Council resolve to:

1. **Receive** the Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3 – Approval to Award report.
2. **Approve** that Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3 be awarded to other than the lowest priced tender, as the Price Quality Method of tender evaluation requires the tendering authority to enter into a contract only with the tenderer that scores the lowest Adjusted Evaluation Price.
3. **Approve** that the tender from Dempsey Wood Contractors Limited for Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3 in the sum of \$18,534,689.18 plus \$2,316,836.15 GST, totalling \$20,851,525.33 from 30 September 2010 to 24 December 2011 be accepted.
4. **Note** that GST increases from 12.5% to 15% on 1 October 2010.
5. **Approve** the commitment of \$7,488,158.10 excluding GST for the 2011/2012 financial year for Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3.
6. **Approve** that authority to enter into Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3 on behalf of the Council be delegated to the Acting Director: City Services.
7. **Approve** that authority to award cumulative contract variations to Contract No. NL08002ZZH – New Lynn Transit Oriented Development – Construction of Stages 2 and 3, up to the value of the contingency sum of \$1,853,468.92 excluding GST on behalf of the Council be delegated to the Programme Director: New Lynn Integrated Programme or the Auckland Council from 1 November 2010.

## **BACKGROUND**

1. The Council, together with ONTRACK and the Auckland Regional Transport Authority, are completing the undergrounding of the rail lines through New Lynn, the construction of a bus/rail transport interchange and the construction of roads and streetscape works comprising the New Lynn Transit Oriented Development (TOD) Stage 1 works. The rail and interchange works are scheduled for completion on 19 September 2010 and the road works are scheduled for completion in late September 2010.

2. The Council is seeking to complete its portion of the New Lynn TOD works with the construction of Clark Street extension and Totara Avenue west / Todd Triangle (Stages 2 and 3), following on directly after Stage 1. These works will permit through traffic to bypass the New Lynn Town Centre by means of the Clark Street extension, which includes a new low level bridge over the rail lines. The Stage 2 and 3 works also include new streetscapes, a shared space road environment in Totara Avenue, landscaping and upgrading of parks.
3. To minimise potential risks associated with these works, a Registration of Interest (ROI) process was undertaken in order to shortlist experienced and competent contractors. Relevant Experience and Track Record non-price attributes were evaluated as part of the ROI.
4. At the Tenders Subcommittee meeting on 21 May 2010, it was resolved as follows:
- “The Tenders Subcommittee resolved to:*
1. **Receive** the Contract No. NL08002ZZH - New Lynn Transit Oriented Development Construction of Stages 2 and 3 - Registration of Interest report.
  2. **Approve** that a short list comprising the following six contractors be invited to submit tenders for Contract No. NL08002ZZH - New Lynn Transit Oriented Development Construction of Stages 2 and 3:
    - Dempsey Wood Civil Contractors Limited;
    - Downer EDI Works Limited;
    - Fletcher Construction Company Limited trading as Brian Perry Civil;
    - Fulton Hogan Limited;
    - Hawkins Infrastructure a Division of Hawkins Construction Limited; and
    - HEB Construction Limited.”
- 643/2010
5. The New Zealand Transport Agency (NZTA) requested that the tender be evaluated using their preferred Price Quality Method (PQM) of tender evaluation.
6. At the Tenders Subcommittee meeting of 30 July 2010, it was resolved as follows:
- “The Tenders Subcommittee resolved to:*
1. **Receive** the Contract No. NL08002ZZH - New Lynn Transit Oriented Development - Construction of Stages 2 and 3 - Approval to Evaluate Tenders Using Price Quality Method report.
  2. **Approve** the use of the Price Quality Method as described in “Transfund New Zealand General Circular No. 02/09 - Price Quality Method CPP for Physical Works” for evaluating the tenders for Contract No. NL08002ZZH - New Lynn Transit Oriented Development - Construction of Stages 2 and 3.
  3. **Agree** that the results of the tender evaluation process for Contract No. NL08002ZZH - New Lynn Transit Oriented Development - Construction of Stages 2 and 3 be reported to the Council.”
- 988/2010

## SCOPE OF WORK

7. The proposed works comprise utility services diversions, road works, a road-over-rail bridge, embankments, retaining walls, park upgrades, a shared space street environment, street furniture, lighting and low impact design storm water treatment works.

8. The work is divided into three separable portions. Separable portion 1 comprises the Clark Street extension bridge, southern embankment works, an access lane to the Cambridge Clothing factory and the landscaping of Gardner Reserve. Separable portion 2 comprises the construction of a shared space road in Totara Avenue, with streetscape elements and planting. Separable portion 3 consists of the balance of the project, being the northern part of the Clark Street extension and the road intersection works with Great North Road, New Lynn.
9. The tender document requires tenderers to submit two offers, Main Offer A and Alternative Offer B. Main Offer A requires that the works be constructed in the following sequence: separable portion 1; separable portion 3; and separable portion 2. Main Offer A requires the Clark Street extension to be constructed before works commence on Totara Avenue. The advantage of this offer is that large traffic volumes in Clark Street are able to bypass Totara Avenue, permitting easier construction of separable portion 2.
10. Alternative Offer B requires that the works be constructed sequentially, with separable portion 1 constructed and completed before separable portion 3 commences, in order that access to Cambridge Clothing factory is maintained. Separable portion 2 may be constructed at any time, as long as it is completed on or before the completion of separable portion 3. It is suggested that while the embankment in separable portion 1 is settling and consolidating, that the bridge works and separable portion 2 be constructed in order to reduce the time scales of the entire project. The advantage of this offer is that the contract period can be reduced substantially.
11. In an effort to encourage innovation, tenderers were also permitted to offer other alternatives that could offer the Council a more efficient construction method. Additional alternative offers were only considered if Main Offer A and Alternative Offer B were also submitted by the tenderers, in accordance with the tender document.

## TENDERS RECEIVED

12. Tenders were invited from six selected tenderers following the ROI process, with six sets of documents being uplifted. Five tenders were received by the closing date of 3 August 2010. Fletcher Construction Company Limited trading as Brian Perry Civil declined to submit a bid. The bids are summarised in Table 1 below:

| TENDERER                               | REG. OFFICE                                     | TENDER PRICE<br>(excl. GST) |
|--|---|-----------------------------|
| Dempsey Wood Civil Contractors Limited | 100B Hugo Johnston Drive,<br>Penrose, Auckland  |                             |
| Main Offer A                           |   | \$19,197,600.12             |
| Alternative Offer B                    |   | \$18,534,689.18             |
| Alternative Offer C1                   |   | Not accepted                |
| Alternative Offer C2                   |   | Not accepted                |
| Alternative Offer D1                   |   | Not priced                  |
| Alternative Offer D2                   |   | \$18,534,689.18             |
| Alternative Offer E                    |   | Not accepted                |
| Alternative Offer F                    |   | Not accepted                |
| Downer EDI Works Limited               | 103 Carbine Road,<br>Mount Wellington, Auckland |                             |
| Main Offer A                           |   | \$16,615,741                |
| Alternative Offer B                    |   | \$16,398,434                |
| Alternative Offer C                    |   | \$15,975,858                |
| Fulton Hogan Limited                   | Reliable Way,<br>Mount Wellington, Auckland     |                             |
| Main Offer A                           |   | \$20,485,128.41             |
| Alternative Offer B                    |   | \$20,035,128                |

| TENDERER  | REG. OFFICE                             | TENDER PRICE<br>(excl. GST)     |
|---|---|---------------------------------|
| Hawkins Infrastructure a Division of<br>Hawkins Construction Limited<br>Main Offer A<br>Alternative Offer B | 70 Stanley Street,<br>Parnell, Auckland | \$16,516,850.45<br>\$16,074,882 |
| HEB Construction Limited<br>Main Offer A<br>Alternative Offer B   | Firth Street,<br>Drury, Auckland        | \$18,295,989<br>\$20,500,000    |
| Pre-tender contract estimate (based<br>on most up-to-date tender rates)                                     |   | \$22,037,331                    |
| <b>Budget estimate</b>  |   | <b>\$22,500,000</b>             |

**Table 1 - Summary of Tender Prices**

### TAGS, ERRORS OR OMISSIONS

13. The tender submitted by Hawkins Infrastructure Limited a Division of Hawkins Construction Limited (Hawkins) contained tags within the non-price attribute submission. Clarification was sought and the tags were either accepted as having no impact or withdrawn, with the exception of one tag. In this instance, Hawkins requested an amendment to the third schedule. The Tender Evaluation Team (TET) considered this to have only a very minor material difference to any outcome and was therefore allowed.
14. The tender submitted by Dempsey Wood Civil Contractors Limited (Dempsey Wood) contained a number of omissions within the schedules of prices. Alternative Offer D1 was not priced. The schedules also contained rates for on-site overheads on materials that were unacceptable to the Council. Dempsey Wood confirmed that all of the omitted rates were included, reduced the rates for on-site overheads on materials and confirmed that their tender prices for Alternative Offers B and D2 remain unchanged. Clarification of the higher tender price for Main Offer A was not sought as this would not affect the outcome of the evaluation.
15. The tender submitted by Downer EDI Works Limited (Downer) contained a number of errors within the schedules of prices. Downer confirmed that their tender prices for Alternative Offers B and C remain unchanged. Clarification of the higher tender price for Main Offer A was not sought as this would not affect the outcome of the evaluation.
16. The tender submitted by Hawkins contained a number of omissions within the schedules of prices. Hawkins confirmed that all of the omitted rates were included and that their tender price for Alternative Offer B remains unchanged.
17. The tenders from Fulton Hogan Limited (Fulton Hogan) and HEB Construction Limited (HEB) also contained errors and omissions within the schedules of prices, but clarification of these higher tender prices was not sought as they would not affect the outcome of the evaluation.
18. There were no other tags, errors or omissions in the tenders.

### TENDER EVALUATION

19. The tenders were evaluated in accordance with the PQM, as described in "Transfund New Zealand General Circular No. 02/09 - Price Quality Method Competitive Pricing Procedures for Physical Work."
20. The PQM is almost identical to the Weighted Attributes Method (WAM) currently used by the Council and results in the same decision in practically all situations. However, the PQM has two significant differences:

- It gives the TET a clear and consistent process for deciding the Supplier Quality Premium (SQP), which represents the amount that the Council is prepared to pay for higher quality or lower risk for each tender; and
  - It simplifies the evaluation of alternative tenders.
21. The following steps were used in the PQM. Steps 1 and 2 are the same as the WAM currently used by the Council:
- Step 1: Grading of Non-price Attributes**
- The non-price attribute envelopes were opened (envelope 1).
  - The TET graded each non-price attribute for each tender from 1-100.
- Step 2: Calculation of the Weighted Sum Margin**
- The non-price attribute weight specified in the Request for Tenders (RFT) was multiplied by the grade for each non-price attribute and divided by 100. The result is the index for each non-price attribute.
  - All the indices were added for each tender. The result is the weighted sum of the non-price attribute grades.
  - The lowest weighted sum was deducted from each tender's weighted sum. The result is the weighted sum margin for each tender.
- Step 3: Calculation of the SQP**
- The SQP for each tender was calculated using the following formula:
  - $SQP = \text{Pre-tender Contract Estimate} \times (\text{Weighted Sum Margin} / \text{Price Weight})$
  - The estimate used in the calculations excluded provisional sums.
  - For this contract, the value of provisional sums is \$552,500.00.
- Step 4: Confirmation of the SQP**
- The SQP calculated for each tender was reviewed by the TET.
  - The TET confirmed that SQP calculated for each tender represented the additional amount that the Council would be prepared to pay for a higher-quality, lower-risk supplier.
  - Accordingly, the SQPs were not adjusted.
- Step 5: Alternative Tenders**
- The TET determined whether alternative tenders were acceptable and were within the scope and requirements of the RFT.
  - The TET calculated the SQPs for the alternative tenders by following steps 1-4 above.
  - After comparing the deliverables offered in the alternative tenders with the deliverables specified in the RFT, the TET determined that the Council would not be prepared to pay any more or less for any of the alternative tenders.
  - Accordingly, the SQPs were not adjusted.
- Step 6: Identification of the Preferred Tender**
- The tender price envelopes were opened (envelope 2).
  - The TET deducted each tender's SQP from each respective tender price.
  - The tender with the lowest Adjusted Evaluation Price for that tender is the preferred tender.
22. The TET was comprised of two Council officers and an external consultant from Resolve Group Limited, who is an expert in tender evaluation using the PQM on NZTA funded contracts. Two of the TET are also NZTA qualified tender evaluators.

23. A summary of the evaluation results is shown in Table 2 below:

| Tender Evaluation   |                      | Attributes                         | Tech. Skill | Resour. | Manag. Skill | Method. | Supplier Quality Premium \$ | Contract Number<br>NL08002ZZH<br>Adjusted Evaluation Price \$ | Rank            |    |
|---|----------------------|------------------------------------|-------------|---------|--------------|---------|-----------------------------|---|-----------------|----|
|   |                      | Weights                            | 2           | 2       | 2            | 24      | 70                          |   |                 |    |
| Tenderer  | Tender Option        | Tender Price less Provisional Sums | Grades      |         |              |         |                             |   |                 |    |
| Dempsey Wood Civil Contractors Limited                            | Main Offer A         | \$18,645,100.12                    | 84.5        | 85.0    | 70.0         | 81.3    | \$3,484,839.59              | \$15,160,260.53   | 6               |    |
|   | Alternative Offer B  | \$17,982,189.18                    | 84.5        | 85.0    | 70.0         | 81.3    | \$3,484,839.59              | \$14,497,349.59   | 3               |    |
|   | Alternative Offer C1 | Not accepted                       |             |         |              |         |                             |   |                 |    |
|   | Alternative Offer C2 | Not accepted                       |             |         |              |         |                             |   |                 |    |
|   | Alternative Offer D1 | Not priced                         |             | 84.5    | 85.0         | 70.0    | 82.1                        | \$3,543,769.41  |                 |    |
|   | Alternative Offer D2 | \$17,982,189.18                    |             | 84.5    | 85.0         | 70.0    | 82.1                        | \$3,543,769.41  | \$14,438,419.77 | 1* |
|   | Alternative Offer E  | Not accepted                       |             |         |              |         |                             |   |                 |    |
| Downer EDI Works Limited  | Main Offer A         | \$16,063,241.99                    | 75.5        | 85.0    | 65.0         | 51.7    | \$1,218,496.84              | \$14,844,745.15   | 5               |    |
|   | Alternative Offer B  | \$15,845,934.86                    | 75.5        | 85.0    | 65.0         | 51.7    | \$1,218,496.84              | \$14,627,438.02   | 4               |    |
|   | Alternative Offer C  | \$15,423,358.41                    | 75.5        | 85.0    | 65.0         | 48.3    | \$968,045.10                | \$14,455,313.31   | 2               |    |
| Fulton Hogan Limited  | Main Offer A         | \$19,932,628.41                    | 83.8        | 85.0    | 80.0         | 87.5    | \$3,998,633.98              | \$15,933,994.43   | 9               |    |
|   | Alternative Offer B  | \$19,482,628.41                    | 83.8        | 85.0    | 80.0         | 87.5    | \$3,998,633.98              | \$15,483,994.43   | 7               |    |
| Hawkins Infrastructure a Division of Hawkins Construction Limited | Main Offer A         | \$15,964,350.45                    | 67.4        | 50.0    | 50.0         | 40.0    | \$0.00                      | \$15,964,350.45   | 10              |    |
|   | Alternative Offer B  | \$15,522,382.45                    | 67.4        | 50.0    | 50.0         | 40.0    | \$0.00                      | \$15,522,382.45   | 8               |    |
| HEB Construction Limited  | Main Offer A         | \$17,743,489.48                    | 73.3        | 85.0    | 60.0         | 59.2    | \$1,726,766.56              | \$16,016,722.92   | 11              |    |
|   | Alternative Offer B  | \$19,947,500.00                    | 73.3        | 85.0    | 60.0         | 59.2    | \$1,726,766.56              | \$18,220,733.44   | 12              |    |
| Pre-tender Contract Estimate less Provisional Sums                |                      | \$21,484,831.00                    |             |         |              |         |                             |   |                 |    |

\*Due to the number of alternative tenders received, the tenders are listed by tenderer and not by price.

**Table 2 - Summary of Tender Evaluation**

24. The tenders submitted by Dempsey Wood were assessed as follows:

- **Main Offer A** scored well for Technical Skills, Resources and Methodology, and average for Management Skills. The proposed Project Manager has excellent technical skills, experience and commitment to the project. The methodology demonstrated a good knowledge of the project, with comprehensive detail provided for bridge and embankment construction, stakeholder management and traffic management. The methodology was supported by a detailed programme.
- **Alternative Offer B** scored the same as Main Offer A.
- **Alternative Offers C1 and C2** proposed the use of timber piles to support the bridge embankments and were rejected. The TET considered that the risks associated with longevity of the proposed use of timber piles were too great for the Council to assume. The tenderer could not provide a written statement confirming the required 100-year service life for the timber piles. The TET's technical advisors concurred with this evaluation.
- **Alternative Offers D1 and D2** proposed a negotiated early entry to the Cambridge Clothing site and were accepted by the TET. The methodology overall was considered to be similar to Main Offer A. However, the acknowledgement of impacts and benefits to businesses resulted in a better score for methodology.
- **Alternative Offer E** also included the use of timber piles and was rejected. The TET considered that the risks associated with the use of timber piles were too great, as before.
- **Alternative Offer F** proposed the use of slip-form barriers and was not pursued. The TET considered that slip-form barriers did not add any certainty or benefits over the specified product.

25. The tenders submitted by Downer were assessed as follows:
- **Main Offer A** scored well for Technical Skills and Resources, and average for Management Skills and Methodology. The proposed Project Manager has excellent skills and experience but his commitment to the project was not provided. The methodology demonstrated an average understanding of the project. The management of work within the rail corridor was well described, but traffic management was average, and stakeholder management and construction methodology were considered to be too generic.
  - **Alternative Offer B** scored the same as Main Offer A.
  - **Alternative Offer C** proposed the use of Deep Soil Mixing (DSM) to support the bridge embankments and was accepted by the TET. The methodology overall was considered to be similar to Main Offer A. However, the level of detail and description on benefits and impacts from the use of DSM was considered to be slightly better than Main Offer A. The proposed programme had critical assumptions that did not sit well with the TET, in particular, the similar start dates for all separable portions and their potential effects on businesses, the very short timeframe to arrange the temporary relocation of the New Lynn Kindergarten and the timeframe around the construction and testing of the DSM. The uncertainty over the proposed programme resulted in a lower score for methodology.
26. The tenders submitted by Fulton Hogan were assessed as follows:
- **Main Offer A** scored well for Technical Skills, Resources, Management Skills and Methodology. The proposed Project Manager has above-average skills and experience, and his commitment to the project was appropriate. The methodology demonstrated a good understanding of the project and associated risks, with good detail provided for bridge and embankment construction. The traffic management was well described, with excellent use of diagrams. The methodology was supported by a highly detailed programme.
  - **Alternative Offer B** scored the same as Main Offer A.
27. The tenders submitted by Hawkins were assessed as follows:
- **Main Offer A** scored average for Technical Skills, Resources and Management Skills, and poorly for Methodology. The proposed Project Manager has above-average skills and experience, and his commitment to the project was appropriate. The methodology contained little detail and showed a poor understanding of the project. The embankment construction methodology was average. The bridge construction methodology was poorly described. Too little detail was provided on traffic management. The programme was deficient and was scored accordingly.
  - **Alternative Offer B** scored the same as Main Offer A.
28. The tenders submitted by HEB were assessed as follows:
- **Main Offer A** scored well for Technical Skills and Resources, and average for Management Skills and Methodology. The proposed Project Manager demonstrated average skills and experience. The methodology demonstrated an average understanding of the project. The bridge construction methodology provided good detail and understanding. The embankment construction methodology was average. The section on traffic management was average and stakeholder management was below average, especially considering the importance to this project.
  - **Alternative Offer B** scored the same as Main Offer A.

29. The SQPs produced a margin of \$3,998,633.98 between the first and fifth ranked tenderers. Further support for this margin was provided by assessing the risks associated with each tender against the risk register that was submitted to the NZTA as part of the Funding Application. The analysis of the risks produced a margin of approximately \$3,300,000.00. The SQPs were therefore considered to be appropriate and were not adjusted.
30. It should be noted that in offering the compulsory Alternative Offer B, the Council's objective was to receive lower priced tenders as a result of the shorter contract duration, and not to receive any benefits from the shorter contract duration itself. As such, all other alternatives submitted were also evaluated with this objective in mind. No adjustments to the SQPs were made for reductions in the contract period, as this was deemed to be covered within the tender price.
31. The tender evaluation was carried out in strict accordance with the PQM described in "Transfund New Zealand General Circular No. 02/09 - Price Quality Method CPP for Physical Works," as any deviation from this method could result in challenges from the tenderers and / or withdrawal of funding by the NZTA.
32. The results of the tender evaluation as summarised in Table 2 show that the tender for Alternative Offer D2 submitted by Dempsey Wood achieved the lowest Adjusted Evaluation Price of \$14,605,861.99. This tender is also the seventh lowest priced tender.
33. Dempsey Wood was founded in 1994. It is a privately owned civil construction company that specialises in road works and streetscapes. Current and past clients include Waitakere City Council, Auckland City Council, North Shore City Council and Auckland International Airport.
34. Dempsey Wood is on track to complete the New Lynn TOD Construction of Stage 1 contract at the end of September 2010. Dempsey Wood has the necessary expertise and resources to satisfactorily carry out the Stage 2 and 3 works. Reference checks made on a selection of clients indicate a well-resourced, well-managed and capable contractor.
35. The tender for Alternative Offer D2 submitted by Dempsey Wood is 16% lower than the pre-tender contract estimate.
36. As part of Council's contracting process, "Quality, Health and Safety and Environmental compliance are not negotiable." All contractors have had this focus clearly reinforced through the contract documents and this will be strongly reiterated at the subsequent pre-start meeting and imposed during the contract period.

#### CREDIT CHECK

37. A credit check on Dempsey Wood dated 9 September 2010 revealed no adverse information.

#### JOB COSTS

|     |  |                  |
|-----|--|------------------|
| 38. |  | <u>Excl. GST</u> |
|     | Tender sum – Dempsey Wood (Alternative Offer D2) | \$18,534,689.18  |
|     | Contingency                                      | \$1,853,468.92   |
|     |  | -----            |
|     | Total Job Cost                                   | \$20,388,158.10  |

#### SOURCE OF FUNDING

39. Source of funding is shown in Table 3 below:

| Budget Description                            | Codes                 | Budget          | Committed to other Projects | Allocation to this Project | Unallocated Balance | Potential Surplus (subject to completion of New Lynn Integrated Programme) |
|---|-----------------------|-----------------|-----------------------------|----------------------------|---------------------|--|
| New Lynn TOD Project Annual Plan 2010/2011    | 8AMTA-07-192/02/02/01 | \$12,900,000.00 | \$0.00                      | \$12,900,000.00            | \$0.00              | \$0.00   |
| New Lynn TOD Project 2011/2012 Financial Year | 8AMTA-07-192/02/02/01 | \$9,600,000.00  | \$0.00                      | \$7,488,158.10             | \$2,111,841.90      | \$2,111,841.90   |
|   | <b>Total</b>          |                 |                             | \$20,388,158.10            |                     |  |

**Table 3 – Source of Funding**

### IMPLEMENTATION ISSUES

40. Dempsey Wood's Alternative Offer D2 is dependant on Dempsey Wood obtaining early access to the Cambridge Clothing site. Dempsey Wood has provided a written statement from Cambridge Clothing agreeing to this proposal. The land acquisition agreement for this site has yet to be settled and early access could impact upon the negotiations with the property owner.

### AUCKLAND COUNCIL TRANSITION ISSUES

41. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on the Council's decision making capabilities in respect of section 31(4)(a). This subsection applies to a decision in respect of which the Auckland Transition Agency (ATA) has notified the existing local government organisation under section 20(1) in which it may review any existing local government organisation decisions during the transition period.
42. Approval for this decision is covered under funding cluster ATA 0099, which was approved by the ATA on 31 August 2009. No further confirmation is required from the ATA.

**Report prepared by** Jacqui Robson, Principal Engineer: Special Projects.



## 14 SHADBOLT HOUSE

### GLOSSARY

Going West Charitable Trust (GWCT)  
New Zealand Historic Places Trust (NZHPT)

### EXECUTIVE SUMMARY

The purpose of this report is to seek approval from the Council for Shadbolt House to be transferred to the Going West Charitable Trust (GWCT) for restoration and development as a writer's residence. This report also seeks approval for a memorandum of encumbrance between the GWCT and the Auckland Council.

A separate report on the proposed heritage listing of Shadbolt House was presented to the Planning and Regulatory Committee at its meeting held on 7 September 2010.

## **RECOMMENDATIONS**

It is recommended that the Council resolve to:

1. **Receive** the Shadbolt House report.
2. **Agree**, subject to resolution 5 below, that Shadbolt House be transferred to the Going West Charitable Trust for development as a writer's residence.
3. **Agree** to recommend, subject to resolution 5 below, that a memorandum of encumbrance is entered into between the Going West Charitable Trust and Auckland Council.
4. **Agree** that consideration of an amount of \$50,000 be available for Shadbolt House being developed as a writer's residence following any identification from the 2010/2011 year end budget surplus.
5. **Note** that resolutions 2 and 3 above are subject to confirmation by the Auckland Transition Agency.

## **BACKGROUND**

1. Maurice Shadbolt was one of New Zealand's most prolific writers. His novels and collections of short stories never strayed from New Zealand themes and locations. The Shadbolt House in Arapito Road, Titirangi was the location of much of his writing over a 40 year period. Shadbolt House and the writing studio sit on a ridgeline overlooking the Manukau Harbour and French Bay Yacht Club.
2. The Council originally purchased the Titirangi home in 2006 for \$550,000 with the idea of establishing a writer's residence. However, the Council later opted to develop the site in conjunction with Auckland University of Technology for tertiary writers. The resource consent for the activity had a major car parking shortfall and the application was opposed by the immediate neighbours. This project was subsequently withdrawn and the property reverted to a residential tenancy while plans for the future were developed.

## **DECISION MAKING**

### **Issues**

#### **Development of a Writer's residence**

3. There are two well-known writer's residences in the Auckland region: the Michael King Writers' Centre in Devonport and the Sargeson Fellowship in central Auckland. The Michael King Writers' Centre aims to foster New Zealand writing by providing an opportunity for an established author to work full-time on a major project with accommodation and studio writing space at Devonport. The Frank Sargeson Trust established its fellowship in 1987, to commemorate the novelist and short story writer. Frank Sargeson qualified as a lawyer before committing himself to full-time writing. The Buddle Findlay Sargeson Fellowship is a national literary fellowship offered annually in partnership with the Frank Sargeson Trust. It provides a full-time residency in central Auckland with an annual stipend of \$40,000.
4. There is a gap in the region for a well designed writer's residency in Waitakere. If the Shadbolt House was restored and developed as a writer's residence, it would build on a link with the Waitakere Ranges being a creative space for writers and artists.

5. The heritage value of the Shadbolt House site derives from its association with Maurice Shadbolt, one of New Zealand's foremost literary figures and should be recognised in the Waitakere City District Plan.
6. It is proposed that the property be transferred to the GWCT for restoration and development of a writer's residency. This new proposal will require resource consent for vegetation clearance and impermeable surfaces (paths). However, consent would not be required for the activity as it is residential in nature and is therefore permitted in terms of the Waitakere City District Plan. There are no known illegal structures on the property.

#### **Legal and governance matters**

7. The Council could use the McCahon House Trust model when transferring Shadbolt House. As such, the memorandum of encumbrance would be registered on the certificate of title.
8. A memorandum of encumbrance for Shadbolt House becoming a writer's residence should include the following:
  - Shadbolt House being restored in accordance with conservation advice;
  - the land and buildings not being leased, sold or mortgaged without the approval of Council;
  - requiring GWCT to fully insure buildings on the land;
  - requiring that the interior and exterior of all buildings are maintained by GWCT;
  - if the GWCT breach the memorandum of encumbrance and the conditions are therefore not met, the land and buildings should be transferred back to the Auckland Council;
  - requiring GWCT to employ a professional fundraiser for the Shadbolt House project;
  - development of a business plan for implementing a writer's residency;
  - a letter drop and consultation with the immediate neighbours on the Shadbolt House proposal;
  - regular liaison with appropriate Council officers to facilitate processing any required building and resource consents; and
  - providing opportunities for the Council to profile its support for the creative sector as part of a public private partnership.
9. A memorandum of encumbrance would be a useful legal tool for ensuring a low-risk transfer of Shadbolt House to the GWCT. Budget provision for \$50,000 should be made in order for GWCT to contract a project manager to commence fundraising for the restoration work. It is recommended that \$50,000 be funded from budget surplus. At present no budget allocation exists, but a review of the Council's expenditure is currently underway and if there is a forecast budget surplus then part of that could be directed to the Shadbolt House project.

#### **GWCT**

10. The GWCT has the following trustees: Cherie Barford (Chair: published poet and teacher), Rose Yukich (secretary: teacher and academic), Andrew Jull (Associate Professor, Faculty of Health and Science, Auckland University), Murray Gray (bookseller and director of the Going West Festival), Bruce Bryant (forensic and investigative accountant), Mick Sinclair (lawyer) and Dee Murch (book designer and editor). The trustees have considerable experience in the arts, literature and financial matters. GWCT is well placed to develop the Shadbolt House as a writer's residence. A partnership agreement with Council is currently being developed.

### Options Identified

11. There are only two options, do nothing or transfer the Shadbolt House property to a charitable trust to develop as a writer's residence and interpretation centre.

### Assessment of Options

12. There are two feasible options as outlined below in Table 1:

|                    | Option 1 - transfer Shadbolt House to GWCT |  | Option 2 – do nothing  |      |
|--------------------|--|--|--|------|
|                    | Cons                                       | Pros   | Cons   | Pros |
| <b>Social</b>      | Nil  | The charitable trust will be able to build a stronger network around the Shadbolt House.   | There is a possibility that the property may be sold by a future Council.  | Nil  |
| <b>Economic</b>    | <b>Loss of Rental</b>                      | A charitable trust will be able to fund raise independently for the building's restoration.  | The house will not be restored and the property may be disposed of in the future with no reference to its cultural heritage value. | Nil  |
| <b>Cultural</b>    | Nil  | The Council will leave a legacy of supporting the arts and cultural heritage.  | A lost opportunity to capitalise on investment.  | Nil  |
| <b>Environment</b> | Nil  | There will be an opportunity to improve the on-site and neighbourhood amenity through appropriate treatment of the site and surrounds. | The building will continue to exist but will lack a specific management programme.   | Nil  |

**Table 1: Assessment of Options**

### Preferred Option

13. The preferred option is to transfer the Shadbolt House property to the GWCT for re-development as a writer's residence. GWCT would undertake restoration of the Shadbolt House property in accordance with heritage best practice and develop it for a writer's residence. This position is supported by the New Zealand Historic Places Trust (NZHPT).

### STRATEGIC CONTEXT

14. The Cultural Wellbeing Strategy is about sharpening the Council's focus on cultural wellbeing. It enables the many parts of the Council to reflect on how their work contributes to a better quality of life for everyone in Waitakere, especially in terms of supporting creativity and belonging.

### CONSULTATION

15. Consultation has been undertaken with the Council's Property and Consents Services section.
16. In addition, discussions have taken place with the NZHPT who are familiar with the site and agree that the land may be transferred to an independent trust. However, NZHPT recommend that a conservation plan should be prepared for the dwelling to guide its restoration and appropriate interpretation.
17. The site has no special significance to Maori.

## RESOURCES

18. There was no budget provision made in the Annual Plan 2010/2011. A review of the year end potential is currently underway and the Shadbolt House project should be considered for funding. It is estimated that an initial fund of \$50,000 would be sufficient to launch the Shadbolt House Project and could be funded from the existing budget surplus.

## IMPLEMENTATION ISSUES

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

## AUCKLAND COUNCIL TRANSITION ISSUES

20. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on Waitakere City Council's decision making capabilities in respect of section 31(4)(f) of the Act. That provision applies to a decision  
*“to purchase or dispose of assets other than in accordance with its long term council community plan.”*  
and section 34(5)(b) that applies to a decision –  
*“to purchase or dispose of an asset, if the purchase or disposal of the asset will have a material impact on the capacity or financial well-being of the organisation.”*
21. It is considered that the transfer of the Shadbolt House will result in the net loss of an asset valued at around \$550,000 and as a result will need to be a future decision of the Auckland Council.

**Report prepared by:** Alina Wimmer, Principal Advisor: Heritage.



## 15 PROPOSED GOVERNMENT FINANCIAL ASSISTANCE PACKAGE FOR LEAKY HOMEOWNERS

### GLOSSARY

|  |                   |
|--|-------------------|
| Financial Assistance Package                 | (FAP)             |
| Homes suffering from weathertightness issues | (leaky buildings) |
| Department of Building and Housing           | (DBH)             |
| Local Government Act 2002                    | (LGA 02)          |
| Long Term Council Community Plan             | (LTCCP)           |
| New Zealand Mutual Liability Riskpool        | (Riskpool)        |

### EXECUTIVE SUMMARY

At the Council meeting on Wednesday, 26 May 2010, the Council expressed its support for the proposed financial assistance programme for the repair of residential properties suffering from weathertightness issues (leaky buildings) which had been proposed by the Government following the budget in May 2010 and agreed to work with government officials with a view to finalising the detail of the proposed scheme. Considerable progress has been made to refine the scheme, to the position where there is substantial agreement between central government and local government as to the way in which the scheme will operate.

AI-A7

As a consequence, the Minister of Building and Housing wrote to the Mayor on Tuesday, 7 September 2010 requesting a decision from the Council to agree to participate in the Financial Assistance Package (FAP) so as to “facilitate timely implementation of the FAP, and to provide more certainty for home owners before the local body elections”. A copy of the Minister’s letter is attached at pages A1 to A5. Subsequently, the Chief Executive received a letter from the Department of Building and Housing (DBH) and a copy of that letter is attached at pages A6 to A7.

### **RECOMMENDATIONS**

It is recommended that the Council resolve to:

1. **Receive** the Proposed Government Financial Assistance Package for Leaky Home Owners report.
2. **Agree**, subject to resolution 4 below, to participate in the Financial Assistance Package subject to:
  - (a) Third-party legislation protection being introduced and passed to the satisfaction of the Chief Executive; or if legislation is not passed, an alternative agreement being reached that indemnifies Council for all liability and associated costs (to the satisfaction of the Chief Executive).
  - (b) Eligibility criteria not being extended beyond the current class of eligible claimant, including through evolution of case law.
  - (c) The government and territorial authorities entering into a side agreement whereby neither the Crown nor territorial authorities would attempt to access the Financial Assistance Package for their own residential rental housing stock.
  - (d) Eligibility issues around other commercial residential property owners who are not currently accessing the existing claims service, being resolved.
3. **Agree**, subject to resolution 4 below, to delegate to the Chief Executive authority to sign an agreement relating to the Council's participation in the Financial Assistance Package.
4. **Note** that resolutions 2 and 3 are subject to confirmation by the Auckland Transition Agency in accordance with the Local Government (Tamaki Makaurau Reorganisation) Act 2009.

### **BACKGROUND**

1. A large number of New Zealand homes are leaky buildings. The Courts have found that territorial authorities are legally liable to contribute to the costs of repair of leaky buildings when the territorial authority has been involved in the processes relating to consenting and/or inspection of those buildings during construction or alteration. Waitakere is not alone in facing claims in relation to leaky buildings and many other territorial authorities throughout New Zealand, particularly those in the Auckland region, face these claims.
2. The Government, through the DBH and in consultation with representatives from local government, has developed a financial assistance package for the owners of leaky buildings. In essence, this package involves the Government and the relevant territorial authority funding 25% each of the cost of repairing the leaky building, with the owners being responsible for the other 50%. The intention is to make available to such owners an option whereby they can receive money more quickly than might otherwise be the case through traditional dispute resolution processes and get on with fixing their leaky building.

3. The alternative, which is the only present option, is a potentially lengthy, costly and less certain litigation process. The FAP will provide choice to homeowners whether to submit to process or simply to get on and repair their home.
4. Participation in the scheme is not compulsory and the Council will need to decide if it wishes to opt in. Indications are that most other councils in the Auckland region will decide to opt in.

## DECISION MAKING

### Issues

*C1-C13*

5. Financial implications - Some work has been done to ascertain the financial implications of the FAP. A summary of the outcome of that work is attached at pages C1 to C13 of the confidential supplement labelled Part H. While this work is ongoing it seems clear that the Council will not pay more under the FAP than it would under settlements under traditional liability arrangements. The final costs with the FAP in place and responding to some of the claims (but not all of the claims) is expected to be a similar amount to payments under the traditional liability arrangements, or less. The FAP is likely to result in more upfront payments as an increasing number of homeowners access the scheme. However, in the long term, it is expected to be significantly less. The key benefit of the scheme is the reduction of long term risk. The cost and number of claims has been trending upwards. The FAP will provide greater certainty to the amount of Council's contribution to settlements. Another important consideration is the positive social and local economy economic benefits that will arise from money that would otherwise have been spent on litigation costs going into the fixing of houses.
6. Process - The process for owners of both single dwellings and multi-unit properties accessing the FAP is the same as for homeowners accessing the Weathertight Homes Tribunal for litigation purposes. A step by step guide will be published for affected parties at the commencement of the scheme. Repairs will be undertaken once the scope of the repair work has been identified and agreed. A significant benefits arising as a by-product of the FAP has been the development of a remediation guide. This will provide more certainty to homeowners and will mitigate the risk when designing and undertaking repairs, leading to more sensible repairs and lower repair bills. Council's contribution will be made on a progress payment basis as critical milestones throughout the agreed repair are achieved.
7. Eligibility - Eligibility of those homeowners who can opt in to the FAP remains a key issue and much of the debate in developing the FAP has been centred around ensuring that the class of possible claimants is not expanded beyond those who are currently eligible to apply or who chose, for pragmatic liability and wider commercial reasons, not to apply. Those buildings which have already been repaired will not be eligible to access the FAP. Leaky buildings which were consented and inspected by building certifiers will not be eligible for the 25% repair contribution from the council. Rules have been developed within the scheme to deal with cases where both the council and a building certifier have been involved at different stages in the process. There are some unresolved eligibility issues around residential units owned by commercial operators and Crown residential rental housing stock. The latter point seems likely to be able to be resolved by a side agreement that neither the Crown nor territorial authorities will seek to participate in the FAP in respect of their own residential rental housing stock.

8. Third party litigation risk - The FAP is an optional path for homeowners to choose to get their leaky homes repaired. They can, if they wish, still pursue other third parties such as developers, builders and tradesmen (other than the government or relevant council) in either the Weathertight Homes Tribunal or the courts. This action exposes the Council to the risk of being joined in the proceedings by those third parties by the usual rules relating to liability between joint tort-feasors. Homeowners participating in the FAP will not be subject to reduction of their claim through contributory negligence or purchase with prior knowledge. The quid pro quo for that concession is that councils should not be exposed to the potential costs incurred in defending a third party claim where the homeowner has accessed the FAP. The government has agreed to introduce legislation to deal with this issue, so that council's contribution to the costs related to each property are capped at its 25% and the recommendations in this report are subject to that legislation or an acceptable alternative arrangement being put in place. There is also an identified risk and unresolved issue of gaming of the system established by the FAP. The proposed legislation will provide a further opportunity for councils to lobby for protection in that regard.
9. Review - It is expected that the Government will review the FAP six months after commencement to ensure it is working as anticipated.
10. Insurance - Council is currently insured for a number of leaky building claims through New Zealand Mutual Liability Riskpool (Riskpool). Some insurance recoveries may be at risk from council participation in the FAP since Riskpool has indicated that the protection wording is unlikely to respond to a voluntary payment under the FAP, which does not reflect strict legal liability principles. Work done to attempt to quantify that risk for Waitakere indicates that the benefits of the FAP may outweigh any detriment through loss of insurance cover. Any reduction in claims cost for Riskpool will result in a reduction of calls by Riskpool. Council prepaid all three instalments of the call made by Riskpool in 2009 so that there may be some minor recovery in that regard in due course.

### Options Identified

11. Only two practical options have been identified: either a status quo or "do nothing" option; or electing to participate in the FAP. The "do-nothing" option has little to recommend it so far as social or economic considerations are concerned. It does nothing to address the consequential problems arising from substandard housing stock, including the social problems from families living with the stress of a leaky building and an adversarial claims process, and the already identified associated health problems arising from the occupation of damp houses. Current indications are that participation in the FAP will not cost the ratepayer more than a strict legal liability model. Participation in the FAP will see the money which is available more closely targeted to repair of buildings with the consequential upside of an improved quality of the housing stock and reduced consequential social issues. An expedited repair process under the FAP may also provide some useful additional stimulus to the local economy in the current climate. For these reasons the status quo or "do nothing" option is not preferred.

### Legal issues around decision making

12. A number of technical issues have arisen under the Local Government Act 2002 (LGA 02) out of the requirement that councils be required to elect to participate in the FAP, rather than participation being required by legislation. Those issues included significance, the need to consider community views and preferences, the requirement for consultation and whether or not a decision to participate in the FAP required an amendment to the Long Term Council Community Plan (LTCCP).

13. Legal advice was obtained on behalf of the sector by Auckland City Council from Simpson Grierson and the opinion provided by Simpson Grierson has been the subject of comment from the office of the Auditor General. Without getting into the detail of that legal advice it is sufficient to note that:
- (a) For the purpose of assessing significance the appropriate comparison is between the likely costs the Council will incur if it elects not to participate in the FAP when compared to the likely costs it will incur if it opts into the scheme. As noted above, the work done to date indicates that by electing to opt into the FAP, the costs to the Council will be no greater than they would be if it decided not to opt in. No issue of significance therefore arises and the need for full compliance with the decision-making requirements of s 77 and s 78 LGA 02 are accordingly reduced;
  - (b) The approach in a) above needs to be contrasted with the comparison between the provision in the Council's accounts for leaky building liabilities and the cost of the FAP as estimated. The accuracy or otherwise of the provision in the Council's accounts is not relevant to determining Council's liability for leaky buildings under current law. That liability will be what it will be and will need to be funded by Council no matter what, if necessary at the expense of other projects provided for in the LTCCP. Most importantly the cost of the FAP would appear to be less than the true cost of the current liability. No requirement to amend the LTCCP as a consequence of the decision to opt into the FAP has been identified; and
  - (c) It is considered that Council has a sufficient understanding of community views and preferences without the need for further consultation. The FAP is a voluntary programme and the details of the scheme have been a matter of negotiation with government. The owners of leaky buildings may opt in if they wish to do so. There is, however, no element of compulsion and therefore the removal of rights or options as a consequence of a decision by the Council to participate in the FAP. For those members of the community who might oppose the FAP, there will be some comfort in the fact that the FAP does not appear to be a more expensive option than the status quo (where the Council has no decision-making choice anyway).

#### **STRATEGIC CONTEXT**

14. The strategic context for this report is the community outcomes relating to strong communities, a strong economy, a sustainable environment (which includes an emphasis on a healthy living environment) and healthy lifestyles. The repair of leaky buildings within Waitakere will deliver on all of these outcomes to one degree or another.

#### **RESOURCES**

15. The work done to model the cost of the FAP to the Council has exposed some deficiency in the Council's provisions for leaky building liabilities. This issue will need to be addressed in the annual report process for the period ending 31 October 2010, and through the annual report and LTCCP processes of the new Auckland Council.

#### **IMPLEMENTATION ISSUES**

16. There are no implementation issues in this report

## AUCKLAND COUNCIL TRANSITION ISSUES

17. Auckland Transition Agency has advised that a decision by this Council to participate in the FAP requires confirmation under s31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009.

**Report prepared by:** Denis Sheard, Legal Services Manager.



## 16 SALE OF LAND – 490 SOUTH TITIRANGI ROAD, TITIRANGI

### GLOSSARY

Long Term Council Community Plan (LTCCP)

### EXECUTIVE SUMMARY

This report updates Council as to the progress made to give the effect to resolutions relating to the site at 490 South Titirangi Road, Titirangi passed by the Council on 30 August 2006. The property is located on the corner of Titirangi and South Titirangi Roads and is currently used for car parking purposes.

Confirmation of those decisions is sought with a view to endeavouring to avoid any unforeseen consequences arising out of the moratorium on disposal of Council property under s 12 of the Local Government (Auckland Transitional Provisions) Act 2010.

### RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Sale of Land - 490 South Titirangi Road, Titirangi report.
2. **Agree:**
  - (a) subject to resolution 4 below, to sell Section 1 on SO plan 67597 to the owner of the adjoining land (part lot 3 DP 15745) for the purposes of undertaking the development depicted in resource consent RMA at a price enterprise recommended by a registered valuer employed by the Council but reserving to the Council the right to occupy 18 car parks on the site protected by an appropriate legal mechanism;
  - (b) subject to resolution 4 below, to transfer Section 2 on SO plan 67597 to the owner of the adjoining land (part lot 3 DP 15745) without consideration so as to provide physical road frontage to the adjoining land.
  - (c) negotiate for rights to occupy additional car parking spaces within the proposed development; and
  - (d) subject to resolution 4 below, to investigate the practicality of and, if appropriate, to grant an easement over the adjoining land owned by the Council (lot 17 DP 6678) in favour of lots 2 and 3 on DP 15745.
3. **Agree** to delegate to the Chief Executive authority to settle the commercial terms, including the price to be paid, in respect of each of the transactions referred to in resolutions 2 (a), (b) and (d) and to sign all documents necessary to give effect to all of the transactions authorised by resolution 2.

4. **Note** that resolutions 2(a), (b) and (d) require confirmation from Auckland Transition Agency in accordance with the Local Government (Tamaki Makaurau Reorganisation) Act 2009.

## BACKGROUND

A8-A11

1. The Council's dealings with this property has an extended history. The first step in this process involved the adjoining landowner Margret Rotondo, proposing a development in the air space over the Council's car park and her adjoining land. At that time the car park was part of the legal road and steps were taken to stop the road under the Local Government Act 1974. The matter was referred to the Environment Court and the Council's decision to stop the road was confirmed in a consent order issued by the court on 30 March 2000. A copy of the decision is attached at pages A8 to A11. The terms of the order make provision for the proposed development and requires that following the development no less than 18 car parking places be located on the former car park site. The first draft of an agreement for sale and purchase was submissive to the Council by Mrs. Rotondo's solicitors in March 2000. The matter has progressed in fits and starts since that date. Mrs. Rotondo transferred her property to a family company Rotcol Enterprises Limited in 2004 but she has remained in full charge of the project.
2. On 30 August 2006 the Council considered a report in respect of the property and resolved as follows

- "1. That the Public Car Parking at Titirangi Village report be received.*
- 2. That the Chief Executive Officer be delegated authority to finalise negotiations for the sale of section 1 so 67597 at a price recommended by a registered valuer employed by the council and on the terms generally set out in this report.*
- 3. That the Chief Executive Officer be delegated authority to finalise negotiations for the occupation by the Council for up to 16 additional public car parking spaces within the development depicted in the plans attached at pages C7 to Cc12 to the confidential supplement upon the terms generally set out in the agenda report and at a price recommended by a registered valuer employed by the Council.*
- 4. That the Chief Executive Officer be delegated authority to finalise negotiations for the grant of a right of way over part lot 17DP 6678 in favour of part lots 2 and 3 DP15745 at a price recommended by a registered valuer employed by the council.*
- 5. That the Chief Executive Officer be delegated authority to execute all or any documents to give effect to the agreements negotiated under the above resolutions.*
- 6. That investigations be undertaken on paid car parking on the 16 additional public car parking spaces."*

1625/2006

A12

3. Subsequently an application was made for resource consent for different development to that proposed in the original road stopping proceedings. Resource consent was granted by the Council on 24 November 2009 (consent LUC-2009-546). A copy of an early version of the plans for the development is attached at page A12.
4. Following granting of the consent an appeal was lodged but the appeal was subsequently abandoned. Rotcol Enterprises Ltd has therefore recently approached the Council to reopen negotiations for the purchase of the Council's land, which is necessary to enable it to proceed with the consented development. Valuers were instructed and the valuation advice is awaited. In the ordinary course of events the Chief Executive would have preceded to give effect to the transactions approved by the oldest 2006 resolution, without more.

5. However, on 14 June 2010 the Local Government (Auckland Transitional Provisions) Act 2010 received the Royal assent. It imposes a moratorium on land sales by Auckland Council in certain circumstances in the period between 1 November 2010 and 30 July 2012. One of the exceptions to the moratorium is a sale of land included in the Council's Long Term Council Community Plan (LTCCP) but naturally enough, given the extended history of this matter, officers have not had sufficient confidence of the prospect of a sale of Section 1 to include the revenue within the LTCCP. The second exception relates to circumstances where the property has a current rating valuation of \$250,000 or more. Section 1 has a current rating value of \$375,000 (as at 1 September 2007) and would therefore technically be caught by the moratorium, notwithstanding that the sale is unlikely to achieve the 2007 rating value given the requirement to retain public access to 18 car parks on the site.
- A13-A21* 6. There was a discussion in the body of the August 2006 report of the existence of a small parcel of land (Section 2 on SO plan 675597), copy attached at pages A13 to A21. This was also formerly part of the road but the consequence of the road stopping procedure was that all of the road with frontage to part Lot 3 DP 15745 was stopped rendering that land technically landlocked. It was always intended that this land would be transferred to resolve that difficulty, without consideration, but a recommendation to that effect was omitted from the earlier report in error.
7. The moratorium period under the Local Government (Auckland Transitional Provisions) Act 2010 commences on 1 November 2010. It will not apply to decisions made before that date. There is therefore a time limited opportunity for the Council to confirm its earlier decision in relation to the sale of Section 1, and to tidy up the transfer of Section 2, if it wishes to do so.
8. That decision can be justified by the fact that the potential purchaser has been working towards the proposed outcome for over 10 years and it would be unfair to require a deferral of the development until after 30 July 2012 because of an unintended and technical consequence of the moratorium. The Council is committed to this development. The landowner has altered its position as a consequence of the August 2006 decision and has the legitimate expectation of an opportunity to buy the property at a fair value. While it is possible that negotiations might be concluded prior to 31 October 2010, in reliance on the August 2010 resolution there can be no assurance that will occur.
9. The resolution in August 2006 also dealt with proposals relating to Council obtaining additional car parking spaces for public use within the proposed development and a proposed right-of-way over the adjoining Council land to the rear of the land owned by Rotcol Enterprises Limited:
- (a) The need for additional public car parking at Titirangi has not diminished since August 2006 and the recommended resolution proposes retaining flexibility to negotiate secure that additional car parking on appropriate terms; and
  - (b) the subsequent development of a proposal for additional car parking on the adjoining Council land to serve the redevelopment of Lopdell House makes the right-of-way proposal somewhat more problematic and may even render that proposal impracticable. The recommended resolution deals with this by conferring authority on the Chief Executive to investigate ongoing practicality and to act if it proves to be workable outcome.

## DECISION MAKING

10. Options - the only practical options are the status quo "do-nothing" option and proposals set out in the recommendations. A decision to maintain the status quo does nothing to relieve the parking congestion at Titirangi and will result in a development which has been consented under the Resource Management Act and which enjoys a measure of community support not proceeding. There is also a risk for a claim for compensation for wasted expenditure in circumstances where the Council now resiled, without there being any obvious reason for doing so, from a long-standing expectation that Council would willingly cooperate in the site of the land to allow the development proceed.
11. Community views and preferences and consultation - there has been extensive public consultation through the public processes around the road stopping under the Local Government Act 1974, which resulted in a hearing in the Environment Court and publicly notified resource consent process undertaken in 2009. As noted earlier an appeal against the resource consent granted by the Council, made on behalf of the South Titirangi Residents and Ratepayers Association, was lodged but withdrawn before a hearing. This is, of itself, evidence of a measure of community support for the development as a whole and for the underlying land transactions necessary to enable the development to proceed. It is consider that no further action is required by way of consultation or the investigation of community views and preferences.
12. Significance - this report praises no issues of significance and the need for full compliance with the decision-making requirements of s 77 and s 78 LGA 02 is accordingly reduced.

## STRATEGIC CONTEXT

13. The Waitakere City Council's 'Urban and Rural Villages' community outcome provides the strategic context for this report. "The goal is to provide town centres that are thriving places, providing exciting options for people to live, work and play."

## RESOURCES

14. There are no resource requirements arising out of this report.

## IMPLEMENTATION ISSUES

15. There are no implementation issues arising out of this report.

## AUCKLAND COUNCIL TRANSITION ISSUES

16. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on the Council's decision making capabilities in respect of the sale or disposal of land if the sale is not included under the LTCCP (s 31(4)(f)). Confirmation of the decisions recommended in resolutions 2 (a), (b) and (d) is required.

**Report prepared by:** Denis Sheard, Legal Services Manager.



17 **NOTICE OF REQUIREMENT BY THE MINISTER OF DEFENCE FOR ALTERATION OF DESIGNATION MD1 WITHIN THE WAITAKERE CITY DISTRICT PLAN**

**GLOSSARY**

|   |                           |
|---|---------------------------|
| The Minister of Defence   | (the Requiring Authority) |
| Minister of Defence RNZAF Base Auckland –<br>Whenuapai and Hobsonville Airbases Designation | (MD1)                     |
| Resource Management Act 1991  | (the Act)                 |

**EXECUTIVE SUMMARY**

The purpose of this report is to seek the approval of the Council for a Notice of Requirement received from the Minister of Defence (the Requiring Authority) in respect of an alteration to an existing Ministry of Defence designation (MD1) at Royal New Zealand Air Force Base Auckland, Whenuapai.

The alteration seeks to incorporate four discrete areas which adjoin the existing MD1 designation. The four areas amount to 8832m<sup>2</sup> of land located off Kauri Road, Whenuapai. These areas have been reclaimed through historic land filling dating from the 1940s through to the late 1970s. Resource consents were not required at the time of the filling operations. The reclaimed land has been gazetted and is in the control of the Requiring Authority.

The report outlines that approval is sought by the Requiring Authority under section 181(3) of the Resource Management Act 1991 (the Act). As the alteration to the MD1 is considered to be minor, and has relevant land owner approvals, it can be approved by Council to proceed on a non notified basis.

It should be noted that the Council does not have the power to grant or refuse consent to the MD1 alteration, but rather it is the Requiring Authority that will make the final decision. The Council can, however, make recommendations and requests. In this instance no requests have been identified, given the minor nature of the alteration.

**RECOMMENDATIONS**

It is recommended that the Council resolve to:

1. **Receive** the Notice of Requirement by the Minister of Defence for alteration of designation MD1 within the Waitakere District Plan report.
2. **Agree** that the Minister of Defence RNZAF Base Auckland – Whenuapai and Hobsonville Airbases Designation within the Waitakere District Plan be amended in accordance with the plan titled “Figure 3-1A, Kauri Road Landfill Closure” dated 30 July 2010, and contained within the attached Notice of Requirement.
3. **Approve** that the Ministry of Defence be advised that the Council agrees with the alteration to the Minister of Defence RNZAF Base Auckland – Whenuapai and Hobsonville Airbases Designation within the Waitakere District Plan.

**BACKGROUND**

A22-A26

1. On 20 August 2010, the Council received a Notice of Requirement from the Requiring Authority for a minor alteration to the existing designation, *the Minister of Defence RNZAF Base Auckland – Whenuapai and Hobsonville Airbases Designation*. This designation is identified as “MD1” in the Waitakere District Plan. A copy of the Notice of Requirement is attached at page A22 to A26.
2. The Minister of Defence is a ‘Requiring Authority’ under the Act which gives it the power to designate land for public works. It is important to note that the Council does not have the power to grant or refuse consent to the MD1 alteration. Rather it is the requiring authority that is the decision making body in respect of the MD1. The Council only has the ability to make requests and recommendations to the Requiring Authority.

- A27
3. The subject land adjoining MD1 has been historically reclaimed as a result of land filling operations, dating from the 1940s to the late 1970s. The source of the fill was from works associated with the operation of Royal New Zealand Air Force Base Auckland, which included both Whenuapai and (previous) Hobsonville Airbases.
  4. The reclaimed land equates to 8832m<sup>2</sup>, and is split into four distinct parts. Reclamation consents were not required at the time, as the Harbours Act 1950 did not bind the Crown. The reclaimed land has now been determined to be land by the Crown and has been transferred to the New Zealand Defence Force. This is described in the attached Gazette Notice 15 July 2010, No. 83 p. 2295 attached at page A27.
  5. The Requiring Authority now seeks to incorporate the subject land into the MD1 designation. The need for this alteration has arisen because the original designation boundary is based on the coastline prior to the land filling operation.
  6. The Notice of Requirement also outlines the reasons for the notice. The need for additional works to be undertaken is to avoid the potential for stormwater to enter into the landfill and produce leachate. In addition an existing degraded stormwater line that runs through the landfill has the potential to allow leachate to enter this line and consequently discharge into the coastal environment. Leachate discharges from landfills can be potentially damaging to sensitive receiving environments particularly in the coastal marine area. The remedial works proposed include:
    - re-contouring to encourage water shedding and reduce water penetration into the landfill;
    - re-vegetation along the adjoining escarpment ; and
    - re-alignment of the existing stormwater line outside the landfill's footprint.
  7. Following the remediation works, the New Zealand Defence Force will maintain the land in accordance with the designated purpose of "MD 1 Defence Purposes – Airfield".

## DECISION MAKING

8. The Notice of Requirement seeks to address an anomaly in the extent of designation which has been clarified by the determination of land ownership. It provides a method to resolve potentially adverse environmental effects.

## Issues

### Statutory Process

9. Once a designation is in place, the Act provides a relatively simple procedure for making minor alterations. Section 181(3) of the Act states as follows:
 

*"181(3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if–*

  - (a) *The alteration–*
    - (i) *Involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
    - (ii) *Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
  - (b) *Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
  - (c) *Both the territorial authority and the requiring authority agree with the alteration–*

*and sections 168 to 179 shall not apply to any such alteration."*

10. Provided that the proposed alteration complies with the matters set out in section 181(3)(a), (b) and (c), the Waitakere District Plan can be amended without further formality. The information provided by the Requiring Authority and their appointed consultants, URS New Zealand Limited, in support of the MD1 alteration proposal, addresses all the relevant issues. Council officers are satisfied that the correct procedure has been followed in relation to the alteration.
11. The alteration is considered to meet the criteria of section 181(3) for the following reasons:
  - (a) The alteration:
    - (i) involves no more than a minor change in effects; and
    - (iii) involves only minor changes in the boundaries of the MD1; and
  - (b) The land owner is the Requiring Authority; and
  - (c) Subject to the Council's resolution, the territorial authority and the Requiring Authority agree with the alteration.
12. Should the MD1 not be altered, resource consents would be required to facilitate the works associated with addressing the maintenance and management of the former landfill. This may result in additional costs and the potential for delays for the Requiring Authority. It is considered that the alteration to the MD1 represents the most appropriate option available.
13. The Act provides the Council with the ability to make requests and recommendations to the Requiring Authority if they are necessary. The Requiring Authority can choose whether to accept or reject these requests. A right of appeal is provided for under for the Council, should the Requiring Authority reject the request or recommendation. In this instance and given the minor nature of the alteration, no requests or recommendations have been identified.

#### **STRATEGIC CONTEXT**

14. The alteration to the MD1 proposed by the Requiring Authority represents an appropriate method for the sustainable management of the physical land resource. The alteration provides the Requiring Authority with the ability to implement works that will avoid the potential effects of leachate discharges entering the coastal environment.
15. The alteration to the MD1 is appropriate in terms of sustainable development required to address historic works. With respect to Community Outcomes, the alteration would enable the maintenance and enhancement of the Green Network, and provide a means to avoid adverse impacts on the environment.

#### **CONSULTATION**

16. Given the minor nature of the alteration to the MD1 consultation was not required.

#### **RESOURCES**

17. No resources are required other than staff time involved in amending the Waitakere District Plan maps and distributing copies of those to the Waitakere District Plan holders.

#### **IMPLEMENTATION ISSUES**

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

## AUCKLAND COUNCIL TRANSITION ISSUES

19. 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 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:** Nick Pollard, Planner, Policy Implementation.



## 18 PROPOSED EASEMENTS OVER RUSH CREEK RESERVE, MASSEY – TRANSPOWER NEW ZEALAND LIMITED

### GLOSSARY

|                                   |               |
|-----------------------------------|---------------|
| Rush Creek Reserve                | (the Reserve) |
| Waitakere City Council            | (the Council) |
| Transpower New Zealand Limited    | (Transpower)  |
| New Zealand Retail Property Group | (NZRPG)       |
| Earth Potential Rise              | (EPR)         |
| Reserves Act 1977                 | (the Act)     |

### EXECUTIVE SUMMARY

- A28 The purpose of this report is to seek approval from the Council to grant an easement to Transpower New Zealand Limited (Transpower) in respect of area A and B, being part of Rush Creek Reserve (the Reserve) as shown on the map attached at page A28.

### RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Proposed Easements Over Rush Creek Reserve, Massey – Transpower New Zealand Limited report.
- A28 2. **Agree**, subject to resolution 6 below, to grant an easement under section 48(1)(d) of the Reserves Act 1977 over area A in favour of Transpower New Zealand Limited in general accordance with the plan attached at page A28 of the agenda to prevent buildings being constructed in a no-build area over a portion of area A within the Rush Creek Reserve, Massey.
- A28 3. **Agree**, subject to resolution 6 below, to grant an easement under section 48(1)(d) of the Reserves Act 1977 over area B in favour of Transpower New Zealand Limited in general accordance with the plan attached at page A28 of the agenda for the purpose of locating underground electricity cables within the Rush Creek Reserve, Massey.
4. **Agree**, subject to resolution 6 below, that the Chief Executive Officer is authorised to finalise the terms and the areas of the easements under section 48(1)(d) of the Reserves Act 1977 over areas A and B within Rush Creek Reserve, Massey, in favour of Transpower New Zealand as outlined in resolutions 2 and 3 above.

5. **Agree**, subject to resolution 6 below, that public notice is not required under section 48(2) of the Reserves Act 1977 in respect of granting the easements over areas A and B as referred to in resolution 2 and 3 on the basis that Rush Creek Reserve, Massey, is not likely to be materially altered or permanently damaged and the rights of the public are not likely to be permanently affected by the easements.
6. **Note** that resolutions 2 to 5 above are subject to confirmation from the Auckland Transition Agency.

## BACKGROUND

1. As part of the development proposed for Massey North under Plan Change 15, the Council, New Zealand Retail Property Group (NZRPG) and Transpower have instigated a joint project that has been investigating undergrounding of existing overhead power lines. This project relates to part of the main trunk line that runs through Massey North from south of the existing Westgate shopping area at Rush Creek Reserve, to a site north of the future Northside Drive (and west of the new State Highway 16).
2. This report is specifically to address easement requirements over reserve land for this strategic undergrounding project.
3. The Reserve is categorised as a local reserve. Normally delegated authority sits with the Massey Community Board. However, this report is being submitted to the Council due to the significance of the proposals set out in this report in relation to the proposed development within the Plan Change 15 area.
4. Termination structures are required and will be located at the points where undergrounding begins and ends. The locations of the proposed termination structures are determined by the existing overhead pylon sites. The termination structures will replace the existing pylons. A further five pylons will be removed where undergrounding occurs.
5. The southern termination structure is proposed to be located within an existing car park along Westgate Drive (owned by NZRPG) adjacent to the Reserve. While the termination structure and associated compound area is not located on the Reserve there is an Earth Potential Rise (EPR) zone and cable area that Transpower requires easements for.
6. It is noted that the final location and amount of area required for the EPR zone easement may change, but it is expected to be in general accordance with the attached plans.
7. The majority of the new under ground cables will be placed within road reserve or land that is currently private land that will in the future become public road. However an area of undergrounding may occur within the Reserve, being area B, and this will connect by underground cabling to the proposed above ground termination structure. It is noted that the final location for the cable easement may change, but it is expected to be in general accordance to the attached plans.
8. The proposed undergrounding will provide a significant benefit for the proposed developments within the Plan Change 15 area and to surrounding residents by removing significant portions of the overhead main trunk line. This project is crucial in order to achieve the desired outcomes of Council for the planning and development of this area.

9. Due to the benefits of undergrounding, it is recommended that approval should be provided to grant appropriate easements to Transpower. In order to terminate a portion of the overhead lines and provide undergrounding, Transpower requires:
  - an easement of light and air to prevent buildings being constructed in a no-build area over a portion of the Reserve (area A). This easement will also require Transpower and the Council to agree on any vegetation planted in this area.
  - a cable easement across the Reserve (area B).
10. An easement over the Reserve will allow progression of the project to underground the main trunk line. There is a small risk that the land area or site of the easements may shift slightly as detailed design takes place. However, this is not likely to materially change the proposal within the report and can be resolved through final survey plans of the site.

## DECISION MAKING

### Issues

#### Easement

11. It is proposed that the easements for area A and B be granted under section 48(1)(d) of the Reserves Act 1977 (the Act). This area is currently open grass land with passive recreation use. The reserve is not likely to be materially altered or permanently damaged and the rights of the public in respect of the reserve are not likely to be permanently affected.
12. The Reserve will in effect remain in its present form within the proposed easement area, albeit with some restrictions on the future development within the proposed easement areas of the Reserve.
13. There are no planned developments on this portion of the Reserve and therefore the proposed restriction is of limited concern. Granting of the easement would still allow for the intended use of the Reserve based on current use, development and the Massey Ward Local Reserve Management Plan.

#### Public Notification

14. Under section 48(3) of the Act, public notification of the proposal is not required to be undertaken where:
  - (a) the reserve is not likely to be materially altered or permanently damaged; and
  - (b) the rights of the public in respect of the reserve are not likely to be permanently affected.
15. As the proposed easements will not materially alter or permanently damage the Reserve and not affect the current or expected use of the Reserve it is considered that public notification is not required under section 48 of the Act.

## STRATEGIC CONTEXT

16. The proposal to underground part of the main trunk line is aligned with Council's Growth Management Strategy which seeks to ensure that key infrastructure is provided and supports the growth of Waitakere's third major town centre.

## CONSULTATION

17. Consultation has been undertaken with relevant Council staff including Legal, Parks Planning, and Parks and Open Spaces Assets.
18. Public notification is not required in relation to the proposed easement.

## RESOURCES

19. No resources are required other than staff time in respect of the proposed easements.

## IMPLEMENTATION ISSUES

20. If a decision is made to approve the proposed location of the sites within the Reserve and to grant easements within the Reserve the process required to complete this project involves:
  - (a) agreeing on detailed plans for the location of the cables; and
  - (b) approving terms of easement in respect of the Reserves.

## AUCKLAND COUNCIL TRANSITION ISSUES

21. It is considered that the granting of the easements falls within section 31(4)(f) of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 as the disposal of an asset other than in accordance with Council's long-term council community plan and therefore this decision requires the confirmation of the Auckland Transition Agency.

**Report prepared by:** Gyles Bendall, Manager; Parks Planning.



## 19 TE ATATU ROAD AND LINCOLN ROAD CORRIDORS IMPROVEMENTS

### GLOSSARY

Long Term Council Community Plan 2009-2019 (LTCCP)  
New Zealand Transport Agency (NZTA)

### EXECUTIVE SUMMARY

The purpose of this report is to seek the Council's approval of preferred options for Te Atatu Road and Lincoln Road corridor improvements. This report also seeks Council's approval to pass a recommendation to the new Auckland Council to include the funding of Te Atatu Road and Lincoln Road corridor improvements projects in its draft Annual Plan 2011/2012 and future Long Term Council Community Plan (LTCCP).

### RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Te Atatu Road and Lincoln Road Corridors Improvements report.

2. **Agree** that the Council's preferred option for Te Atatu Road Corridor Improvements is as outlined in this report, and that this is the basis for further design work on the Te Atatu Road Corridor Improvements project.
3. **Agree** that the Council's preferred option for Lincoln Road Corridor Improvements is Option 3, as outlined in the Lincoln Road Corridor Scheme Assessment Report dated April 2008, and that Option 3 is the basis for further design work on the Lincoln Road Corridor Improvements project.
4. **Agree** it be recommended to the new Auckland Council to include further funding for the Te Atatu Road and Lincoln Road Corridor Improvements projects in its draft Annual Plan 2011/2012 and Long Term Council Community Plan 2012-2022, in accordance with the timeline shown on table 1 and 2 in the Te Atatu Road and Lincoln Road Corridor Improvements report.

## BACKGROUND

### Corridor studies

1. In 2003 Council commissioned a number of corridor studies dealing with all major arterial roads in the City. The studies for Te Atatu Road corridor and Lincoln Road corridor have identified a number of safety and operational issues that will need to be addressed by significant upgrade works.
2. The section of Te Atatu Road that was identified as needing upgrading was between Edmonton Road and Old Te Atatu Road (including all side road approaches), traversing the motorway interchange, together with the section of Edmonton Road between School Road and Te Atatu Road. In 2007 the Old Te Atatu Road intersection was signalised and the project length was reduced in the north to Titoki Street.
3. The section of Lincoln Road that was identified as needing upgrading was between Pomaria Road and the motorway interchange (including all side road approaches). In 2008 the intersection of Universal Drive and Lincoln Road was upgraded as part of the Universal Drive extension project.
4. Concept design work and feasibility analysis (including an initial economic evaluation) were completed in 2006 and 2008 for Te Atatu Road and Lincoln Road respectively. This further work examined possible design options and the economic viability of the project to secure New Zealand Transport Agency (NZTA) subsidy, and some rough order of costs for both corridor projects.
5. The City Development Committee considered options and the preferred design for Te Atatu Road Corridor Improvements project at its meetings on 7 December 2006 and 5 April 2007. Workshops with Councillors, Community Board members and Council staff resulted in a direction to Council staff concerning a preferred option for further design.
6. Building on the previous work, Council commissioned the concept design stage of the Te Atatu road corridor in 2008. This stage of work included the following:
  - detailed topographical survey of the road reserve and front yards of properties along the corridor;
  - identification of all services overhead and underground by means of pilot trenches;
  - updated traffic turning counts at all intersections including the supermarket's access points at the Edmonton Road / Te Atatu Road intersection;

- all technical assessments, such as stormwater assessment, geotechnical investigation / structural analysis, pavement evaluation, shrubs and trees examination, etc;
  - preparation of a bus / high occupancy vehicle lane feasibility study;
  - land acquisition and redevelopment assessment including the potential for urban design improvements in the vicinity of Te Atatu Road / Edmonton Road intersection;
  - identifying ways in which transport safety and efficiency could be improved while providing for commercial and private vehicles, buses, cyclists and pedestrians; and
  - detailed concept design level drawings of the most economically viable and cost effective option for meeting the project's aims and objectives.
7. In the process of developing the LTCCP 2009-2019, the budget for construction of Te Atatu Road and Lincoln Road Corridor Improvements projects was cut from the LTCCP. The cut was made due to the uncertainty regarding the timing of NZTA's upgrade of the Te Atatu and Lincoln interchanges and to ensure that the Council kept within its borrowing limits for its total capital expenditure programme.
8. The Annual Plan 2010/2011 allocated \$500,000 and \$250,000 respectively for both Te Atatu Road and Lincoln Road corridor projects for further design and consultation works.

### **Motorway Interchanges**

9. In 2008 the NZTA completed its concept design of ramp metering at Te Atatu and Lincoln motorway interchanges. The design was reviewed by the Council at the time and a protocol was put in place to protect the City's, as well as NZTA's, interests. The ramp metering project was implemented in mid 2009.
10. Council officers and NZTA personnel discussed Te Atatu Road and Lincoln Road corridor concept designs on a number of occasions throughout 2008, 2009 and early this year. Both parties exchanged concept designs of their respective projects to achieve full design integration with proposed upgrades of the motorway interchanges.
11. Recently NZTA announced its intention to upgrade the motorway overbridge at Te Atatu Road and Lincoln Road to include three lanes in each direction. These two upgrades are proposed to be carried out in conjunction with widening of the north western motorway as an integral part of the Western Ring Road project. NZTA is currently in the process of applying for consents in relation to both interchanges:
- Lincoln Interchange: Notice of Requirement and resource consents have been lodged, funding has been approved and construction is scheduled to commence in December 2010 and to be completed by 2012; and
  - Te Atatu Interchange: Notice of Requirement has been lodged, funding has been approved and construction is estimated to commence in 2011/2012 and to be completed by 2015/2016.

## **DECISION MAKING**

### **Issues**

12. In order to provide clarity about the Council's preferred option for the next design stage, it is appropriate for the Council to decide its preferred option for the Te Atatu Road and Lincoln Road Corridor Improvements projects.

### Te Atatu Road

13. The options for the Te Atatu Road Corridor Improvement project were as set out in the Scheme Assessment report as reported to the City Development Committee in December 2006. At the April 2007 meeting, the preferred option arising from workshops with Councillors was reported as follows:
- The overall objective of the project is to “Address safety issues in the corridor and provide for multi-modal use of the corridor including high occupancy vehicle priority in the morning peak”.
  - Any alterations to the Te Atatu Road Corridor should be a catalyst for change in the right direction and the benefits should outweigh the costs.
  - Options should be assessed based on a quadruple bottom line assessment of costs and benefits.
  - A traffic signal controlled intersection at Edmonton Road / Te Atatu Road is preferred, rather than an enlarged roundabout.
  - A painted median is preferred, rather than a solid median.
  - Traffic signals at the westbound motorway off-ramp are preferred, rather than the current give way arrangement.
  - Safe provision for cyclists should be provided on both sides of Te Atatu Road.
  - Further analysis is required in relation to a separate cycle lane, a widened lane that is shared by traffic and cyclists, or a widened footpath shared by pedestrians and cyclists.
  - A bus / high occupancy vehicle lane on the western side of Te Atatu Road should be included as an option for consultation as this is consistent with the strategic direction of the Waitakere City Transport Strategy.
  - Consideration should be given to future proofing long term options. If land acquisition is required then sufficient land should be acquired in order to secure land for long term requirements.
14. Subsequent workshops with Councillors and Community Board members resulted in the resolution of a preferred option which resolved some of the issues noted above regarding the cycle way and a general cross section was agreed to be used for the next stage of design. The preferred option cross section was:
- a 2.4 metre footpath on the west side of Te Atatu Road and a 1.5 metre footpath on the east side;
  - berms on both sides include the 0.7 metre service strip along the boundaries and 2.0 metre planting strips along the kerb;
  - a 1.5 metre on-road cycle lane on both sides of Te Atatu Road;
  - two traffic lanes in each direction, with special treatment at intersections for bus advance and right turn lanes; and
  - one traffic lane would be used by buses and high occupancy vehicles in the morning peak hours in the approach from Te Atatu South to the interchange.
15. The recent update to the Council’s Code of Practice requires the footpath width on the east side to be 1.8 metres. This requirement would be part of the preferred option.

### Lincoln Road

16. The Lincoln Road Corridor Scheme Assessment Report dated April 2008 identified four options in relation to the upgrade of Lincoln Road corridor. These options are summarised below:

- Option 1 – widening for bus advance at the intersections from Te Pai Place to the motorway interchange, cycle lanes along the length of Lincoln Road, and retention of existing traffic lanes and flush median;
  - Option 2 – proposals as per option 1, but converting a traffic lane to a bus lane in each direction between Te Pai Place and Triangle Road; and
  - Option 3 – proposals as per option 1, but widening to provide for bus lanes in each direction between Te Pai Place and Triangle Road;
  - Option 4 – a bus lane option which relied on a new overbridge across State Highway 16 and closure of the link from the Concourse to Lincoln Road. (option 4 has been discarded because it is precluded by NZTA's proposed upgrade of the Lincoln Road motorway interchange).
17. Council officers have an agreed preference for option 3 based on the analysis in the scheme assessment report, an assessment of effects, strategic impacts and benefits, impacts on land purchase and proposed land use, cost and affordability. The key effects identified by officers include:
- safety impacts;
  - traffic impacts and capacity to efficiently move people and goods;
  - provision for pedestrians, cyclists, motor bikes, motor vehicles, buses, emergency vehicles, and trucks;
  - interface and connections with the proposed upgrade of Lincoln Road motorway interchange;
  - effects on adjacent land owners and occupants;
  - effects on planned land use along the Lincoln Road corridor;
  - environmental effects;
  - social effects;
  - economic effects; and
  - cultural and heritage effects.
18. The section of Lincoln Road between Te Pai Place and Great North Road was not identified for bus lanes primarily due to the reduced volume of traffic and traffic congestion. The Auckland Regional Transport Authority is currently investigating the plan for a quality transit service or a rapid transit service between Henderson and Albany, which would include Lincoln Road in the route. The results of that investigation need to be taken into account in the next design phase and may result in options being explored for the section of Lincoln Road between Te Pai Place and Great North Road.

#### **Preferred concepts**

19. The preferred concept designs for Te Atatu Road and Lincoln Road complement the NZTA's planned upgrades of Te Atatu Road and Lincoln Road motorway interchanges in many aspects. Generally both projects work together to provide a well connected arterial corridor to the motorway system with adequate provisions for priority traffic (heavy vehicles and buses) at the motorway interchanges.
20. Both concepts allow for additional capacity for movement of goods and people at the motorway interchange with upgrades dealing with safety along the remaining sections of the corridor.
21. NZTA is starting the physical works to upgrade the Lincoln Road interchange late 2010, which is expected to take two years for construction. Since the close proximity of the Lincoln Road / Central Park Drive / Triangle Road intersection to this work, it is very important that the Auckland Council allocates a budget to upgrade this intersection at the same time as the motorway interchange construction.

### Deferring and / or Staging the Project

22. As noted above NZTA has developed a design for the Te Atatu Road and Lincoln Road motorway interchanges. NZTA's designs incorporate the Council officers' preferred corridors concept designs. For example, the Te Atatu Road motorway interchange allows for substantial widening on the south side of the interchange. Council officers are of the view that the Te Atatu Road and Lincoln Road Corridor Improvement projects should be programmed to be implemented at the same as the NZTA's interchange projects, which is expected to be between 2010 and 2016.
23. The following are the general risks associated with delaying or deferring the project beyond the 2015/2016 period:
- NZTA's project will require substantial widening on both sides of the motorway interchanges. There would be significant cost implications (and operational difficulties) if the southern section of these two corridors are not completed at the same time;
  - problems associated with the Edmonton Road roundabout, lack of appropriate turning facility at Covil Avenue, and Triangle / Central Park intersection, will continue to create gridlocks during most periods not allowing NZTA's motorway interchange upgrades to realise all expected benefits;
  - the south-bound bottleneck in the afternoon / evening peak at the Edmonton Road roundabout and Pomaria Road will continue to overspill onto the west-bound motorway off-ramp; and
  - the issues of the high accident rate and lack of adequate turning facilities for private accesses will not be resolved or addressed.

### Timeline

24. It is recommended that the following timetable be adopted:

#### Te Atatu Road Corridor Improvement project

- complete all external consultation (open days, letter drops, newspaper ads, etc.) and detailed design by June 2011;
- commence the process of land acquisition in July 2011 following Council's approval; the full extent of this process may take up to two or three years;
- complete / update the scheme assessment report and economic evaluation for category one funding application to NZTA by the end of 2012;
- depending on the how much land has been acquired and resolution of consenting issues, commence the construction stage in the 2013/2014 in conjunction with the NZTA project with preparation works (services and off-road works) in 2012/2013;
- Lincoln Road Corridor Improvement project
- complete concept design, and consult with internal officers and Elected members by June 2011;
- provide contribution to NZTA's physical works contract to cover the upgrade of Lincoln Road / Central Park Drive / Triangle Road intersection by July 2011;
- complete all external consultation (open days, letter drops, newspaper ads, etc.) and detail design by June 2012;
- commence the process of land acquisition in July 2012 following Council's approval; the full extent of this process may take up to two or three years;
- complete / update the scheme assessment report and economic evaluation for category one funding application to NZTA by the end of 2013; and

- depending on the how much land has been acquired and resolution of consenting issues, commence the construction stage in the 2014/2015 in conjunction with the NZTA project with preparation works (services and off-road works) in 2013/2014.

## STRATEGIC CONTEXT

25. Council's Transport Strategy provides the strategic context for this report. The vision is for a sustainable multi-modal transport system that is integrated with land use and contributes to Waitakere as an eco city. The Transport Strategy identified the need to upgrade the arterial road corridors to provide multi-modal transport which is integrated with the land use of the corridor and the city.
26. The proposed schemes are intended to provide a fully integrated system that caters for all road users (cars, trucks, buses, cyclists and pedestrians) and supports the proposed intensification of land use along the Te Atatu Road and Lincoln Road corridors. The proposed Henderson-Lincoln Corridor Framework Plan provides guidance about the mix of land uses planned along the Lincoln Corridor. Opportunities for intensification along Te Atatu Road have also been identified.
27. The proposed schemes are consistent with the requirements of regional plans and strategies (including the Regional Growth Strategy, Regional Land Transport Strategy, the Regional Arterial Road Plan, the Regional Public Transport Plan, the Regional Freight Strategy, the Regional Road Safety Plan and the Sustainable Transport Plan) in terms of providing for the different transport functions and appropriate sense of place.

## CONSULTATION

28. A number of external workshops were held in 2008 to develop the concept designs for Te Atatu Road and Lincoln Road. However attendance was limited to Council personnel (Urban Planning and Design, EcoWater and Transport Strategy), NZTA, Auckland Regional Transport Authority, and Auckland Regional Council. All parties have contributed to the development of the concept design and all have accepted the adopted preliminary scheme as the most viable. Community Boards and Councillors have been kept informed during the development of options. The next design stage would provide opportunity for public input as the preferred options are developed.

## RESOURCES

29. The Annual Plan 2010/2011 allocated \$500,000 and \$250,000 respectively for both Te Atatu Road and Lincoln Road corridors projects for further design and consultation works. However, the LTCCP does not provide for implementation of these projects. The Auckland Council would need to include implementation costs in its Annual Plan 2011/2012 or LTCCP 2012-2022 in order for these projects to be constructed.
30. The following are the expected cost estimates (all values in table are in millions and include contingencies and fees):

|                      | 2010/2011    | 2011/2012             | 2012/2013              | 2013/2014             | Total                   |
|----------------------|--------------|-----------------------|------------------------|-----------------------|-------------------------|
| Land acquisition     | -            | \$3.5 to \$4.4        | \$4.4 to \$5.5         | \$0.9 to \$1.1        | <b>\$8.8 to \$11.0</b>  |
| Construction costs   | \$0.5        | \$0.5                 | \$2.0 to \$2.8         | \$4.7 to \$6.4        | <b>\$7.7 to \$10.2</b>  |
| Services relocation  | -            | -                     | \$1.7 to \$2.7         | -                     | <b>\$1.7 to \$ 2.7</b>  |
| <b>Project total</b> | <b>\$0.5</b> | <b>\$4.0 to \$4.9</b> | <b>\$8.1 to \$11.0</b> | <b>\$5.6 to \$7.5</b> | <b>\$18.2 to \$23.9</b> |

**Table 1: Te Atatu Road Corridor Improvement project**

|                      | 2010/2011     | 2011/2012             | 2012/2013             | 2013/2014             | Total                    |
|----------------------|---------------|-----------------------|-----------------------|-----------------------|--------------------------|
| Land acquisition     | -             | -                     | \$1.5 to \$2.0        | \$0.5 to \$1.5        | <b>\$2.0 to \$3.5</b>    |
| Construction costs   | \$0.25        | \$1.1 to \$1.6        | \$1.5 to \$2.5        | \$6.0 to \$7.5        | <b>\$8.85 to \$11.6</b>  |
| Services relocation  | -             | -                     | \$1.0 to \$1.5        | -                     | <b>\$1.0 to \$1.5</b>    |
| <b>Project total</b> | <b>\$0.25</b> | <b>\$1.1 to \$1.6</b> | <b>\$4.0 to \$6.0</b> | <b>\$6.5 to \$9.0</b> | <b>\$11.85 to \$16.6</b> |

**Table 2: Lincoln Road Corridor Improvement project**

31. The construction costs include costs of design, consultation, consents, construction and associated land acquisition. These estimates still need to be refined further once detailed design of the preferred option is completed.

#### **IMPLEMENTATION ISSUES**

32. Public consultation will need to take various forms to ensure the public is fully informed of these two projects. Due to the significant amount of land acquisition required, Council officers anticipate a lengthy consultation process.
33. Land acquisition and appeal processes may be lengthy and could potentially affect the implementation timeframe if Council resolves to upgrade the corridor to coincide with NZTA's works.
34. Following the formation of the Auckland Council, there is an opportunity to prioritise these two projects to take into account the upgrade of the interchanges and the Auckland Council's transport priorities.

#### **AUCKLAND COUNCIL TRANSITION ISSUES**

35. 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 of capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation, or have a significant impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.
36. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 section 31(4)(b) imposes restrictions on Waitakere City Council's decision making capabilities in respect of a decision to adopt or amend a long-term council community plan or to adopt an annual plan. These restrictions do not apply for the purposes of this report, because the Council is not proposing an amendment to its Annual Plan 2011/2012 or LTCCP 2012-2022.

**Report prepared by:** Hussam Abdul-Rassol, Manager, Transport Services.



20 **PURCHASE OF LAND FOR STORMWATER MANAGEMENT PURPOSES – 2 KEDGLEY DRIVE**

**GLOSSARY**

|                                  |         |
|----------------------------------|---------|
| Cannuck Holdings Limited         | (CHL)   |
| Infrastructure Funding Agreement | (IFA)   |
| Long Term Council Community Plan | (LTCCP) |
| NZRP Management Limited          | (NZRPG) |
| Plan change 15                   | (PC 15) |

**EXECUTIVE SUMMARY**

A29 Authority is sought to purchase part of the property at 2 Kedgley Drive (Lot 6 on deposited plan 96884, certificate of title NA52C/1142) under the Public Works Act 1981 for stormwater management purposes. The land in question is approximately 8,500 square metres in area, subject to final survey, and is the land marked "riparian margin" (coloured green), "reserve beyond riparian margin" (coloured orange) and "development area to become ecological open space" (coloured purple) on the plan attached to this report at page A29.

**RECOMMENDATIONS**

It is recommended that the Council resolve to:

1. **Receive** the Purchase of Land for Stormwater Management Purposes - 2 Kedgley Drive report.
- A29 2. **Agree**, subject to resolution 4 below, to purchase under the Public Works Act 1981, for stormwater management purposes, that part of the property at 2 Kedgley Drive (Lot 6 on deposited plan 96884, certificate of title NA52C/1142) containing approximately 8,500 square metres, subject to final survey, and is the marked "riparian margin" (coloured green), "reserve beyond riparian margin" (coloured orange) and "development area to become ecological open space" (coloured purple) on the plan attached to this report at page A29.
3. **Agree** to delegate to the Chief Executive Officer full authority:
  - to negotiate the purchase of the land at a price recommended by registered valuer employed by the Council; and
  - to issue a notice under s 18 of the Public Works Act 1981, and to issue a notice under s 23 of the Public Works Act 1981, should either action become necessary.
4. **Note** that resolution 2 requires confirmation from Auckland Transition Agency in accordance with the Local Government (Tamaki Makaurau Reorganisation) Act 2009.

**BACKGROUND**

1. Plan change 15 (PC 15) identifies those areas required within the PC 15 area for stormwater management purposes. The purchase of land for these purposes is significantly advanced with agreements having been concluded, or at the last stage of negotiation, with the owners on both sides of Northside Drive and extending down to the south through the Garelja family land holdings and land owned by Cannuck Holdings Limited (CHL) and/or Kedgley Investments Limited.

- A30
2. At the time that it was recommended to Council that it enter into an Infrastructure Funding Agreement (IFA) with CHL. The report identified that under the IFA the land being acquired for stormwater management purposes did not include the horseshoe shaped area land shown coloured green on the Massey North Urban Concept plan, copy attached at page A30, at the northern end of the land owned by CHL and above precinct B, for two reasons:
- (a) part of the land, beside the motorway corridor, was land owned by the Crown for state highway purposes; and
- A29
- (b) while the balance of the land was owned by CHL, it had lodged an appeal against the PC 15 decision in so far as it related to the boundaries of the land required for stormwater management purposes in this location. That appeal has now been resolved by negotiation page A29.
3. The land in question is required by the Council for stormwater management purposes as an integral part of the Integrated Catchment Management Plan for the PC 15 area. It will be necessary to seek a variation to the existing consent for the integrated catchment plan but this is not considered to be likely to cause difficulty. This process may result in some adjustment (plus and/or minus) to the boundaries of the land to be acquired but the land take agreements will be negotiated on the basis that such adjustment (if any) can occur when required.

#### **DECISION MAKING**

4. Options - There are no practical alternative options to the purchase of this land. The on-site management of stormwater in accordance with the integrated catchment management plan is an important part of the overall planning of PC 15 and the achievement of sustainability objectives.
5. Community views and preferences and consultation - There has been extensive consultation with the community over the course of the development and approval of PC 15. There has been wide public participation through Council consultation initiatives and through public participation under the Resource Management Act 1991. It is considered that the Council is fully informed as to the community's views and preferences and that no your further consultation is required.
6. Significance and consistency with decisions - The decision to purchase this land is consistent with the Long Term Council Community Plan (LTCCP) and the Council's development contributions policy. It is considered that the provision made in the LTCCP for the purchase of land for stormwater management purposes will be more than adequate to cover the negotiated price for this land, determined in accordance with valuation advice from a registered valuer. The purchase price of this land will not be "significant" in terms of the Council significance policy. Accordingly the need for full compliance with the decision-making requirements of s 77 and s 78 of the Local Government Act 2002 is accordingly reduced.

#### **STRATEGIC CONTEXT**

7. The successful implementation of PC 15, and the development of a new town centre at Massey North to be developed as a sub-regional centre, is an important element of this Council's long-term sustainable growth strategy. The effective and sustainable management of stormwater is an integral element in the planning of the new town centre.

## RESOURCES

8. There are no resources arising out of this report. Provision to purchase the stormwater management land required for the integrated catchment plan within PC 15 is included in the LTCCP and will be recovered through development contributions under the Council's development contributions policy.

## IMPLEMENTATION ISSUES

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

## AUCKLAND COUNCIL TRANSITION ISSUES

10. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on the Council's decision making capabilities in respect of decisions which have been notified to the Council by the Auckland Transition Agency under s 20 of that Act as requiring confirmation. One of the notifications given to the Council by Auckland transition agency relates to the purchase of land within the wider Northern Strategic Growth area, of which PC 15 as part, and accordingly confirmation is required.

**Report prepared by:** Denis Sheard, Legal Services Manager.



## 21 NORSGA TRANSPOWER LINE DEVIATION AGREEMENT

### GLOSSARY

|                                   |          |
|-----------------------------------|----------|
| Northern Strategic Growth Area    | (NorSGA) |
| Line Deviation Agreement          | (LDA)    |
| New Zealand Retail Property Group | (NZRPG)  |
| Infrastructure Funding Agreement  | (IFA)    |

### EXECUTIVE SUMMARY

The purpose of this report is to seek approval from Council to enter into a Line Deviation Agreement (LDA) with the State Owned Enterprise, Transpower, to effect the undergrounding of the 110kV overhead transmission line which runs the length of PC15 notably that section between Transpower's towers 6 and 12.

Undergrounding of the transmission lines is essential to the development of PC15 as outlined in the Infrastructure Funding Agreement (IFA) between Council and Cannuck Holdings Limited and New Zealand Retail Property Group (NZRPG).

Urgency around formalising this LDA is related to the need for Transpower to initiate its procurement process to secure off-shore supply of cable and complete the physical works by the end of the 2011/2012 construction season.

### RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the NorSGA Transpower Line Deviation Agreement report.

2. **Agree**, subject to resolution 3 below, to delegate authority the Chief Executive Officer to enter into the Line Deviation Agreement (LDA) with Transpower to effect the undergrounding of the existing overhead lines through the PC15.area.
3. **Note** that resolution 2 above is subject to confirmation by the Auckland Transition Agency.

### BACKGROUND

1. Transpower has a 110kV overhead transmission line which runs the length of PC15. The section between towers 6 and 12 is required to be replaced with an underground line to enable the development of the new town centre, and associated developments, within the Massey North Town Centre known as PC15.
- A31-A67 2. To effect the undergrounding, a Line Deviation Agreement (LDA) is required between Council and Transpower which effectively establishes the authorisation and accountabilities to enable undergrounding of this cable to occur. The draft LDA is attached at pages A31 to A67
3. The estimated cost of this work is \$17.5 million with Council's portion to be approximately \$6.125 million and the balance of \$11.375 million to be borne by NZRPG under the Council / NZRPG cost share agreement.

### ISSUES

4. There is little or no benefit to Transpower from the undergrounding of its lines. Therefore, all construction costs incurred by Transpower, including its own internal costs, are reimbursable by Council as these costs are incurred.
5. To enable the undergrounding to take place in a compressed timeframe and in stages which fit in with the other development works in PC15, such as road construction, it is necessary to engage Transpower to carry out the undergrounding before all necessary design work has been completed and before the market has been tested for ducting and cable supply and installation.
6. The LDA has been drafted by Simpson Grierson to provide sufficient mitigation of risks associated with entering into an agreement with Transpower prior to design and cost establishment. This includes Council's involvement in project scope, budget establishment and procurement policy.

### STRATEGIC CONTEXT

7. The undergrounding of the 110kV transmission cable is essential to the successful implementation and completion of the PC15 component of the NorSGA project.

### CONSULTATION

8. Consultation has been undertaken with Te Kawerau a Maki and Ngati Whatua o Orakei as Iwi; representatives of NZRPG; Council's Legal Services, Finance and Strategy units.

### RESOURCES

9. The Long Term Council Community Plan 2009-2019 has sufficient budget for the cost contribution that is required of Council to effect the undergrounding of the Transpower transmission cable.
10. A NorSGA financial update is to be presented to Council on 6 October 2010.

## IMPLEMENTATION ISSUES

11. It is essential that this LDA with Transpower is concluded with urgency to enable the procurement of necessary cabling and the negotiation of physical works contracts by Transpower to ensure completion by the end of the 2011/2012 construction season.

## AUCKLAND COUNCIL TRANSITION ISSUES

12. Section 31(4)(i) of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on Waitakere City Council's decision making capabilities in respect of a decision to enter into any contract —
  - (i) *that imposes, or will continue to impose, any obligation on the existing local authority after 30 June 2011; and*
  - (ii) *the consideration for which is, or is equivalent to, \$20,000 or more.*
13. Therefore, confirmation from the Auckland Transition Agency will be required in relation to execution of the Line Deviation Agreement with Transpower.

**Report prepared by:** Mark Abbot, Acting Group Manager: Assets.

Vijaya Vaidyanath  
**CHIEF EXECUTIVE OFFICER**



## **PART E - REPORTS FROM THE STANDING COMMITTEES**

### **22 INFRASTRUCTURE AND WORKS COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON WEDNESDAY, 1 SEPTEMBER 2010.**

#### **1. CERAMCO PARK - CLASSIFICATION AS RECREATION RESERVE UNDER SECTION 16(2A) RESERVES ACT 1977**

**Agree** that Lot 1 DP 35583, and Lot 3-4 DP 93761 contained in certificate of title NA58B/145 and Lot 1 DP 93760 contained in certificate of title NA55B/647 and Lot 2 DP 93760 and Lot 30 DP 87058 be classified under section 16(2A) of the Reserves Act 1977 to be held for the purposes of a recreation reserve as defined by section 17 of the Reserves Act 1977, and that the Department of Conservation be notified of this classification pursuant to Section 16 (2B) of the Reserves Act 1977.

#### **2. PIHA RATEPAYERS AND RESIDENTS ASSOCIATION INCORPORATED - NEW LEASE AT PIHA DOMAIN AND CLASSIFICATION OF LAND**

**Agree** that the land as surveyed described as Part Lot 1 DP 31269 and Part Lot 71 DP 25709 for the location of the Piha Post Office on Piha Domain be classified under section 16(2A) of the Reserves Act 1977 to be held for the purposes of a local purpose (community buildings) reserve as defined by section 23 of the Act.

3. **PIHA DOMAIN MOTOR CAMP - NEW LEASE TO FIONA ANDERSON AND CLASSIFICATION OF LAND**

**Agree** that the portion of the land described as Part Piha Block, DP 24231, Part Lot 71, DP 25709 and Part Lots 1 and 2 DP 31269 at Piha Domain be classified under section 16(2A) of the Reserves Act 1977 to be held for the purposes of a recreation reserve as defined by section 17 of the Act.

4. **OTHER MATTERS CONSIDERED**

*Pages 1-16  
Part E  
Part H*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 1 to 16 in the supplement labelled Part E. The public excluded minutes are attached to the confidential supplement labelled Part H.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Infrastructure and Works Committee held on Wednesday, 1 September 2010.

DQ Battersby, QSM, JP

**CHAIRMAN**



23 **POLICY AND STRATEGY COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 2 SEPTEMBER 2010.**

**MATTERS CONSIDERED**

*Pages 17-22  
Part E*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 17 to 22 in the supplement labelled Part E.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Policy and Strategy Committee held on Thursday, 2 September 2010.

PA Hulse  
**CHAIRMAN**



24 **FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 6 SEPTEMBER 2010.**

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**MATTERS CONSIDERED**

*Pages 23-39  
Part E  
Part H*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 23 to 39 in the supplement labelled Part E. The public excluded minutes are attached to the confidential supplement labelled Part H.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Finance and Operational Performance Committee held on Monday, 6 September 2010.

RI Clow  
**CHAIRMAN**



25 **PLANNING AND REGULATORY COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 7 SEPTEMBER 2010.**

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**MATTERS CONSIDERED**

*Pages 40-45  
Part E  
Part H*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 40 to 45 in the supplement labelled Part E. The public excluded minutes are attached to the confidential supplement labelled Part H.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Planning and Regulatory Committee held on Tuesday, 7 September 2010.

VS Neeson, JP  
**CHAIRMAN**



26 **CULTURE AND COMMUNITY COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON WEDNESDAY, 8 SEPTEMBER 2010.**

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**MATTERS CONSIDERED**

*Pages 46-49  
Part E*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 46 to 49 in the supplement labelled Part E.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of the Culture and Community Committee held on Wednesday, 8 September 2010.

JP Lawley, JP  
**CHAIRMAN**



27 **TE TAUMATA RUNANGA**

**I NOHO TE TAUMATA RUNANGA KOMITI A TE MANE RUA TEKAU O MAHURU 2010.**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 20 SEPTEMBER 2010.**

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**MATTERS CONSIDERED**

*Pages 50-53  
Part E*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 50 to 53 in the supplement labelled Part E.

**NGA TAKE E WHIRIWHIRIA**

E whakatau ana Te Taumata Runanga i nga take i whakamanangia i te ture he whakaahua o nga tuhi kua tonoa ki nga mema o te Kaunihera.

**It is recommended that the Council resolve to:**

**Receive** the report of the meeting of Te Taumata Runanga held on Monday, 20 September 2010.

W Paki, JP  
**CHAIRMAN**



## **PART F - PRESENTATIONS**

These presentations will take place at 7.00 pm

### **28 COUNCILLORS' VALEDICTORY SPEECHES**

Current serving Waitakere City Councillors will be invited to give a four-minute valedictory speech.



### **29 CERTIFICATES**

The Mayor, on behalf of the Mayor of Kakogawa and the city of Kakogawa will present letters of honour to Sharon Simiona, Rewi Spraggon and Tracy Haggo in recognition of their long standing work with Waitakere's sister city in Japan, Kakogawa.



### **30 REMOVAL OF COUNCIL CREST**



### **31 FORMAL HANDOVER OF COUNCIL CHAMBERS AND WAITAKERE CENTRAL TO AUCKLAND TRANSPORT**

The Mayor and Deputy Mayor will undertake a symbolic handing over of the Council Chambers to the Auckland Transport Agency Interim Chief Executive, Dr David Warburton and Auckland Transport Agency Chairman, Mr Mark Ford.



### **32 FORMAL HANDOVER OF THE TREATY OF WAITANGI / TE TIRITI O WAITANGI TO DOUG MCKAY AND AUCKLAND COUNCIL**

Upon the occasion of the opening of Waitakere Central, Mayor Bob Harvey proclaimed that a copy of Te Tiriti o Waitangi will hang in the Council Chambers so long as he was Mayor of Waitakere.

At this final meeting of Waitakere City Council, the Mayor will remove the Treaty from the wall and gift it to the Interim Chief Executive of the Auckland Council, Mr Doug McKay, for display in the Auckland Council Chambers.



**PART G - PROCEDURAL MATTERS**

**33 QUESTIONS**

Pursuant to Standing Order 39.2, any member of the local authority may at any meeting of the local authority at the appointed time, put a question to the Mayor as Chairman of the local authority, or through the Mayor to the Chairman of any standing or special committee, or to any officer of the local authority concerning any matter relevant to the role or functions of the local authority concerning any matter that does not appear on the order paper, nor arises from any committee report or recommendation submitted to that meeting.



**34 NOTICES OF MOTION**

Pursuant to Standing Order 28.1, notices of motion shall be in writing by the mover, stating the meeting at which it is proposed that the notice of motion be considered, and shall be delivered to the Chief Executive Officer at least five clear days before such meeting.



**PART H - PUBLIC EXCLUDED MATTERS**

**35 CROWN LYNN DEVELOPMENT ZONE UPDATE**

**36 NEW RANUI LIBRARY**

**37 ACQUISITION OF LAND FOR ROAD – 17 – 23 STATE HIGHWAY 16**

**38 ACQUISITION OF LAND FOR ROAD – 63 - 71 STATE HIGHWAY 16**

**39 PRESENTATION - BRISBANE FACT FINDING TRIP**

These items will be considered in the confidential supplement of the agenda, and have 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, Crown Lynn Development Zone Update, New Ranui Library, Acquisition of Land for Road – 17-23 State Highway 16, Acquisition of Land for Road – 63-71 State Highway 16 and Presentation - Brisbane Fact Finding Trip.

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

| General subject of the matter to be considered. | Reason for passing this resolution in relation to the matter.   | Ground(s) under Section 48(1)(a) for the passing of this resolution.   |
|---|---|--|
| Crown Lynn Development Zone Update              | The withholding of information is necessary in order to: 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 matter to be considered.         | Reason for passing this resolution in relation to the matter.  | Ground(s) under Section 48(1)(a) for the passing of this resolution.   |
|---|--|--|
| New Ranui Library                                       | The withholding of information is necessary in order to:<br>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. |
| Acquisition of Land for Road – 17 – 23 State Highway 16 | The withholding of information is necessary in order to:<br>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. |
| Acquisition of Land for Road – 63 - 71 State Highway 16 | The withholding of information is necessary in order to:<br>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. |
| Presentation - Brisbane Fact Finding Trip               | The withholding of information is necessary in order to:<br><ul style="list-style-type: none"> <li>• enable any local authority holding the information to carry on without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li> </ul> | 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:

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



40 **CLOSING PRAYER**

