



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE

I hereby give notice that a meeting of the Finance and Operational Performance Committee will be held on:-

DATE: Monday, 10 November 2008 **TIME:** 9.30 am

MEETING ROOM: Council Chamber

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

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

7 November 2008

Carmen Fernandes
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8887

MEMBERSHIP:

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

Mayor RA Harvey, QSO, JP (ex officio)

(Quorum 5 members)

★★★★★★★★★★

(Meeting Room could be subject to change)

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

**AGENDA FOR A MEETING OF THE FINANCE AND OPERATIONAL PERFORMANCE
COMMITTEE TO BE HELD IN THE COUNCIL CHAMBER AT WAITAKERE CENTRAL,
6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON
MONDAY, 10 NOVEMBER 2008, COMMENCING AT 9.30 AM**

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AGENDA FOR A MEETING OF THE FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE TO BE HELD IN THE COUNCIL CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON MONDAY, 10 NOVEMBER 2008, COMMENCING AT 9.30 AM

PART A - OPENING OF MEETING

1 APOLOGIES



2 URGENT BUSINESS

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

- (i) the Committee 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 Committee may make a decision on a matter determined to be urgent.

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



3 CONFLICTS OF INTEREST

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



4 CONFIRMATION OF MINUTES

Meeting Minutes - Monday, 6 October 2008
Extraordinary Meeting Minutes - Wednesday, 15 October 2008

RECOMMENDATION

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the minutes of the meeting of the Finance and Operational Performance Committee held on Monday, 6 October 2008 and the extraordinary meeting held on Wednesday, 15 October 2008, as circulated, and that they be taken as read and now be confirmed.



PART B - PRESENTATION

5 PRESENTATION ON THE ANNUAL REPORT FOR THE YEAR ENDED 30 JUNE 2008

The Council's Annual Report for the year ended 30 June 2008 was adopted at the Council meeting held on 29 October 2008.

Due to time constraints at the Council meeting, a presentation on aspects of the Annual Report was unable to be given. The Chairman of the Finance and Operational Performance Committee has requested that the presentation be given at this meeting by the Director: Finance. The Annual Report was given an unqualified audit opinion from Audit New Zealand.

The Annual Report was circulated as part of the Council agenda. There will be copies available at the meeting.



PART C - LEGAL AND CONSTITUTIONAL

6 AFFIXATION OF COMMON SEAL

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Affixation of Common Seal report.
2. **Agree** that the action taken in affixing the Common Seal on the documents as set out in the agenda report be adopted.

EXECUTION OF DOCUMENTS: 1 – 31 October 2008

Nº	NAME	PARTICULARS
4568	WCC – CD Grubb	Drainage easement in gross – Certificate of Title 398388 – 25 East Glen Road, Glen Eden – RMA20071406
4569	WCC – Auckland Landscaping Services Limited	Fencing Agreement – Certificate of Title 405587 – 572 Swanson Road, Swanson – RMA20061005
4570	WCC – NA Fistonich, V King and Kumeu Taxation Trustee Company Limited	Fencing Agreement – Certificate of Title 405586 – 572 Swanson Road, Swanson – RMA20061005
4571	WCC – Waikumete Chapel Restoration Board Incorporated	Deed of Surrender of Lease – part Waikumete Cemetery
4572	WCC – Waitakere City Stadium Trust and Vodafone New Zealand Limited	Consent to sublease of part of Stadium to Vodafone – resolution 1063/2002
4573	WCC – Waitakere Abuse and Trauma Counselling Service Incorporated	Deed of Lease – resolution 633/2007 – in duplicate
4574	WCC – Kaurilands Community Kindergarten Incorporated	Deed of Lease – resolution 3842/2007 – in duplicate

Nº	NAME	PARTICULARS
4575	WCC – EG and BL May	Memorandum of Encumbrance – 894 West Coast Road
4576	WCC – Enviro Holdings Limited	Fencing Agreement – Certificates of Title 265450 and 265451 – 20 Waione Avenue, Te Atatu – RMA 20050491
4577	WCC – Khema Limited	Drainage easement in gross – Certificates of Title 412248 to 412250 – 58, 60, 62 and 64 Mili Way South, Ranui – RMA2007382
4578	WCC – JW & KP Bishop	Drainage easement in gross – Certificates of Title 409943 and 409944 – 19 Matama Road, Glen Eden – RMA20071361
4579	WCC – Neon Limited	Drainage easement in gross – Certificates of Title 403652, 403653 and 403629 – 102A Royal Road, Massey – RMA20041673
4580	WCC – Neon Limited	Water supply easement in gross – Certificates of Title 403657 to 403665 – 102A Royal Road, Massey – RMA20041673
4581	WCC – Neon Limited	Information Communications Technology easement in gross – Certificates of Title 403657 to 403665, 403667 and 403668, 403670 to 403672 – 102A Royal Road, Massey – RMA20041673
4582	WCC – Neon Limited	Fencing Agreement – Certificate of Title 403641 – 102A Royal Road, Massey – RMA20041673
4583	WCC – Denis Dinneen	Transfer of Section 6 SO.404422 – Part 72 Glendale Road, Glen Eden – resolution 2480/2005
4584	WCC – Rimutaka Holdings Limited	Electronic Registration of documents – 51 Rimutaka Place, Titirangi
4585	WCC – Rimutaka Holdings Limited	Fencing Agreement – Certificates of Title 423322 to 423327 – 51 Rimutaka Place, Titirangi
4586	WCC – Hudson Bay Holdings Limited	Withdrawal of Caveat 6518133.1 – Buckley Avenue, Hobsonville – Certificate of Title NA134C/260
4587	WCC – Hudson Bay Holdings Limited	Discharge of Mortgage 6507481.4 – Buckley Avenue, Hobsonville – Certificate of Title NA134C/260
4588	WCC – Waitakere Properties Limited	Declaration of Trust, in duplicate, Lot 2 DP 409988 – Identifier 436535 – Buckley Avenue, Hobsonville
4589	WCC – Waitakere Properties Limited	Memorandum of Transfer – Lot 2 DP 409988 – Identifier 436535 – Buckley Avenue, Hobsonville
4590	WCC – ME & CL Futter	Covenant - Computer Freehold Register 439641 – 111 Parker Road – Subdivision amalgamation covenant holding Lots 1 and 3 together – SUB 2005-304
4591	WCC – Housing New Zealand	\$1.5 million Housing Fund loan – documents executed were: <ul style="list-style-type: none"> • Loan agreement; • Relationship agreement; and • Electronic registration authority to

Nº	NAME	PARTICULARS
		Kensington Swan.
4592	WCC – Rautangata Pareiva	Warrant of Appointment and Evidence of Identity – No.WCC406
4593	WCC – Tematang Teirei	Warrant of Appointment and Evidence of Identity – No.WCC407
4594	WCC – The Mahamakut Thai Buddhist Trust	Esplanade Strip Agreement – 99 Sabulite Road, New Lynn
4595	WCC – Housing New Zealand Limited	Drainage easement in gross – Certificate of Title 163627 – 70 Albionvale Road, Sunnyvale – RMA20042079
4596	WCC – Housing New Zealand Limited	Consent to cancellation of Consent Notice – Certificate of Title 163627 – 70 Albionvale Road, Sunnyvale – RMA20042079
4597	WCC – Housing New Zealand Limited	Water easement in gross – Certificates of Title 235021 to 235027, 235030, 235031 and 235033 – 70 Albionvale Road, Sunnyvale – RMA20042079
4598	WCC – Housing New Zealand Limited	Right to drain water in gross – Certificates of Title 235068 to 235069 and 235027 – 70 Albionvale Road, Sunnyvale – RMA20042079
4599	WCC – Housing New Zealand Limited	Fencing Agreement – Certificates of Title 235023 to 235028, 235035 to 235039, 235058, 235059, 235062, 235063, 235065 to 235074, 235077 and 235078 – 70 Albionvale Road, Sunnyvale – RMA20042079
4600	WCC – Watercare Services Limited	Surrender of easement – 33B Brandon Road, Glen Eden – Rule 44.2 Standing Orders on the Use of the Common Seal

Report prepared by: Denis Sheard, Legal Services Manager.

PART D - PROPERTY

7 RATING SYSTEM REVIEW

GLOSSARY

Long Term Council Community Plan	(LTCCP)
Local Government Act 2002	(LGA 2002)
Local Government (Rating) Act 2002	(LG(R)A 2002)
Royal Commission of Inquiry into Auckland Governance	(the Royal Commission)

EXECUTIVE SUMMARY

The purpose of this report is to enable discussion, and to seek direction from the Finance and Operational Performance Committee, on the possible timing of consultation to be undertaken on any potential change to the current citywide land value based rating system.

RECOMMENDATIONS

It is recommended that Finance and Operational Performance Committee resolve to:

1. **Receive** the Rating System Review report.
2. **Agree** that the draft Long Term Council Community Plan 2009-2019 include commentary on the Council's intention to review the current rating system as part of the work programme 2009/2010, once the report of the Royal Commission of Inquiry into Auckland Governance has been received.

BACKGROUND

1. In August 2007, the Local Government Rates Inquiry provided a 277 page report to the Government on the funding of Local Government. This report contained 96 recommendations.
2. Some of the recommendations from the Local Government Rates Inquiry deal specifically with the tools that Council uses in its Rating Policy. For example, recommendation 8 states "that rating differentials be removed from the Local Government (Rating) Act 2002 (LG(R)A 2002) from an operative date of 1 July 2012", and recommendation 9 states "that a common rating system based on capital value be promoted across the country for general rates".
3. Furthermore, the Local Government Rates Inquiry acknowledged that any changes will take time to be developed by councils and recognised this in the following statement included in the Executive Summary to the Rating Inquiry Report:

"Overall, these changes recommended by the Panel would make the rating system less complex and more transparent. However, councils would need time to develop new rating policies in response to these changes and to consult with their citizens. The Panel therefore suggests that the changes not be required to be implemented before the 2012/2013 Long Term Council Community Plans, although consultation should commence with a view to phasing them in before this time."

4. On 29 October 2007, the Governor General established a Royal Commission of Inquiry into Auckland Governance (the Royal Commission). The terms of reference given to the Royal Commission include taking into account the findings from the Local Government Rates Inquiry. The Royal Commission was required to report back to Government by 1 December 2008.
5. The Finance and Operational Performance Committee, at its meeting held on 10 December 2007, passed the following resolutions:

"That the Council defers any changes to the choice of rating system until after the Royal Commission of Inquiry concerning Auckland Governance has released its Findings."

"That it be recommended to the Long Term Council Community Plan and Annual Plan Committee that funding be provided in the draft 2008/2009 Annual Plan for a review of the rating system pending the outcome of the Royal Commission of Inquiry findings concerning Auckland Governance."

6. On 9 September 2008, the Government announced that the Royal Commission had been granted an extension of its reporting date until 31 March 2009.

DECISION MAKING

7. Under its term of reference, the Royal Commission is tasked with taking into account the findings from the Local Government Rates Inquiry which includes issues regarding Rating Policy. Amongst these findings are recommendations regarding the choice of valuation base and the use of rating differentials.
8. Council currently has a robust and well established rating policy and any significant changes to this ahead of the Government responding to the rating inquiry findings or the findings being released from the Royal Commission may be seen as premature and may also serve to confuse ratepayers. Given that the Local Government Rates Inquiry has suggested that any changes not be adopted before the Long Term Council Community Plan 2012-2022, it may continue to be prudent to wait until after the Royal Commission has produced its findings before making significant decisions on Rating Policy.

Issues

Timing of Review of Rating System

9. Council has previously expressed an interest in reviewing the choice of property valuation base used in the rating system. To accomplish this Council must consult with the community through the use of the Special Consultative Procedure. For efficiency purposes, this is best included in the planning and consultation process that Council undertakes on an annual basis when developing Council's Annual Plan or Long Term Council Community Plan (LTCCP).
10. At its meeting held on Monday, 10 December 2008, the Finance and Operational Performance Committee recommended to the LTCCP and Annual Plan Committee that funding be provided for a review of the rating system in the draft Annual Plan 2008/2009. The Finance and Operational Performance Committee resolved:

- “1. That the City-wide Property Revaluations 2007 and Analysis of Impact on Rates report be received.
2. That the Council defers any changes to the choice of rating system until after the Royal Commission of Inquiry concerning Auckland Governance has released its findings.
3. That it be recommended to the Long Term Council Community Plan and Annual Plan Committee that funding be provided in the draft 2008/2009 Annual Plan for a review of the rating system pending the outcome of the Royal Commission of Inquiry findings concerning Auckland Governance.”

3925/2007

11. However, the final Annual Plan 2008/2009 does not contain any funding for a review of the rating system apart from funding for a review of the Business Sector rating differential.
12. When the Finance and Operational Performance Committee determined to recommend funding for a review of the rating system in the draft Annual Plan 2008/2009, the Royal Commission's expected report back date was 1 December

2008. However, the Government recently announced an extension of time for this report back date to 31 March 2009.

Options Identified

13. In order for Council to continue on and review the rating system for inclusion in the LTCCP 2009-2019, a comprehensive consultation plan will have to be created and implemented urgently. Also, the necessary funding will need to be made available to proceed with a review in the current budgeting period. Both of these items are currently not budgeted for in the 2008/2009 period.
14. Should the Finance and Operational Performance Committee wish to defer any review of the rating system until after the Royal Commission has reported back on 31 March 2009, then this review will be unable to be undertaken in time for incorporation in the LTCCP 2009-2019. The earliest opportunity to consult upon would be as part of the draft Annual Plan 2010/2011 consultative process.

Assessment of Options

15. Advantages of Delaying Review of the Rating System until 1 July 2009
 - At present there are unknown consequences of the Auckland governance structure as a result of the Royal Commission's delay in its reporting;
 - The Government has not fully responded to the recommendations of the Local Government Rates Inquiry;
 - More effective consultation with key stakeholders commencing from July 2009 can be undertaken;
 - Extended consultation period to all ratepayers;
 - The LTCCP can signal consultation to occur in 2009/2010;
 - Cost of consultation has not been budgeted in the Annual Plan 2008/2009 and may cost \$100,000;
 - Changing a rating system for 2009/2010 may attract negative comments about business opportunities in the City;
 - Staff resources can be allocated without pressure on present competing needs for LTCCP preparation and consultation;
 - Avoids major changes to variation in rates during uncertain economic times;
 - Allows for completion of Business Sector Differential review and analysis of impacts; and
 - Legal challenges to a new rating system mitigated through extensive consultation and analysis of options.
16. Disadvantages of Delaying Review of the Rating System until 1 July 2009
 - Potential revenue from rating utilities not able to be levied without a change to capital value;
 - Perception that large retailers not paying their full share of rates; and
 - Possible public perception that there is no real commitment to change the rating system.

Consideration of Community Views

17. At the last review of the rating system in 2005/2006, concerns were raised by certain groups within the community that the Council had not sufficiently consulted

with them. Legal advice obtained by the Council showed that the legal requirements, as set out in the Local Government Act 2002 (LGA 2002), had been complied with. However, the Council opted to defer any changes until after the concerns raised in submissions from businesses had been further assessed.

18. The proposed review of the rating system could be included in the draft LTCCP 2009-2019 to initiate public awareness.

Preferred Option

19. The preferred option is that the Finance and Operational Performance Committee defer any review of the rating system until after the Royal Commission has released its report on 31 March 2009, with any review of the rating system being incorporated into the work programme for the Annual Plan 2010/2011. Commentary on this to be included in the draft LTCCP 2009-2019 to initiate public awareness.

STRATEGIC CONTEXT

20. The Royal Commission may look into Rating Policy, including the choice of valuation base and the use of differentials.
21. Council currently has a robust and well established rating policy and any significant changes to this ahead of the Government responding to the rating inquiry findings or the findings being released from the Royal Commission may be seen as premature and may also serve to confuse ratepayers. Given that the Local Government Rates Inquiry has suggested that any changes not be adopted before the LTCCP 2012-2022, it may be prudent to wait until after the Royal Commission has produced its findings before making significant decisions on Rating Policy.

CONSULTATION

22. No internal consultation was required for this report.

RESOURCES

23. Should the Finance and Operational Performance Committee wish not to defer the review of the rating system and to continue with inclusion of a work programme as part of the LTCCP 2009-2019, then the necessary unbudgeted funds will need to be made available to complete the work programme. This may cost \$100,000.

IMPLEMENTATION ISSUES

24. Should the Finance and Operational Performance Committee wish not to defer the review of the rating system and to continue with inclusion of a work programme as part of the LTCCP 2009-2019, there are some inherent risks around consultation and communication. These will need to be factored into the project.

Report prepared by: John Mackenzie, Group Manager: Rates and Aaron Matich, Financial Analyst: Rates.



PART E - FINANCE

8 OPERATING AND CAPITAL EXPENDITURE SUMMARY

EXECUTIVE SUMMARY

The purpose of this report is to inform the Finance and Operational Performance Committee on the level of operating and capital expenditure to the end of September 2008 by unit compared to budget.

RECOMMENDATION

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the Operating and Capital Expenditure Summary report.

BACKGROUND

1. Through the Long Term Council Community Plan and Annual Plan process, the Council approves operating and capital expenditure. The Council follows good practice for procurement of goods and services and ensures that funding has been provided from appropriate sources.
2. If any further information is required in respect of this report, other than of a general nature, please contact the writer prior to the meeting to enable the query to be researched.
3. This report covers expenditure for the three months to 30 September 2008. The financial summary is attached at page A1.

A1

DECISION MAKING

4. There are no decisions required in respect of this report.

Issues

5. Explanations are provided below for the net operating costs with exception balances:
 - (1) **Corporate & Civic Services – Information Management:** Microsoft license fees totalling \$598,110 for the year was paid in September 2008. There is also capital related expenditure in Information Management that are yet to be capitalised. This is projected at approximately \$1 million as at 30 September 2008.
 - (2) **Asset Management – Transport Assets:** A claim to the New Zealand Transport Agency of \$1,262,000 was outstanding.
 - (3) **Regulatory – Consent Services:** The revenue for building permits for July to September 2008 was \$1,234,000 against a projection of \$1,086,000 for the quarter ended 30 September 2008.
 - (4) **Levy for Aotea Centre:** The final invoice for the Aotea Centre levy will not be expected until May 2009.
 - (5) **Levy for Zoo:** The invoice for the Zoo levy has not yet been received.

STRATEGIC CONTEXT

6. The Council's operating and capital expenditure delivers projects necessary to achieve the Council's strategic direction.

CONSULTATION

7. No consultation was required in respect of this report.

RESOURCES

8. This report has no resource implications.

IMPLEMENTATION ISSUES

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

Report prepared by: Khee Mee Soo, Group Manager: Financial Projects.



9 STATUS OF SPECIAL FUNDS

EXECUTIVE SUMMARY

A2

The purpose of this report is to inform the Finance and Operational Performance Committee on the status of the Council's special funds as at 30 September 2008, as attached at page A2.

RECOMMENDATION

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the Status of Special Funds report.

BACKGROUND

1. Special funds are those funds held or designated by the Council for a specific purpose or purposes. The balances of these funds are used to offset the Council's borrowing requirements. Interest is allocated to funds where applicable.
2. Special fund movements are recommended through the Long Term Council Community Plan and Annual Plan adoption process. Special funds are classified as either "Restricted Funds" or "Non-Restricted Funds". Restricted funds are those funds that have been received by the Council from a third party or parties and are to be used for a specific purpose or purposes. Non-restricted funds are funds established by a Council resolution to use and set aside its own funds and also to meet a specific purpose or purposes.

DECISION MAKING

3. There are no decisions required in respect of this report.

STRATEGIC CONTEXT

4. The Council uses special funds as provided for in Long Term Council Community Plan and Annual Plans.

CONSULTATION

5. No consultation was required in respect of this report.

RESOURCES

6. This report has no resource implications.

IMPLEMENTATION ISSUES

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

Report prepared by: Khee Mee Soo, Group Manager: Financial Projects.



10 BORROWING AND INVESTMENT REPORT

GLOSSARY

Long Term Council Community Plan	(LTCCP)
Waitakere City Council	(the Council)
Finance and Operational Performance Committee	(the Committee)
New Zealand Dollar	(NZD)
United States Dollar	(USD)

EXECUTIVE SUMMARY

This is a monthly report to Waitakere City Council's (the Council) Finance and Operational Performance Committee (the Committee) and is also a requirement of the Council's adopted Liability Management and Investment Policy. It provides information on the Council's borrowing and investment activities over the past month and also high level information on current financial market conditions. From time to time additional and more detailed information is requested on particular areas of interest by the Finance and Operational Performance Committee or other Committees. This report also includes a recommendation with respect to providing certainty of responsibilities should the Council decide to issue securities to the public. The issuance of securities is allowed for within the Liability Management and Investment Policy.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Borrowing and Investment Report.
2. **Approve** the Borrowing and Investment Report.
3. **Approve** that if the Council should decide to issue securities to the public, that the Mayor and Deputy Mayor be primary signatories certifying the Council's Investment Statement and any advertising and should either or both be unavailable, the responsibility is passed to the Chairman and/or the Deputy Chairman of the Finance and Operational Performance Committee.

BACKGROUND

1. The Council enters into treasury related financial contracts in the ordinary course of its business. It is the role of the Council's Funds Management section to manage such contracts and the impact that they have on the organisation. All funds management transactions are governed by the Liability Management and Investment Policy prepared in compliance with the Local Government Act 2002. As a requirement of that Policy this report informs the Committee on the current and future movements of the Council's debt and cash investments, and provides a general commentary of financial market conditions.

A3-A8 2. The relevant portfolio and graphs reflect the estimated position as at 30 September 2008 and are attached at pages A3 to A8.

DECISION MAKING

3. The Committee must consider whether to approve the Borrowing and Investment Report and that if the Council should decide to issue securities to the public, that the Mayor and Deputy Mayor be primary signatories certifying the Council's Investment Statement and any advertising, and should either or both be unavailable, the responsibility is passed to the Chairman and/or the Deputy Chairman of the Committee.

Issues

4. The Council's Funds Management function actively manages a large portfolio of various debt and investment instruments. The benefit of borrowing is that it enables the Council to carry out the projects identified in the Annual Plan and Long Term Council Community Plan (LTCCP), while spreading the costs for those projects over time to recognise the future benefits. Borrowing funds therefore assist the Council with its entire loans funded strategic initiatives. The Liability Management and Investment Policy requires that a report detailing the management of the portfolio be presented to the Committee on a regular basis. The report must include information on the following subjects:

- Cash/debt position;
- Forecasted borrowing profile;
- Interest rate profile;
- Risk management;
- Material transactions; and
- Market commentary.

5. This report addresses the requirement of the Liability Management and Investment Policy and may include other information that is relevant to the Funds Management function.

Financial Implications

6. The active management of the treasury portfolio seeks to minimise the Council's borrowing costs and maximise investment returns of liquid assets. The Funds Management function is also charged with seeking investors, thus ensuring that there is sufficient liquidity available for the Council to continue its work programme. New Zealand financial markets are significantly volatile and therefore interest rate risk management is a key responsibility of the Funds Management function. Detailed financial information included within this report is intended to give assurance of the prudent management of the Council's portfolio.

7. The Council maintains a Standard and Poor's Credit Ratings of A-1 short term, and A+ long term (stable).

8. The Council has adopted financial ratios included in its Liability Management and Investment Policy which provides limits on the level of debt and interest the Council will have. The following table shows the ratio limit, the 2007/2008 actual and the 2008/2009 budgeted levels.

Financial Ratio	Policy	Actual 2007/2008	Budget 2008/2009
Net debt as percentage of equity	<25%	17.48%	20%
Net Debt as a percentage of income	<200%	144.48%	194%
Net interest as a percentage of income	<20%	9.4%	11%
Net Interest as a percentage of rates	<25%	17.7%	18%

Table 1: Ratio Limits – Actual and Budgeted

Interest Rates

9. International financial markets over the past month have remained extremely volatile as the ongoing credit crisis continues to take its toll. The Reserve Bank of New Zealand aggressively lowered its Official Cash Rate on the 23 October 2008 by 1% reducing the rate from 7.50% to 6.50% and signalled that it was likely that more interest rates cuts were likely. The New Zealand Official Cash Rate is still relatively high by international standards and provides the Reserve Bank of New Zealand significant ability to stimulate the local economy, where other major nation's central banks, such as Japan and USA, have little stimulative ammunition other than direct cash injections into their respective economies. With that in mind, New Zealand is likely to remain in recession for the December 2008 quarter. 2009 is forecast to see New Zealand move into positive growth, though this will be slow. What will continue to be a problem for New Zealand is the likelihood of our major trading partners also moving into recession in the December 2008 or March 2009 quarters. This will continue to have adverse effects on the local economy.
10. While many Governments around the world worked to shore up investments and attempt to stop the ongoing run of funds to safe havens, New Zealand adopted a less aggressive approach of proposing to guarantee retail investments in qualifying institutions. This led to greater nervousness within the wholesale markets, with large managed funds organisations cashing up their positions as insurance against a potential run on their funds. With these businesses temporarily out of the investment market, the New Zealand market became increasingly illiquid. The New Zealand Government has been required to reconsider its proposed guarantee by extending it to the wholesale market. This decision was made on Saturday, 1 November 2008. Time will tell what form this guarantee takes, though its affordability still appears to be a constraint as a guarantee of less than one year will cost 0.85% and for greater than one year 1.40% per annum. The guarantee is limited to credit ratings better AA-.
11. With the large decrease in the Official Cash Rate in October 2008 and the likelihood of further reductions, New Zealand short term interest rates have decreased dramatically over the last month. 90 day bank bills are still currently trading around 7.10%, which is 0.60% higher than the Official Cash Rate. In a normal environment, it would be expected that this interest rate would be much closer to the Official Cash Rate, unless there was an expectation that the Official Cash Rate was likely to increase. The spread of 0.60% currently reflects how tight short term funding is. With longer dates, interest rates look much more normal, with 1-3 year interest rate swaps priced around 6.30% and 10 year interest rate swaps around 6.50%.

12. In other New Zealand financial markets, again the story of massive volatility exists. The New Zealand Dollar (NZD)/United States Dollar (USD) cross plummeted from the low 0.60's to near 0.54 early in the last week of October 2008 as offshore investors unwound carry trades in NZD. This had the result of depreciating the NZD and appreciating Japanese Yen and USD. Since that run, the NZD/USD cross has appreciated to a current level of around 0.585. To assist in short term funding NZD/USD the United States Federal Reserve and the Reserve Bank of New Zealand agreed to put in place a 15 billion USD currency swap facility. This is a 2 way facility, and if drawn results into 2 way trades. It is not a lending facility as implied by the local media.
13. Local equity markets are also hugely volatile with any sell off on international markets being reflected locally. Every week seems to generate some news which results in market panic, and massive international runs on investments. Locally, however, these runs tend to be on small volumes and tend to correct within a few days.

Retail Bonds

14. Earlier in 2008 the New Zealand Securities (Local Authority Exemption) Amendment Act 2008 allowed Local Authorities to offer bonds to the public without a Prospectus. The importance of this change is that the prospectus can be an extremely expensive document to prepare and that the prospectus required the signature of all Councillors certifying that the document was correct. The amendment still requires the production of an Investment Statement and advertising. Each of these documents requires certificates to be prepared, certifying that the documents comply with the Securities Act 1978 and the Securities Regulations 1983, and do not contain any matter that is likely to deceive, mislead or confuse the reader of the offer of securities or the advertisement and the Investment statement are inconsistent with each other.
15. If the Investment Statement or advertisement contains an untrue statement, each Councillor and the Council faces potential criminal and civil liability. "Principle Officers", which includes officers responsible for ensuring compliance by the Council, are also potentially criminally liable. There are defences, for example, the immaterial nature of a misstatement.
16. While it is not currently anticipated the Council will issue securities to the public and the issue of such securities is consistent with the adopted Liability Management and Investment Policy, the policy contains no provision for which Councillors would have the responsibility of certifying an Investment Statement or advertisement for the issue of securities to the public. It is therefore recommended that the Mayor and Deputy Mayor be primary signatories and should either or both be unavailable, the responsibility is passed to the Chairman or if not available the Deputy Chairman of the Finance and Operational Performance Committee.

STRATEGIC CONTEXT

17. The management and use of borrowing and investments is aligned to all of the Council's strategic objectives, as adopted in both the LTCCP 2006-2016 and the Annual Plan 2008/2009.

CONSULTATION

18. This report includes data sourced by the Council's external treasury advisors, Asia Pacific Risk Management, and material, opinions or views sourced from various financial institutions.

RESOURCES

19. The Council, through its Annual Plan 2008/2009, provided for total new borrowings of \$224.915 million, including loans attributable to projects carried forward from previous years totalling \$105.488 million. Total interest cost has been provided in the Annual Plan 2008/2009 of \$27.292 million.

IMPLEMENTATION ISSUES

20. There are no implementation issues identified for this report.

Report prepared by: Bruce Wilkin, Group Manager: Funds Management.



11 PAYMENTS FOR APPROVAL

EXECUTIVE SUMMARY

The purpose of this report is to advise the Finance and Operational Performance Committee of payments made by the Council.

A9-A16

A summary schedule of payments made for the period 14 September 2008 to 11 October 2008 is attached at pages A9 to A10. A further schedule of all payments of \$5,000 and above, together with the reason for the payment, is attached at pages A11 to A16.

Payments have been provided for in accordance with approved budgets.

If a Committee member wishes to ask specific questions relating to any of these payments please direct them to the Director: Finance prior to the meeting. This will enable a response to be adequately researched.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Payments for Approval report.
2. **Approve** the contracts let and the payments made.

BACKGROUND

1. All payments made by the Council are presented to this Committee on a progressive monthly basis. Elected members are able to review the information provided and seek information or clarification in respect of any of those payments.

DECISION MAKING

2. The Finance and Operational Performance Committee must consider whether to approve the contracts let and the payments made for the period 14 September 2008 to 11 October 2008.

STRATEGIC CONTEXT

3. The Council makes various payments as provided for in its Long Term Council Community Plan and Annual Plans. The Council follows good practice for procurement of goods and services and ensures that funding has been provided from appropriate sources.

CONSULTATION

4. No consultation was required in respect of this report.

RESOURCES

5. This report has no resource implications.

IMPLEMENTATION ISSUES

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

Report prepared by: Alec Third, Group Manager: Financial Operations.



PART F - GENERAL

12 WAITAKERE CITY HOLDINGS LIMITED AND SUBSIDIARIES REPORTS FOR THE FIRST QUARTER ENDED 30 SEPTEMBER 2008

EXECUTIVE SUMMARY

The purpose of this report is to present to the Finance and Operational Performance Committee the reports, for the first 3 months of the 2008/2009 year, for Waitakere City Holdings Limited, Waitakere Properties Limited and the Waitakere Enterprise Trust Board, and to table the audited Annual Reports 2007/2008 for those organisations.

A17-A90 The First Quarter Report, including financial statements, a summary schedule of Trust Account transactions and Annual Report 2007/2008 for Waitakere Properties Limited are attached at pages A17 to A90.

A91-A142 The Financial Update to month ending 30 September 2008, Statement of Service Performance for the same period, and the audited Annual Report 2008/2009 for the Waitakere Enterprise Trust Board are attached at pages A91 to A142.

A143-A183 The audited Annual Report 2007/2008 for Waitakere City Holdings Limited is attached at A143 to A183. Waitakere City Holdings does not prepare formal, quarterly, reports as the company operates as a consolidating entity for its subsidiaries and has few transactions of its own.

Presentations will be made at this meeting by the boards and management of these organisations. The presentation will include an overview of current global financial issues and their likely impact on the operations and clients of Waitakere Properties Limited and the Waitakere Enterprise Trust.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Waitakere City Holdings Limited and Subsidiaries Reports For The First Quarter Ended 30 September 2008 report.
2. **Receive** the audited Annual Reports 2007/2008 for Waitakere City Holdings Limited, Waitakere Properties Limited and the Waitakere Enterprise Trust.

BACKGROUND

1. Council has a 100% shareholding in Waitakere City Holdings Limited which in turn has a 100% shareholding in Waitakere Properties Limited. Waitakere Properties Limited has a 40% shareholding in Prime West Management Limited. Waitakere City Holdings Limited is tasked, by Council, with overseeing the operations of its subsidiaries and the Waitakere Enterprise Trust Board. Waitakere Properties Limited manages commercial property projects on behalf of Council. These projects are usually managed through a "deed of trust" individually set up for each project. Prime West Management Limited is responsible for managing the operations of the film studio facility located on Henderson Valley Road. On behalf of Council, the Waitakere Enterprise Trust is tasked with undertaking initiatives which accelerate the sustainable economic growth of the City.
2. Council, through the respective statements of intent, requires that Waitakere City Holdings Limited, Waitakere Properties Limited and the Waitakere Enterprise Trust Board, present to Council quarterly performance reports. Prime West Management Limited is not classed as a "council-controlled organisation" within the meaning of the Local Government Act 2002, and, as such, is not required to report formerly through to Council, however, it is likely that some form of formal reporting will be developed in the near future.

DECISION MAKING

2. There are no decisions required in respect of this report.

STRATEGIC CONTEXT

3. Council has a financial investment in Waitakere City Holdings Limited and subsidiaries. These companies assist the Council in meeting its strategic outcomes through a return on investment, involvement in strategic projects, economic development and in the support of service delivery.

CONSULTATION

4. No consultation was required in respect of this report.

RESOURCES

5. This report has no resource implications.

IMPLEMENTATION ISSUES

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

Report prepared by: Alec Third, Group Manager: Financial Operations.



13 WAITAKERE PACIFIC BOARD LIAISON OFFICER REVIEW

GLOSSARY

Waitakere Pacific Board	(WPB)
Waitakere Pacific Board Liaison Officer	(the Liaison Officer)

EXECUTIVE SUMMARY

The purpose of this report is to review the trial arrangement whereby the Council has funded the Waitakere Pacific Board (WPB) to employ a Waitakere Pacific Board Liaison Officer (the Liaison Officer) for the past 12 months.

On 10 September 2007, the Finance and Operational Performance Committee agreed that an operational budget be allocated to the WPB for the direct employment of the Liaison Officer for a 12 month trial period beginning 1 October 2007.

At the end of the 12 month trial a review was carried out to assess how well the new employment arrangement had gone. Although some minor issues were encountered with relocating the position to the WPB during the trial, overall there was unanimous support for the new employment arrangement to continue.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Waitakere Pacific Board Liaison Officer Review report.
2. **Approve** the ongoing funding to the Waitakere Pacific Board for employment of the Waitakere Pacific Board Liaison Officer for the period 1 October 2008 to 30 June 2009.

BACKGROUND

1. The WPB (formerly known as the Pacific Island Advisory Board) was established in 1990 by a group of Pacific residents from Waitakere with the support of the Council. A Memorandum of Understanding was signed with the Pacific Island Advisory Board in 1998 to acknowledge the role of the WPB as a voice for Pacific people in Waitakere.
2. Two Council staff positions were created and a budget was allocated and managed within the Council to support the WPB to represent the needs of Waitakere's Pacific communities. These positions included the WPB Liaison Officer position (formerly the WPB Coordinator position) and the Strategic Advisor: Pacific role (formerly a Policy Analyst position).
3. In 2005, a Community Partnership Agreement was signed between the Council and the WPB. This acknowledged both parties' desire to replace the former Memorandum of Understanding with a new agreement which would encapsulate the "renewed" relationship. The role of the Liaison Officer was to provide administrative support to the WPB to enable both the WPB and the Council to engage more effectively with Pacific communities in Waitakere.
4. In 2007, a request was made by the WPB to directly employ and manage the Liaison Officer position which was at the time situated within the Social and Cultural Strategy Group of the Strategy Unit of Council. Discussions with the WPB Executive regarding the annual Shared Work Programme identified a number of challenges for the delivery of the Shared Work Programme posed by the Liaison Officer position being employed by the Council rather than the WPB.

5. A report taken to the 10 September 2007 meeting of the Finance and Operational Performance Committee, seeking approval for a 12 month operational grant to the WPB to enable them to directly employ and manage the Liaison Officer position on a 1 year trial basis. The approval of a 1 year trial of direct employment of the Liaison Officer position was approved for the period 1 October 2007 through to 30 September 2008. The Finance and Operational Performance Committee resolved:

- “1. That an additional operational grant of \$75,640 (+GST) to the Waitakere Pacific Board for employment of the Waitakere Pacific Board Liaison Officer, for the period 1 October 2007 to 30 September 2008 be approved.
2. That the grant be funded by the transfer of existing budgets associated with the employment of the Waitakere Pacific Board Liaison Officer to the Strategy Cultural Wellbeing budget”

3490/2007

6. During this trial period, the Liaison Officer was based at the Board's permanent premises at 22 Te Pai Place, Henderson, Waitakere.
7. A condition of the funds continuing to be released during the 1 year period was the submission of quarterly accountability reports to Council, outlining expenditure against the grant income and identifying issues for discussion with Council in relation to the employment of the position by the Board.
8. A full review of the Partnership Agreement between the WPB and the Council is due to be completed by December 2008. The employment of the Liaison Officer directly by the WPB has been evaluated as part of this review.

DECISION MAKING

Process

9. The review of the trial took place during September 2008. It involved face-to-face interviews with the Liaison Officer as well as WPB and Council officials (Chairperson and Deputy Chairperson of the WPB and the Group Manager: Social and Cultural Strategy, Team Leader: Cultural Wellbeing) who have all worked closely with the Liaison Officer over the last 12 months. A number of key questions were asked of each interviewee regarding the trial.

Key Findings

10. Overall, there was unanimous support for the current arrangement to remain in place whereby the Liaison Officer would be directly employed by the WPB and based at their office premises at 22 Te Pai Place, Henderson, Waitakere.
11. The management and location of the position with the WPB has given the Liaison Officer the ability to fully advocate on behalf of the WPB without compromising their role as a Council officer. This had been a constraint for the Council and the WPB while the position remained within the Social and Cultural Strategy Group of the Strategy Unit of Council. Moving the position out into the community has helped to strengthen the Liaison Officer's links with the local Pacific community.
12. With the appointment of the Strategic Advisor: Pacific position within the Council, and the Liaison Officer with the WPB, there are now clear lines of engagement for information sharing and collaborative work between the 2 parties. The relationship between the two is vital to ensure that:

- the goals and objectives set out in the Shared Work Programme 2008/2009 between the Council and the WPB are addressed; and
 - the spirit of the Community Partnership Agreement is embraced in all dealings between the Council and the WPB.
13. Having the position based outside of the Council has also given the resident Pacific community a “sense of ownership”. The arrangement has enabled the Liaison Officer to present in a manner that the community find more comfortable. This has contributed to this “sense of ownership” by operating in a more community friendly manner.
14. The trial has shown that through relocating the base of the Liaison Officer into the community some of the issues perceived to have been a hindrance have been overcome.
15. Given the general theme of the responses received from the interviews, moving the Liaison Officer into a direct employment relationship with the WPB and setting up a permanent base at the WPB office has been a positive move worth consolidating to the benefit of both the Council and the WPB.

Issues

16. In order to assist the Liaison Officer to function more effectively a number of “developmental” areas were identified. These included: increased resourcing, external supervision, job specific training and governance training.

Increased Resourcing

17. The Liaison Officer is the only paid employee in an organisation that is based solely on the voluntary involvement from the community and this requires additional professional and peer support to fill gaps not filled by the volunteers.
18. Relieving the Liaison Officer of some administration duties would allow them to dedicate more of their time to developing their everyday relationships with the Council and the community.
19. To manage this potential risks, the WPB may consider employing a part-time worker to assist with some of the daily administrative tasks that need to be undertaken to run the office efficiently and the Council can be proactive in providing peer support. In addition, the WPB may consider seeking professional external supervision to support its employer role.

Training

20. The review has identified that training is important, not only for the Liaison Officer but for the WPB as a whole. At the moment the roles and responsibilities required of each WPB member are blurred and unclear. Because of this, the Liaison Officer has inadvertently inherited many of the responsibilities that are more appropriately held by the WPB Executive Committee and elected members of the wider WPB. It is envisaged that governance training will help to clarify the role and responsibilities required of each board member and in doing so free up the Liaison Officer to concentrate more on the requirements of the position.

Options Identified

21. Relocating the Liaison Officer position back to the Council would likely undo the good work and relationship building that the incumbent officer has achieved during the trial period. The local Pacific community have appreciated having an office space they can all their own and in doing so have embraced a sense of “ownership” and “pride”. Having the Liaison Officer based at the premises has

helped to strengthen the WPB relationship with the community as they now have a “face” they can associate with the WPB and a person they can contact much more easily now that they are based out in the community.

22. As has been the case in the past, it would be difficult for the Liaison Officer to advocate on behalf of the WPB if they were still employed by the Council. In practice the Liaison Officer would be caught between their obligations towards the WPB and their employer (the Council) and over time they would find this situation very awkward and frustrating.
23. Relocating the position back into the Council could also contradict some of the Partnership Principles and Common Goals outlined in the Community Partnering Agreement. In particular:
 - Recognising each others responsibilities to their stakeholders and the autonomy and independence of each party;
 - Encouraging and supporting initiatives that foster greater understanding and prosperity.

Preferred Option

24. Council officers involved in the review of the trial recommend that the employment and management of the Liaison Officer remain with the WPB. Addressing some of the developmental areas identified will go a long way to strengthening and improving the Liaison Officer’s ability to perform the role.

STRATEGIC CONTEXT

25. The relationship with the WPB is grounded in the Long Term Council Community Plan 2006-2016 strategic platforms of Active Democracy and Strong Communities as well as the Community Partnership Agreement
26. The vision for Active Democracy is: “People feel that they can make a difference. There are high levels of community participation and respect for each others views”. This platform supports the involvement of citizens in the Council’s decision making process through education, removing barriers, developing partnerships, improving information flows and supporting communities’ own ways of interacting with the Council.
27. The vision for Strong Communities is: “People are active, informed, healthy, and content. They feel safe and there is a strong sense of community. Our city is a great place for children. We enjoy our diversity of lifestyles and people”. This platform addresses how the health and wellbeing of the city’s residents are supported.
28. The Community Partnership Agreement also enables the Council and the WPB to work collaboratively in meeting the development needs of Waitakere’s Pacific peoples.

CONSULTATION

29. The review of the employment trial of the WPB Liaison Officer was carried out by the Strategic Advisor: Pacific. Interviews were carried out with the incumbent Liaison Officer, the Chairperson and Deputy Chairperson of the WPB, the Group Manager: Social Cultural Strategy, and the Team Leader: Cultural Wellbeing, these being key people from both the WPB and the Council that the Liaison Officer has forged a close working relationship with over the last twelve months.

RESOURCES

30. Resourcing of \$55,000 has been allocated in the Annual Plan 2008/2009 for WPB Coordination and Project Management. An ongoing allocation will be proposed for consideration in the draft Long Term Council Community Plan 2009-2019

IMPLEMENTATION ISSUES

31. It is envisaged that there will be no major implementation issues as the Strategic Advisor: Pacific will continue to work closely with the Liaison Officer during this period to help support the roll out of the position into the community.

Report prepared by: Pat Masina, Strategic Advisor: Pacific, Social and Cultural Strategy.



14 REPORT ON RESOURCING ISSUES FOR CONSENT SERVICES AUDIT BY INTERNATIONAL AUDIT NEW ZEALAND IN MAY 2009

GLOSSARY

Building Consent Authority	(BCA)
International Audit New Zealand	(IANZ)
Building Act 2004	(BA)
Department of Building and Housing	(DBH)
Resource Management Act 1991	(RMA)

EXECUTIVE SUMMARY

The purpose of this report is to advise the Finance and Operational Performance Committee that International Audit New Zealand (IANZ) has brought forward the Phase 2 Audit for the Building Consent Authority (BCA) to May 2009. This includes a full re-audit of regulations 5 to 16 and an audit of regulation 17 which is centred on the requirement for Quality Assurance Systems. The purpose of this audit is to measure the BCA performance against the Building Accreditation Regulations to determine whether the BCA retains registration and accreditation.

In order to ensure that the BCA maintains its accreditation and meets the new regulations, it has been identified that additional resourcing is required over and above the current level of the Annual Plan. On the previous timetable this would have been factored into the Annual Plan 2009/2010 and subsequent Annual Plans. The demand for additional resources is mainly in the area of business support and quality assurance. It is proposed that the costs of meeting the Phase 2 Accreditation will be covered by an additional charge on building consents. It is proposed to annualise these charges to recognise the intergeneration equity over 5 years.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Resourcing Issues for Consent Services Audit by International Audit New Zealand in May 2009 report.

2. **Approve** the additional funding for Consent Services to proceed with securing the necessary additional resourcing to ensure that the Council meets its Building Consent Authority obligations, and that such funding shall be recovered from future building consent applications from 1 July 2009.

BACKGROUND

1. Waitakere City Council became a BCA on 14 March 2008. Accreditation came after a large amount of work was performed in a very short space of time.
2. Several consultants and City Services Management and staff applied significant time and energy to meeting the Phase 1 Accreditation requirements. From March through to November 2007, some 101 processes and 81 policies were identified, designed and documented across all building processing, inspection and certification functions of the building control area of Council as prescribed by the Building Regulations.
3. The resulting accreditation audits demonstrated that processes were adequately documented and that improvements had been demonstrated from past technical reviews. However, due to the critical time constraints the project team were unable to address major process improvements or build processes, systems or infrastructure to support an ongoing BCA management system. Essentially, the project team documented the building control area as a "snapshot in time" recognising that there would be elements of development and refinement post-accreditation. It is worth noting that the Department of Building and Housing (DBH) publicly acknowledged the achievement of Waitakere City Council in such a short timeframe.
4. Although Waitakere City Council achieved accreditation, it is recognised that there is still a substantial amount of work to be done to bed down the BCA to ensure it becomes systemised and meets the requirements of the forthcoming audit. Other BCA throughout New Zealand are also required to meet these requirements.
5. Building Accreditation itself is merely the beginning of the process and the investment in processes and people is on-going. In that respect, Consent Services has established a Business Support team to assist the unit to ensure it meets its ongoing and future BCA and other legislative obligations. That team is assisting to meet the ongoing BCA obligations, together with the operational business.
- A184-A189* 6. Waitakere City Council has now been advised that the next IANZ assessment/audit has been brought forward by 6 months to May 2009 (refer to attached letter at pages A184 to A189).
7. This has significant implications on the resources required to address the relevant matters and build the required BCA infrastructure. It is also recognised that the audit will be much more rigorous, allowing an extra day on site and will also be looking for the beginnings of a system that addresses Regulation 17 (Quality Assurance) much sooner than anticipated. Regulation 17 introduces a substantial range of additional Quality Assurance measures which need to be fully implemented by 2010. These Quality Assurance requirements need to be interwoven through the existing procedures. This is over and above the requirements that currently exist within the BCA.
8. The above situation means that the Council's programme of business support and quality assurance initiatives needs to be brought forward. This will have an impact on existing resourcing which needs to achieve a large programme of work, in a much shorter space of time. While additional resourcing was identified in the

Annual Plan to meet the ongoing requirements of the BCA, this will now be insufficient to meet the revised deadline. This is also likely to bring forward some desired technology and Information Management improvements. We are unable to delay the audit until the next financial year, and we have accepted IANZ's request to undertake the audit in May 2009.

9. In addition, the recent announcements by the National party indicated that there is an intention to undertake a significant review of the Resource Management Act 1991 (RMA) should they form a government following national elections on 8 November 2008. A number of changes are proposed to amend and streamline the RMA. In addition, it is anticipated that additional business support would be required in the areas of reworking/updating business processes, updating documentation and further training. Depending on the nature of any changes that occur, there may also be the need for further business support resources to deal with this. This will need to be addressed with future Annual Plan reviews, but highlights the potential for further changes within Consent Services.

DECISION MAKING

Issues

10. The main issue that this report raises is the fact that the audit of the BCA is to be brought forward by about 6 months. The Council needs to ensure that all current and new regulations are met. Failure to meet the regulations would mean that the Council is unable to comply with the Building Act 2004 (BA) and it would therefore be unable to issue building consents and/or perform building inspections. This would have significant negative consequences.
11. Additional resourcing, ahead of schedule, is required to ensure that the Council meets its regulation requirements, including regulation 17. One of the consequential issues of this resource requirement is the need for additional revenue to fund these resources. It is considered that the most appropriate option is to seek to recover these additional BCA costs from future Building Consent applications.
12. The costs of covering additional resourcing and additional technology and Business support enhancements are estimated to be in the order of \$375,000.00 for this financial year. It is considered that this programme of work will ensure that the Council maintains its BCA status, and meet its obligations with respect to regulation 17.

Options Identified

Option 1

13. The first option identified is for the costs of such resourcing to be sourced from building consent applications. The cost of bringing forward the BCA programme of works can be annualised over a number of years and recovered on the future applications. It is considered that the benefits of the systems and processes established as part of the BCA process should be spread across future building consent applications to provide an equitable coverage of the costs.
14. Given the fact that the current fees and charges have been set for this financial year, the Council can either seek to change the current fees and charges by undertaking a mid point review (this would need to be publicly advertised) of the current fees and charges to cover these additional costs. Alternatively, it may hold these additional costs and seek to recover them from subsequent financial years.

Option 2

15. The second option is to fund the costs of additional resources through ratepayer funding. This option would mean that the additional costs identified above are spread across the community as a whole.

Option 3

16. The third option is to not engage any additional resourcing and to proceed with the existing resources that the Council has. This option is high risk in that it would put the BCA accreditation status in jeopardy given the workload and timeframes.

Assessment of Options

17. Having regard to the above options, it is considered appropriate to impose a BCA charge that would be charged on all building consent applications. Such a charge is common in other Councils and would allow Waitakere City Council to meet the ongoing costs of compliance as well as the costs associated with bringing forward the programme of work and ensuring the ongoing maintenance of the Waitakere City Council's building accreditation requirements. This will ensure the required maintenance and retention of the Waitakere City Council's building accreditation requirements. Both Rodney District and Auckland City Councils include a separate BCA charge to recognise the ongoing costs of maintaining accreditation. It is envisaged that such a charge on building consents could cover the historical compliance issues and the future costs for maintaining BCA accreditation.
18. Since Building Accreditation is generally a process centred around ensuring that quality robust and appropriate decisions are made with regard to the BA process, then it is appropriate that such costs are on-charged to applicants who obtain the benefits of this process. It is suggested that this charge be recovered from future building consents, with the costs to be annualised over a period of, say 5 years. This would amount to an additional \$30 dollar charge on each building consent for the next 5 years, to cover these particular costs. These initial "start up" costs incurred in both the original set up and audit and this upcoming audit will allow the business infrastructure and processes to be established (particularly for regulation 17) which will keep down future and ongoing costs of maintaining accreditation.
19. In terms of meeting the Council's statutory obligations, it is considered that Options 1 and 2 would ensure that the Council meets its BCA obligations.
20. It is considered that if Option 3 is pursued Council could itself risk not being able to meet its BCA obligations by jeopardising its accreditation status. There are a number of tasks that need to be maintained and established in order to ensure that the Council maintains its BCA status.
21. It is vital for Consent Services to ensure that BCA requirements are maintained at a consistently high standard in order to retain accreditation. In addition, the future requirements of BCA and continuous improvement of the business will mean that the demands on the Business Support Team will be on going, albeit to a reduced level once the Phase 2 audit has been complied with. The consequences of audit failure would be the inability to deliver building consents and/or carryout building inspections. The audit standards have been set at a high level, and failure to meet standards by ongoing maintenance would be negligent and would risk Council having to repeat the same accreditation audit process over again.
22. It is considered that there are no matters of significance to iwi on this decision.

Consideration of Community Views

23. Any change to the Council's fees and or charges must go through a consultation process. That would provide the community with the opportunity to consider the additional charges envisaged.

Preferred Option

24. After consideration of all relevant matters it is considered that the most suitable option is to proceed with the additional resourcing on the basis that Council will recover such costs from building consent applicants. The charge can be recovered from future building consents, with the final costs to be annualised over a period of 5 years.

STRATEGIC CONTEXT

25. The delivery of Building Consents is a key function of the Consent Services Unit and the wider Council. The approval of Building Consent delivers a broad range of projects and assists with meeting a large number of strategic initiatives. This is particularly relevant in terms of the delivery of consents that enable dwellings to be constructed and ensuring that businesses can successfully operate within our city.
26. The Long Term Council Community Plan recognises the provision of an effective and efficient building consent service is an important service to the community. The failure to be able to issue building consents would have a detrimental effect on delivery within this important service area.
27. Initiatives such as the "*Liberating Environment*" concept and the Future Northern Strategic Growth Area as well as the Council's desire to be "open for business" while at the same time ensuring that the appropriate rules are followed means that now, more than ever, it is vital that systems and resources are established and maintained to meet both our customer and community expectations. The aforementioned initiatives create expectations in the community and it is important that we have the resources and systems to meet these demands.

CONSULTATION

28. No specific consultation is deemed necessary. The unit will continue to consult with the DBH in regard to assistance with meeting its BCA obligations. The setting of regulatory fees and changes for 1 July 2009 will be consulted upon prior as part of the Annual Plan 2009/2010 process.

RESOURCES

29. The need for additional resources has been identified as part of ensuring that Waitakere City Council meets its BCA obligations. In addition, the shortened audit time is likely to bring forward some training and process work and it is likely to require additional input from operational staff than that which was previously anticipated.
30. Consent Services operates principally as a user pays system. As noted above, Waitakere City Council will either need to recover these additional costs through subsequent applications, or it will have to cover such costs through ratepayer funding.

31. The DBH has advised that no funding is available for Waitakere City Council as part of the Phase 2 audits.

IMPLEMENTATION ISSUES

32. As noted above, it is recommended that Waitakere City Council seeks to amend its future fees and charges schedule from 1 July 2009 using the special consultative procedure process to cover the additional costs of bringing forward the BCA audit.

Report prepared by: Michael Campbell, Group Manager: Consents.



15 PRIME WEST LIMITED – UPDATE AS AT 30 SEPTEMBER 2008

GLOSSARY

Prime West Limited	(PWL)
Prime West Management Limited	(PWML)
Waitakere Properties Limited	(WPL)
Henderson Valley Film Studios	(Studios)

EXECUTIVE SUMMARY

The purpose of this report is to update the Finance and Operational Performance Committee on the performance of Prime West Limited (PWL) for the year ending 31 March 2008 and half year ending 30 September 2008.

PWL is a private company in which Council has retained a 44.45% shareholding. PWL is the entity which currently owns the Henderson Valley Film Studios (Studios), a complex containing film studios/sound stage and a number of associated buildings providing workshop and office spaces, together with an adjoining 2 storey property at No.14 Hickory Avenue, Henderson containing offices and warehouse/workshop space suitable for use in conjunction with the adjacent studios.

Pursuant to the subscription agreement each shareholder has appointed one director, and by mutual agreement, an independent director. The Council has appointed Ross W Jewell and the other shareholder, Tony MH Tay. The independent director is John W Duncan. Mr Jewell acts as Chairperson and will be present at the meeting to respond to questions, and will introduce Mr Duncan to Elected Members on that occasion.

RECOMMENDATION

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the Prime West Limited - Update as at 30 September 2008 report.

BACKGROUND

1. PWL was constituted in June 2006 for the purpose of acquiring the Studios property as purchaser from Waitakere Properties Limited (WPL) and to enter into associated contractual arrangements to cause the construction of the new sound stage building at that location. The majority (75,000) shares were subscribed by

Tony Tay Film Limited and the minority (60,000) subscribed by the Council, the aggregate subscription payments being \$13.5 million.

2. WPL, as vendor, remained the registered proprietor of the Studios property until the Code Compliance Certificate was issued for the new Studios construction, when the balance of the purchase price for the property, \$6 million was required to be paid by PWL. Tony Tay Trust Limited provided the cash subscription to meet the new Studios construction contract, \$7.5 million. Settlement was achieved on 8 October 2007. Accordingly, PWL has been in receipt of the Studios rental income since that date.
3. The tenant at that time was Sad Flutes Limited (producing Laundry Warrior) until its Occupation Licence expired in mid-March 2008. The current occupier is Walt Disney NZ Limited, from 31 March 2008 until expiry of the initial occupation term on 24 April 2009, though the Occupation Licence provides for 2 further 1 year rights of extension. There are also a number of minor tenancies in place over small portions of the studio site for industry related businesses.
4. Audited Financial Statements for PWL for the year ended 31 March 2008, and un-audited statements for the 6 month period ended 30 September 2008 have been circulated separately. While PWL financial performance can be discussed in general terms at this meeting, elected members are asked to respect both that PWL is a private company and that the provision of film studio premises and related services is a commercially sensitive competitive activity and that appropriate discretion and confidentiality needs to be observed with respect to detail.
5. The initial acquisition of the Studios and the new sound stage build were funded from share subscription and the company started operations with a debt free balance sheet. However, with a view to mitigating the shortage of office space on-site, the company subsequently determined to acquire the contiguous commercial property at No.14 Hickory Avenue, expected to be used predominantly by film industry tenants, with settlement on 31 March 2008. That acquisition was funded by establishing a revolving credit facility up to \$1 million with its bankers together with a small overdraft facility for operational purposes. Since October 2007 the company has continued to upgrade studio facilities and, more recently, in renovation of the Hickory Avenue property.
6. While PWL is now in a position with sustainable cashflow to consider further acquisitions and studio development activity, the PWL Board has resolved, having regard to the current economic climate and market conditions, to adopt and maintain a conservative approach to further significant expenditures at the present time and has prepared its current Business Plan on the basis that it will not grow its asset base further, nor approve any increase in debt or equity, until the current market volatility has abated.
7. On 7 May 2008, the company declared a fully imputed dividend of \$2.50 per share, paid in cash on 26 May 2008. That dividend is in respect of the year ending 31 March 2008, and resulted in a payment to the Council amounting to \$150,000. Surplus cash resources are being applied presently to pay down debt incurred in relation to 14 Hickory Avenue and towards incremental upgrade expenditures at the studios. Potential for payment of dividends to shareholders will be reviewed by the PWL Board annually, based upon the forward occupation profile then prevailing for the studios and normal commercial business considerations.

8. Planning for provision of an additional sound stage on site continues. The potential for government support through the Ministry of Economic Development will be further explored after the forthcoming election outcome is identified. The current Occupation Licences have been drafted so as not to inhibit the ability to further intensify development on site notwithstanding tenant presence. PWL is currently strengthening its financial position and the studio is in full production mode with a strong principal tenant, Walt Disney NZ Limited.
9. PWL itself does not employ staff (although Graham Wakefield is contracted as company secretary) with management services being provided by Prime West Management Limited (PWML) pursuant to a Management Deed, subject to payment of a monthly fee. PWML employs Kieran Fitzsimmons as Managing Director for the Studio business, and John Worley as Site Manager. Greg Parker acts as Chairperson of the PWML Board.

STRATEGIC CONTEXT

10. The future outlook is positive, with the recent fall in the value of the New Zealand Dollar relative to the United States Dollar ensuring the studio rental cost going forward will be attractive to overseas based productions. Even without the additional sound stage which could be constructed, the Studios are widely considered to be the top studio facility in New Zealand and on a par with the best in Australia.
11. The Council has successfully established a top class film studio amenity in Waitakere, has encouraged related film industry "clustering", and has introduced both private and Crown investment (through the Major Regional Initiative grant programme) into the City for film industry purposes and has now divested its original direct ownership (through WPL) to PWL on a fully commercial basis whilst retaining a sufficient degree of involvement as shareholder to continue to influence future activity and outcomes and facilitate growth without additional investment of ratepayer funding.

CONSULTATION

12. No consultation issues arise from this report.

RESOURCES

13. No Council financial resources have been applied or required since the acquisition of the studio facility by PWL. Council's investment as shareholder has been fully funded by distribution from the Studios' trust account operated historically by WPL since the property was originally acquired and vested in that entity at the beginning of 2003.

IMPLEMENTATION ISSUES

14. Studio operational issues are the accountability of PWML. Support is available from Enterprise Waitakere, Film Auckland and Council with respect to the advancement of wider strategic objectives for the local film industry.

Report prepared by: Andrew Pollock, Director: Finance.



16 **ADDITIONAL RECOMMENDATIONS: LICENCE TO OCCUPY COUNCIL ROAD RESERVE – 10 TODD AVENUE, NEW LYNN**

GLOSSARY

Local Government Act 1974	(LGA 1974)
Portage Licensing Trust	(The Trust)

EXECUTIVE SUMMARY

The purpose of this report is to add additional recommendations to a decision that was made by this Committee on 6 October 2008 regarding the approval by Council to enter into a licence with the Portage Licensing Trust (The Trust). The approval is for a license to occupy and lease 64 square metres of Council road reserve (Todd Triangle) adjoining their proposed bar and restaurant at 10 Todd Avenue, New Lynn for the purposes of outdoor dining. Under section 357(1) of the Local Government Act 1974 (LGA 1974), the Council as landowner is empowered to authorise encroachments on the road.

The establishment of this licensed outdoor dining area within the Merchant Quarter in New Lynn is consistent with Council's vision for the New Lynn Town Centre.

These additional recommendations are required to ensure that the Licence once granted, can be reviewed to align with Council's Policy on Outdoor Dining which is yet to be finalised and adopted by the Council.

A concurrent resource consent application is assessing the cumulative effects on the adjacent community of The Trust's proposed bar and restaurant development, as part of Council's regulatory role. A decision on this consent is expected in early November 2008.

Since the October 2008 report, some correspondence has been received by New Lynn businesses and local residents raising concerns with the Trust's original resource consent application (which has since been revised) and the approval given by Council as landowner to enter into a licence to occupy.

The correspondence received from the public does not have any legal status in terms of the resource consent process and there is no requirement under the LGA 1974 for public consultation before a licence to occupy is granted by the Council. At the time of writing this report, a response to the correspondence received was being drafted.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Additional Recommendations: Licence to Occupy Council Road Reserve – 10 Todd Avenue, New Lynn report.
2. **Agree** to approve that the licence with the Portage Licensing Trust to encroach onto 64 square metres of Council road adjacent to 10 Todd Avenue, New Lynn, subject to resource consent being obtained and includes a clause that allows it to be reviewed to align with Council's Outdoor Dining Policy.
3. **Direct** the Chief Executive Officer to be authorised to include a clause that the licence with the Portage Licensing Trust to encroach onto 64 square metres of Council road adjacent to 10 Todd Avenue, New Lynn, subject to resource consent being obtained to align with Council's finalised Outdoor Dining Policy.
4. **Note** the correspondence received from local businesses and residents in New Lynn.

BACKGROUND

1. A report seeking approval from Council as landowner to enter into a license with The Trust to occupy and lease 64 square metres of Council road adjoining their proposed bar and restaurant at 10 Todd Avenue, New Lynn, was reported to the October 2008 Finance and Operational Performance Committee meeting, which resolved to:

- “1. **Receive** the Licence to Occupy Council Road Reserve - 10 Todd Avenue, New Lynn Report.
2. **Agree** that the Council enter into a licence with the Portage Licensing Trust to encroach onto 64sqm of Council road adjacent to 10 Todd Avenue, New Lynn as shown in the plan attached, subject to resource consent being obtained.
3. **Agree** the Chief Executive Officer be authorised to negotiate and execute a licence for \$6,000 per annum as per the valuation for the report, subject to resource consent being obtained.”

1711/2008

DECISION MAKING

Issues

A190-A195

2. The Council's draft Outdoor Dining Policy is still to be finalised, as it is linked to the public places bylaw consultation and review process, but its principles will be taken into account in the preparation and finalisation of the licence to occupy for the road adjacent to 10 Todd Avenue, New Lynn. These principles relate to the design requirements of the outdoor dining area and the balance to be achieved between commercial and public access to public space.
3. Since the October 2008 report attached at pages A190 to A195, The Trust have revised their resource consent application for a bar and restaurant at 10 Todd Avenue in New Lynn. In particular, the numbers for the outdoor seating in Todd Triangle are proposed to be reduced from 70 patrons to 46 and the hours of operation for the outdoor dining have changed from 7 days a week 10am to 1am, with extended hours till 3am on Saturday and Sunday morning to Sunday to Wednesday 10am to 10.30pm and Thursday to Saturday 10am to 11.30pm.
4. The Trust is also proposing that the outdoor dining area be defined by landscaped planter boxes and a retractable canopy over the public courtyard to provide all weather protection for future diners. All structures within the public space will be stored overnight, or when not in use. The seats within the courtyard shall be temporary and shall be collected and stored away overnight.
5. At the time of writing this report, consideration by the Council of the revised resource consent application was taking place with a decision expected in early November 2008. If the resource consent is granted, officers can then begin negotiating on the final terms and conditions of the license to occupy.

Options Identified

6. The options identified fall into two broad categories, agree to the additional recommendation or do not agree to the additional recommendation.

7. If the additional recommendation is not approved, then the Council runs the risk that the terms and conditions of the licence may not be consistent with Council's Outdoor Dining Policy, which is yet to be finalised and adopted by the Council.

Consideration of Community Views

A196-A199

8. Planning for the future of New Lynn has been ongoing since the 1996 design charette and the community has had a number of formal and informal opportunities to express their views.
9. Since the October 2008 report there has been some correspondence received from local businesses and residents in New Lynn. The correspondence relates to The Trust's original resource consent application and the approval given by Council as landowner to enter into a license with the Trust to lease part of the Todd Triangle for outdoor dining purposes. A copy of the letter signed by multiple business owners is attached pages A196 to A199. At the time of writing this report, a response to the correspondence received was being drafted.
10. In regards to the license, Council has made the decision as landowner to grant the license and there was no requirement to consult with the general public under the LGA 1974 before this approval was given. Members of the public will have an opportunity to comment on wider issues relating to outdoor dining in the City, when the Council consults on its draft Outdoor Dining Policy.
11. Other concerns that were raised by the recent correspondence relate to the resource consent application. The cumulative effects of the application on the adjacent community are currently being assessed by Consent Services as part of Council's regulatory role. Although the correspondence itself does not have any legal status in terms of the resource consent process.
12. As part of the Sale of Liquor Act 1989 a public notification process is required before a new liquor licence can be issued. Members of the public will be able to comment on the application for the liquor licence for the outdoor dining area at 10 Todd Avenue, New Lynn.

Preferred Option

13. The preferred option is for the Council to agree to the additional recommendations to this Committee's October 2008 decision regarding the licence with The Trust to encroach onto 64 square metres of Council road, adjacent to 10 Todd Avenue, New Lynn. This protects Council's position by ensuring that the license can be reviewed, once Council's Outdoor Dining Policy is approved.

STRATEGIC CONTEXT

14. New Lynn is identified in the Council's 2006 Draft Growth Management Strategy as one of the City's future urban growth areas. Significant growth is expected to occur in New Lynn as urban development and intensification takes place in residential, retail and employment areas, as part of the implementation of the New Lynn Plan Change 17 and 18. This growth contributes to the Council's Urban and Rural Villages and Strong Innovative Economy strategic platforms and Strong Economy and Urban and Rural Villages community outcomes.
15. The establishment of a licensed outdoor dining area within the Merchant Quarter in New Lynn is consistent with the Strategic Platform and Community Outcome of Strong Communities and Waiora – Environmental Protection, helping to make the

City a safe and interesting place to live, while protecting the health, wellbeing and safety of the community.

16. The development of the Merchant's Quarter is important to Council, as it will showcase how development can be achieved that supports and links to a mix of uses and activities, with a network of pedestrian priority lanes and courtyards.
17. The establishment of bar and restaurant facilities also needs to be balanced with the Council's desire to encourage residential activities within town centres. At the present time residential activities can establish in this environment as of right and care is needed to ensure that all activities contribute to the vibrancy of the City without compromising the amenity of existing and future residents. The resource consent process is the appropriate mechanism to assess the scale and character of the proposed activity (including noise effects) and to impose any necessary conditions on the activity.

CONSULTATION

18. Consultation with staff from Legal Services and Consents Services has taken place.

RESOURCES

19. The finalisation of the licence to occupy will require officer's time for negotiation and legal process.
20. Field Services will need to enforce the conditions of the negotiated licence to occupy, this will be resourced through existing budgets and staff resources. The resource consent process is fully cost recovered.

IMPLEMENTATION ISSUES

21. Staff resources are available to finalise the license to occupy with The Trust if resource consent is granted for the proposed bar and restaurant. The terms and conditions of the license will be enforced by Field Services.

Report prepared by: Stephanie Jowett, Strategic Planner, Strategic Projects.



17 ROAD STOPPING AND SALE OF LAND AND DECLARING LAND TO BE ROAD AT SUNNYVALE ROAD

EXECUTIVE SUMMARY

A200

The purpose of this report is to seek the Finance and Operational Performance Committee's recommendation to Council that a part of the road reserve adjacent to 45 Sunnyvale Road, Swanson be stopped and transferred to the adjacent owners in exchange for a similar sized piece of land, which shall be vested in Council and be declared road. The location of 45 Sunnyvale Road, Swanson is shown on the printout from the Council's Geographic Information System (GIS) record attached at page A200.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Road Stopping and Sale of Land and Declaring Land to be Road at Sunnyvale Road report.
- A201 2. **Agree** that the part of the road marked Section 2 on the diagram attached at A201 be stopped, be transferred to the owners of the adjacent property at 45 Sunnyvale Road and be amalgamated with the adjoining land in Lot 3 DP 62243 pursuant to s. 345(2) of the Local Government 1974.
3. **Agree** that Council receive in exchange for the stopped road that part of the property at 45 Sunnyvale Road, Swanson marked Section 1 in the plan attached at A201 and following vesting in the Council it be declared road.
4. **Agree** that all costs incurred by the Council in relation to valuation, survey, road stopping and legalisation be recovered from the owners of the property at 45 Sunnyvale Road, Swanson.

BACKGROUND

- A201 1. Council has been approached by the owners of the house property at 45 Sunnyvale Road, Swanson who wish to demolish their existing dwelling house and construct a new one on a site closer to Sunnyvale Road which will provide them with a superior building platform. The proposed new building site would however encroach onto that part of the adjacent road reserve shown marked Section 2 on the plan attached at page A201.
- A201 2. The owners have asked Council to stop that part of the road reserve shown marked Section 2 on the diagram attached at page A201 and transfer the land to them. They offer in exchange the land shown marked Section 1 on the diagram attached at page A201, which Council may then declare to be road. It is noted that both parcels of land are of equal size.
3. A valuation of the 2 parcels of land show that they are of equal value.

DECISION MAKING

Issues

4. Council must now decide whether or not it will comply with the property owners' request.

Assessment of Options

5. Council could simply decline the property owners request and let the status quo remain.
6. Council could require the property owners to have executed and registered against their title an encumbrance in favour of Council, which acknowledged the proposed new dwelling house to be an encroachment, upon the understanding that it would have to be removed upon 1 month's notice in writing. (This is the mechanism usually adopted for structures within the road necessary for vehicular access).

7. Council could agree to the property owner's request by selling sufficient land to accommodate the proposed encroachment and taking an equal amount of land in exchange. An alternative would be to grant an easement but this is an inferior solution and there is no obvious traffic related reason for retention of ownership of the area in question.

Consideration of Community Views

8. The only parties who could be affected by the proposed road stopping and sale are persons using the sealed carriageway adjacent to the land but this is some 20 metres away from the edge of the road reserve and cannot possibly affect the passage of vehicles or pedestrians. For this reason it is considered that there are no persons likely to be affected by the proposed action.

Preferred Option

9. The preferred option is to agree to the property owners' request and stop part of the road, sell it to them and receive the land offered in exchange and have that land declared road. The exchange would regularise an existing irregularly shaped road boundary, ensure that a minimum road reserve of 20 metres is retained and allow space for any future upgrading of the road. The outcome following the land swap from the Council's perspective is considered to be superior to the existing position.

STRATEGIC CONTEXT

10. The appropriate strategic platform in this instance is "Urban and Rural Villages" which promotes the creation of thriving neighbourhoods. The proposed exchange will enable the owners to construct a home of their choice and may contribute to fostering pride in their property and the local community.

CONSULTATION

11. Consultation has been carried out with Council's Transport Assets Section and the Strategy Unit and for the reasons stated under "Consideration of Community Views" further consultation is considered unnecessary.

RESOURCES

12. As the proposed road stopping, sale and road vesting are to be carried out for the benefit of the land owners they have agreed to pay all survey, valuation, gazette notice and title costs. Council's contribution will be the time spent by its officers.

IMPLEMENTATION ISSUES

13. Should Council pass the resolutions sought, then it is proposed to implement the necessary action by publishing and registering with Land Information New Zealand a single gazette notice as provided in ss. 114, 116, 117, and 120 of the Public Works Act 1981. The land proposed to be acquired by the land owners will be amalgamated with their existing property into one single title.

Report prepared by: Maurice Hieatt, Solicitor.



18 **NEW LYNN RAIL TRENCH: VERONICA STREET, WARD STREET AND PORTAGE ROAD LEVELS**

EXECUTIVE SUMMARY

The purpose of this report is to advise the Finance and Operational Performance Committee of the responses received to Council's notification of ONTRACK's intended alterations to road levels in Veronica Street, Ward Street and Portage Road. This is to enable construction of the proposed rail trench through New Lynn, and to conditionally recommend that the proposed new road levels be approved. The report also provides the basis for hearing of submissions as required by s. 330 of the Local Government Act 1974.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the New Lynn Rail Trench: Veronica Street, Ward Street and Portage Road Levels report.

A202-A208

2. **Approve** the proposed new road levels for Veronica Street, Ward Street and Portage Road, as presented in ONTRACK Plans numbered 39104415-C-180 to 183 inclusive and 39104415-C-200 to 202, as shown in attachment at pages A202 to A208 subject to the following conditions:

(a) that in regard to all properties affected by the approved road level changes, the Director: City Services be delegated authority to approve all ONTRACK construction plans for changes to access, drainage, parking, structures, landscaping, and any other element to be changed within or affecting these properties.

(b) that the Director: City Services be delegated authority to decide appropriate modification of ONTRACK's construction plans, with decisions on costs for additional investigation, design, and construction in order to mitigate as far as practicable the issues raised by submitters with regard to 1 Veronica Street, 41 Portage Road and 12 Ward Street.

BACKGROUND

1. At its meeting held on Monday, 8 September 2008, the Finance and Operational Performance Committee resolved to:

"Approve to publicly notify, in accordance with section 330 of the Local Government Act 1974, the proposal to raise the level of Ward and Veronica Streets, New Lynn and to reduce the level of Portage Road, New Lynn in the vicinity of the rail corridor, to ensure their re-instatement when the rail tracks are lowered into ONTRACK's proposed rail trench."

1506/2008

A209-A218

2. The s. 330 of the Local Government Act 1974 public notification procedure has been implemented with 4 written responses having been received. Copies of these responses are attached at pages A209 to A218.

3. The written responses are listed as follows:

- 1 Veronica Street, Origin Interiors, 30 September 2008 and 8 October 2008;
- 41 Portage Road, The Baby Factory, 8 October 2008;
- 12 Ward Street, Gamby Collier Trust, 28 October 2008; and
- ONTRACK.

4. The issues raised in these responses must be resolved by the Finance and Operational Performance Committee. The Finance and Operational Performance Committee's resolutions are binding and cannot be appealed.

DECISION MAKING

5. The process for modifying new road levels is set out in s. 330 of the Local Government Act 1974 as follows:
 - (i) *The Council shall publish in the district a notice of its intention to fix the level, describing there the road by name and situation, and the proposed level thereof, by reference to plans to be open for inspection at a place named in the notice.*
 - (ii) *The Council shall in the notice appoint a day, not being less than one month after the publication of the notice, at which it hear all objections to the proposed level by persons affected thereby.*
 - (iii) *The Council shall forthwith after the publication of the notice serve a notice in the same form on the occupiers of all land adjoining that part of the road the level of which is proposed to be fixed and, in the case of any such land of which the occupier is not also the owner, on the owner also, so far as they can be ascertained.*
 - (iv) *All such objections must be in writing, addressed to and sent to the Council not less than 10 days before the day of meeting hereinafter referred to.*
 - (v) *The Council shall hold a meeting on the day so notified, at which all persons having so made objections shall be entitled to be heard in support thereof.*
 - (vi) *At that meeting the Council may, after considering all such objections, resolved to abandon the proposed level, or to adopt it with any alterations it thinks fit.*
 - (vii) *The Council shall publicly notify the level so fixed, and shall in the notice refer to a plan to be deposited at the office of the Council and to be open for inspection."*

Options Identified

6. There are no practical alternatives to the road levels proposed by ONTRACK as these are determined by the gradients of the New Lynn rail trench and the geometry of existing roads.
7. It is feasible to carry out some adjustments to the access points and these will be implemented where it is technically possible to mitigate the adverse effects on properties, as set out in this report.

1 Veronica Street

8. The issues raised by Origin Interiors with regard to issues at 1 Veronica Street are that:
 - as a result of the establishment of the existing level rail-crossing 40 foot containers are not now delivered as the trailer units ground themselves on the sharp over-curve of the crossing into the property and that the delivery costs for 20 foot containers are greater.
 - as a result of the establishment of the existing level rail-crossing the change of the off-road parking area from level to sloping has discouraged visitors and

that revenues are less, but Origin Interiors have not referred to any beneficial effect stemming from the passing traffic made possible by the level crossing.

- ONTRACK's proposed raising of the road level by 250 millimetres at 1 Veronica Street vehicle crossing will exacerbate the above deficiencies.
9. Origin Interiors propose that the front yard be filled in and retained to the first floor level of the existing 2 story premises, the ground floor becoming a basement. This would enable a level parking area, with separate re-levelling of the driveway to facilitate 40 foot container deliveries.
 10. ONTRACK proposes to reshape the vehicle crossing within the road reserve in a way that marginally improves the profile between the driveway and the Veronica Street carriageway. There is practically no alteration to existing levels within the property. Having not worsened but marginally improved the access, ONTRACK does not consider itself obliged to undertake the greater work requested by Origin Interiors. ONTRACK also considers from preliminary geometric investigation that 40 foot trailers should be able to access the driveway without bottoming out.
 11. Council officers have suggested that an optional affordable improvement could be to splay the vehicle crossing northward to ease the turn radius, the gradient, and increase the tracking length for large vehicles reversing into the property. This improvement would assist all truck movements, and is therefore desirable for the general safety and efficiency of movement at this location.

41 Portage Road

12. The issue raised by the Baby Factory with regard to access to 41 Portage Road is that an alternative solution needs to be considered. ONTRACK proposes to re-establish the 2 existing driveways.
13. The Baby Factory proposes that the crossing nearest the rail trench be closed off and that the other crossing be re-established but widened. A rearrangement of the layout of parking in the front yard would also be required.
14. The Baby Factory option is to be preferred from a long term safety perspective, as it is likely to cost less and would be less disruptive to the business during construction.

12 Ward Street

15. The issues raised by the Gamby Collier Trust with regard to 12 Ward Street are that:
 - the road outside 12 Ward Street would be raised by 400 millimetres adversely affecting access and an area of the property.
 - only the driveway nearest the rail trench has been considered.
 - near level access will be lost to other properties as well as 12 Ward Street.
 - the humped alignment of the road over the rail trench will create an artificial barrier between land to the north and south of the trench adversely affecting commercial activity in the long term.
16. The Gamby Collier Trust proposes that the rail trench design be changed to the extent that the existing road level above the trench is preserved. However, this is not feasible. ONTRACK has arrived at its proposed rail alignment after consideration of a large number of competing requirements.

17. In consideration of the above issues and proposed solutions it is noted that:
- the road outside the driveway nearest the rail trench is raised by 260 millimetres and outside the second driveway the road level is not raised, rather than the 400 millimetres thought to be the case by the Trust. The maximum increase proposed, above the trench, is 360 millimetres.
 - the remedial works proposed within the property would actually reduce the existing depression below the road from 410 millimetres to 310 millimetres and create a smoother plane area.
 - ONTRACK's proposals for the properties would generally achieve improvements, even if marginal in some cases.
 - The existing hump at the rail crossing is approximately 450 millimetres high. This would be increased by 360 millimetres as a result of the ONTRACK works and the resultant design speed would be 50 kilometres per hour, closely matching the 45 kilometres per hour design speed of the horizontal bend in the road at the trench. The parameters for the hump do not constitute a traffic or visual barrier to commercial relationships across the rail trench.
 - ONTRACK has had to achieve an affordable balance of many competing design parameters for road and rail traffic, and the transport interchange. There is practically no leeway for variation particularly because the tracks must go over the Whau River and Titirangi Road Bridges, each of which prevent further lowering of the tracks between. Indeed, the current track alignment is already to less than ONTRACK's desired standards, in the interest of the Council's objectives of separating road and rail within the town centre, and the creation of new roads to facilitate commercial and community activities.

ONTRACK's Submission

- A219-A221* 18. A submission has been received from ONTRACK supporting the proposed road levels and is included in attachment at pages A219 to A221.

Access and Frontage

19. It became apparent at meetings with some of the notified parties that the ONTRACK documentation focuses on the achievement of acceptable access to properties, somewhat at the expense of consideration of frontages as a whole. This issue was generally resolved in discussion during the meetings, and will be fully addressed through Council's approval of construction drawings and specifications.

STRATEGIC CONTEXT

20. The road level changes subject of this report stem from the detailed design requirements for the ONTRACK double tracking program and are consistent with Council's New Lynn Transit Oriented Development project, for which the Portage and Ward Street/Veronica Street bridged-crossings are Council approved projects.

CONSULTATION

21. ONTRACK's double-tracking concept plan for New Lynn and Council's New Lynn Transit Oriented Development plan have been widely and frequently publicised and consulted.

RESOURCES

22. All remedial works proposed by ONTRACK are contract works and will be implemented and funded by ONTRACK.
23. In regard to 1 Veronica Street and a small variation to ONTRACK's proposed work in the form of a northerly splay to the vehicle crossing, this can be funded from the Annual Plan 2008/2009 for the New Lynn Transit Oriented Development project.

IMPLEMENTATION ISSUES

24. The only implementation issue is that ONTRACK's construction drawings and specifications are subject to approval by the Director: City Services.

Report prepared by: Ross Hill Programme Manager: Transportation Development.



19 GOVERNANCE AND VALUE FOR MONEY REVIEW OF COUNCIL CONTROLLED ORGANISATIONS (2008)

GLOSSARY

Waitakere City Holdings Limited	(WCHL)
Waitakere City Council	(WCC)
Local Authority Trading Enterprise	(LATE)
Council Controlled Organisation	(CCO)
Council Organisations	(COs)
North Shore City Council	(NSCC)
Resident Withholding Tax	(RWT)
Accident Compensation Corporation	(ACC)
Waitakere Properties Limited	(WPL)
Waitakere Enterprise	(WE)
Prime West Limited	(PWL)
Prime West Management Limited	(PWML)
Local Government Act 2002	(LGA 2002)
Statement of Intent	(SOI)

EXECUTIVE SUMMARY

At the direction of the Chief Executive Officer an internal review group consisting of the Director: Finance, Director: Corporate and Business Services, Group Manager: Democracy and Support Services, Manager: Quality Assurance Services and the Legal Services Manager has undertaken the first stage of a governance and value for money review of Waitakere's Council Controlled Organisations.

This first stage has consisted of an internal review of existing structures and reporting lines, a consideration of some alternative structures, the identification of a tentatively preferred view, consultation with directly interested parties and the finalisation of a draft position for discussion with elected members.

The second stage, assuming the draft proposal is approved may involve an external peer review of the conclusions reached to that point from a governance perspective, completion of the value for money review which has been commenced and a review of tax issues, to the extent that might be considered necessary.

The third stage will involve implementation of the approved outcome and will include a review of existing constitutional documents to ensure that they are appropriate, a review of existing board membership balance and skills; new board appointments (if appropriate or necessary) and review of the Statement of Intent (SOI) for each Council Controlled Organisation (CCO) for consistency with the outcomes sought from the governance review.

This programme is to be fully completed no later than 30 June 2009.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Governance and Value for Money Review of Council Controlled Organisations (2008) report.
2. **Agree** to reconstitute Waitakere City Holdings Ltd with responsibility for:
 - interacting with the Council at political and management levels to provide expert advice, and to act as a sounding board, in relation to the broad range of commercial and economic activities in which the Council is engaged, or might consider becoming engaged;
 - reviewing periodic financial reporting by subsidiary Council Controlled Organisations (and any Council Organisations for which it has responsibility) and reporting to the Council (thus eliminating the current duplicated reporting regime);
 - undertaking capital structure, capital adequacy and value for money reviews of subsidiaries, Council Controlled Organisations (and any Council Organisations for which it has responsibility);
 - reviewing SOI of subsidiaries and Council Controlled Organisations (and any Council Organisations as agreed by the Council);
 - monitoring compliance with Statement of Intent and ensuring alignment with Council's strategic objectives;
 - recommending, through a robust and transparent process, Director and Chairman appointments to subsidiaries, Council Controlled Organisations and Council Organisations;
 - monitoring business developments;
 - where appropriate, assisting subsidiaries, Council Controlled Organisations and other Council Organisations on relationship issues with the community;
 - keeping the Council and the Chief Executive Officer informed on strategic issues facing the sectors within which the subsidiaries and Council Controlled Organisations operate and understanding and directing the subsidiaries and Council Controlled Organisations to meet key goals set by the Council;
 - where appropriate, holding strategic discussions with subsidiaries and Council Controlled Organisations;
 - providing opportunities for subsidiaries, Council Controlled Organisations and other Council Organisations to network and discuss developments in governance practice; and
 - reporting progress on achievement of the holding company's Statement of Intent and other goals agreed with the Council.

3. **Agree** that Waitakere City Holdings Limited provide leadership to the Council by:
 - investigating investment opportunities which have the potential to enhance employment opportunities or to stimulate economic growth;
 - promoting investment in Waitakere;
 - seeking out opportunities for diversification of the Council's income streams; and
 - identifying present and future infrastructure needs.
4. **Direct** the Chief Executive Officer to develop policy and procedures for performance reviews including formal monitoring of Waitakere City Holdings Limited performance.
5. **Direct** the Chief Executive Officer to review the Constitution of Waitakere City Holdings Limited providing for a minimum of 3 and a maximum of 7 Directors with Elected Member Directors in a minority.
6. **Direct** the Chief Executive Officer to review the process for the appointment and remuneration of Directors as approved guidelines that will apply to Waitakere City Holdings Limited and then to any other subsidiary and Waitakere Enterprises.

BACKGROUND

Existing structure

1. The existing ownership and governance structure of Waitakere's CCOs is depicted in this diagram.

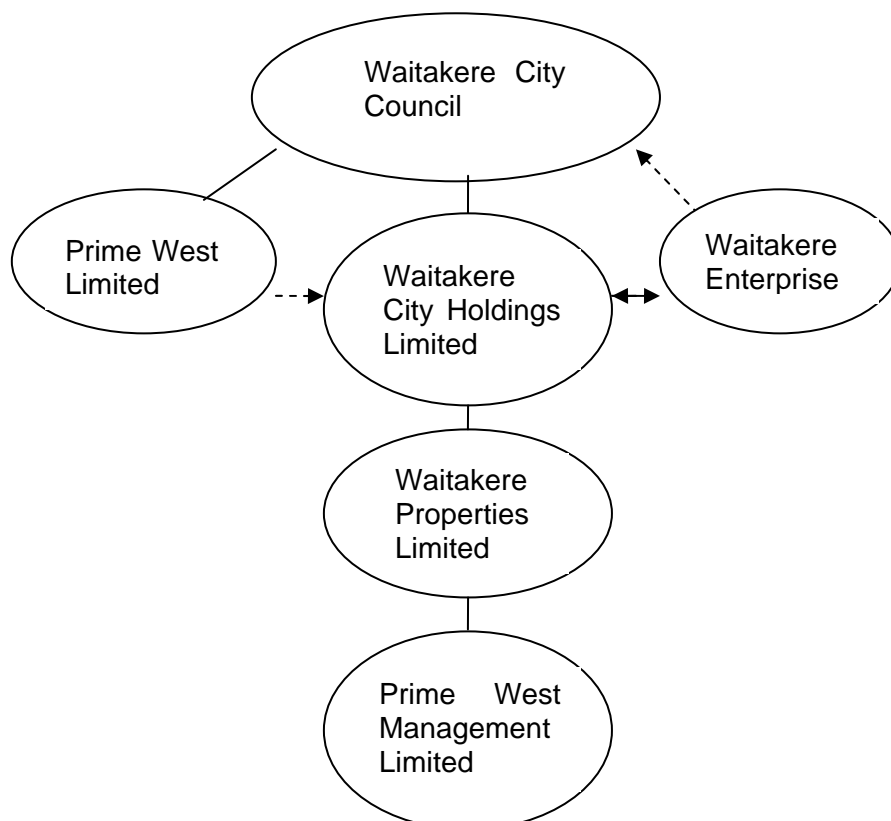


Diagram 1: Existing ownership and governance structure of Waitakere's CCOs.

2. At a theoretical level there are clear reporting lines and responsibilities in this structure but the practice has not always emulated the theory. Prime West Limited (PWL) stands out to one side with its shares held directly by the Council rather than through Waitakere City Holdings Limited (WCHL). Waitakere Enterprise (WE) also stands out to one side because it is a charitable trust and its relationship to the Council arises because of the Council's ability to appoint trustees to its board (rather than through an ownership interest).
3. To understand what is proposed it is helpful to first provide a brief background of each of the organisations shown in the existing structure and the roles that they have played in the past.

Waitakere City Holdings Limited

4. WCHL commenced operations on 1 July 1999. It followed the standard model for local authority holding companies, and had the stated purposes of:
 - consolidation of investment management skills and reporting from subsidiaries;
 - provision of an “umbrella” to assist and guide the subsidiaries to achieve the objectives that Council had set for them;
 - establishing minimum rates of return for moneys invested by Council in subsidiaries; and
 - providing a tax efficient structure for the return of revenues to Council. (The Council's revenue is generally not liable for income tax. However income earned from a CCO is taxable in the Council's hands, but the cost of Council borrowing related to that income will not be tax deductible unless properly structured.)
5. The Council's shareholdings in (what was then) Eco Works Limited and Waitakere Properties Limited (WPL) were transferred to WCHL as follows:
 - Council raised a loan for \$5,025,000 for the purposes of capitalising WCHL and used this money to subscribe for shares in WCHL;
 - WCHL acquired the shares held by Council in Eco Works Limited and WPL at valuation (\$3.5 million and \$1.5 million respectively). WCHL was left with \$25,000 for working capital;
 - Council used the proceeds for the sale of the shares in Eco Works and WPL to repay \$5 million of other (non-deductible) Council debt; and
 - In 2007 WCHL bought back \$4 million of the Council's shareholding using some of the proceeds from the sale of Techscape Limited.
6. This arrangement had the affect of creating a loan in Council's books related to the earning of assessable income. Interest on this loan was deductible against the income received and tax was only payable on any surplus over the cost of borrowing (and the costs of operating WCHL). Income in the form of dividends came from Eco Works Limited (subsequently Techscape Limited).
7. In circumstances where income exceeds expenses, so that taxable losses are made, it is possible to recoup those losses if the Council, WCHL and it's subsidiaries are grouped for tax purposes and subvention payments are made. WCHL has utilised subvention payments in this way, in accordance with tax advice received.

8. At 30 June 2008 WCHL had a working cash balance of \$1.595 million. The majority of that amount being the residual net proceeds from the sale of Techscape Limited and other final shareholder distributions associated with the sale of that company.
9. The board of WCHL currently comprises the following: Bryan Mogridge (Chairman), Ross Jewell and Harry O'Rourke. Administrative support for the board of WCHL is provided by the Group Manager: Democracy and Support Services and accounting support is provided by the Group Manager: Financial Operations.

Techscape Limited

10. This company was formed to commence operations from 1 September 2000. It brought together Eco Works Limited and its North Shore City Council (NSCC) equivalent - NSM Contracting Limited. Both shareholders (WCHL and the NSCC holding company) subscribed for \$300,000 of shares and \$2,700,000 of interest bearing convertible notes. The convertible note mechanism was adopted as a tax effective means of returning moneys to the shareholders. The convertible notes paid interest at a commercial lending rate.
11. The treatment of WCC as a group for tax purposes meant that although Techscape Limited was required to deduct Resident Withholding Tax (RWT) at source prior to paying the interest to WCHL, this could be claimed back against the tax losses incurred in WCHL. This resulted in a tax refund for WCHL each year for the amount of the RWT and any other losses that WCHL had made. Again, these arrangements were in accordance with tax advice received.
12. In 2006, Techscape Limited was sold and WCHL received \$5,742,293 as it's share of the sale proceeds.

Eco Works Limited

13. Once the operational aspects of Eco Works Limited had been transferred to Techscape, the Eco Works Limited shell was left. This was tidied up in May 2001 by way of a short-form amalgamation which merged WCHL and Eco Works. The merged organisation retained the name Waitakere City Holdings Limited. This merger, rather than liquidation, was undertaken for tax reasons in accordance with tax advice received.

Waitakere Properties Limited

14. WPL (WPL) is the Council's property development arm. It undertakes property development projects on behalf of the Council. Historically, particularly at Harbourview, it provided impetus and direction by undertaking developments which the private sector was reluctant to initiate. Latterly it has been involved in general residential and commercial property development while undertaking specific projects at the Council's direction.
15. As noted above WPL was established with \$1.5 million in share capital. Subsequently that was increased by a further \$800,000 to \$2.3 million to provide additional working capital. Income from share capital is used to fund the operations of WPL, paying overhead and staff expenses and directors fees. Generally WPL has operated on a break even basis but there has been some minor accumulation of profits from operations. Currently the net worth of WPL is in the order of \$2.5 million.

16. A local authority does not generally pay income tax on revenue from its activities. It follows that any profits derived by a local authority from land subdivision and development activities which it undertakes are not taxable. If WPL was a property developer in its own right it would pay tax on any profits made and any dividends paid to the Council would be taxable in the Council's hands. For that reason, when the Council identifies a property which it wishes to develop it does not transfer outright ownership of the land to WPL. The land is transferred under a deed of trust structure only.
17. The effect of this arrangement is that:
 - Any profits made from developments or subdivisions are treated as income of the Council and are not taxable in the Council's hands;
 - The particular parcel of land remains an asset on the Council's books and is not an asset in WPL's books; and
 - The money necessary to fund the development of the site is made available to WPL through trust account arrangements put in place on a property by property basis.
18. To date WPL has not paid a dividend to WCHL but substantial property development revenue has been returned directly to the Council.
19. The board of WPL currently comprises: Bryan Taylor, Chairman, Rob Noakes, Harry O'Rourke, Ross Jewell, and Neil Ranford. The company employs 3 staff.
20. One of the projects in which WPL became involved, at the Council's direction, related to the Henderson Film Studio in Henderson Valley Road. This led to the establishment of PWL and Prime West Management Limited (PWML). The latter company is responsible for the management of the film studios. It is paid a management fee by PWL and runs the studios on a day-to-day basis. WPL has a 40% shareholding in PWML.
21. The board of PWML comprise Greg Parker (Chairman), representing WPL, Kieran Fitzsimmons representing Tony Tay Film Limited a 30% shareholder and Bruce Coldicutt representing the other 30% shareholder. PWML has 2 employees.

Prime West Limited

22. PWL is the company which owns the Henderson Film Studio. The Council owns 45% of the shares and Tony Tay Film Limited owns the other 55% of the shares. The Council's shareholding was funded through by putting its land and buildings into the structure (at valuation). Tony Tay Film Limited's shareholding was funded through the construction of the new Henderson Film Studio. The Henderson Film Studio has been very busy and is fully booked until April 2009. The Henderson Film Studio continues to make a positive contribution to the economic activity of and employment opportunities in Waitakere. The value of the Council's original investment in the Henderson Film Studio was \$6 million. The net worth of the company as at 31 March 2008 was \$13,650,988
23. The board of PWL currently comprises Ross Jewell (Chairman) and John Duncan appointed by the Council, and Tony Tay representing his own interests. PWL has no employees.

Waitakere Enterprise

24. WE is a charitable trust which operates as the Council's economic development agency. The Council appoints trustees to its board. WCHL has a mandate to work closely with WE, to oversee and currently the chair of WCHL and WE are the same person (Bryan Mogridge). The Council makes annual payments to WE to assist funding of its activities through the annual plan process. In the 2008/2009 year the payment will be \$1,118,000.
25. The board of WE currently comprises Bryan Mogridge (Chairman), Brian Corban, Mike Williams, Professor Paul Spoonley and Yvonne Hawke. WE employ 29 people covering 27 full time equivalent positions.

ISSUES

Governance Review of Waitakere City Holdings Limited

26. Council has considered governance arrangements around WCHL, its subsidiaries and Council CCOs on several occasions since inception. A number of report writers have been involved.
27. Following a review in 2002 a new subcommittee of the Finance and Operational Performance called the Council-Controlled Organisations Governance Subcommittee was established. That subcommittee was not reformed after the 2004 elections and the responsibilities of that committee were passed back to the Finance and Operational Performance Committee.
28. While WCHL is required under its SOI to receive reports and monitor performance of Council CCOs, since 2004 much of the reporting has become duplicated, with some going directly to the Finance and Operational Performance Committee as well through WCHL.
29. The review group identified the need for the Council to revisit and clarify the stated purposes behind the establishment of WCHL as a holding company for Council investment. Those stated purposes are set out at paragraph 4 above. The review group considered that the use of a holding company remained an appropriate vehicle on the grounds that it can (in summary):
 - be a mechanism to tap external and independent expertise (particularly to fill any gaps in expertise amongst Elected Members performing the role of monitoring CCOs);
 - provide an independent, commercial, 'think-tank' and sounding board for the Council (i.e. elected members, the Chief Executive Officer and the Directors' Group);
 - assist the Council to identify appropriate roles and focus for its commercial activities and other economic initiatives;
 - ensure improved corporate governance and accountability through:
 - the setting of clear strategic and financial objectives for CCOs through the SOI process and monitoring the performance of CCOs against the SOI;
 - providing a point of regular contact between the Council's external commercial advisers and the political arm of Council;
 - acting as an external advisor which is actively involved in the process of identifying and selecting people with appropriate skills to be appointed to the boards of Council CCOs;

- monitoring the performance of the boards of CCOs and the individual members of those boards; and
- generally providing some “gristle” to the Council’s commercial activities.
 - o provide continuity by reducing the potential for the loss of intellectual capital and skills as a consequence of the 3 year electoral cycle;
 - o provide a focal point for the management of major projects using structures which can operate effectively outside some of the constraints imposed upon local authorities under the Local Government Act 2002; and
 - o provide access to tax efficient structures for the Council when undertaking profit making ventures, provide a means to reduce borrowing costs or to enable the efficient utilisation of tax losses.

DECISION MAKING

30. The views of the review group relating to the benefits of retaining a holding company structure were shared with the chairs of WCHL, WPL and the chief executives of WE and WPL. The existing structural chart and proposed structures were discussed. It was agreed that the decision taken about the holding company and its role would largely inform the governance review of the other entities. The option of disbanding the holding company was not considered to be either practical or sensible since the existing structure does have benefits, even if they are not presently being fully utilised. While CCOs can report directly to Council committees on a periodic basis, best governance practice is for closer and more active monitoring of performance by a body with specialist skills for that task. Following discussion the structure below emerged as a preferred consensus view.

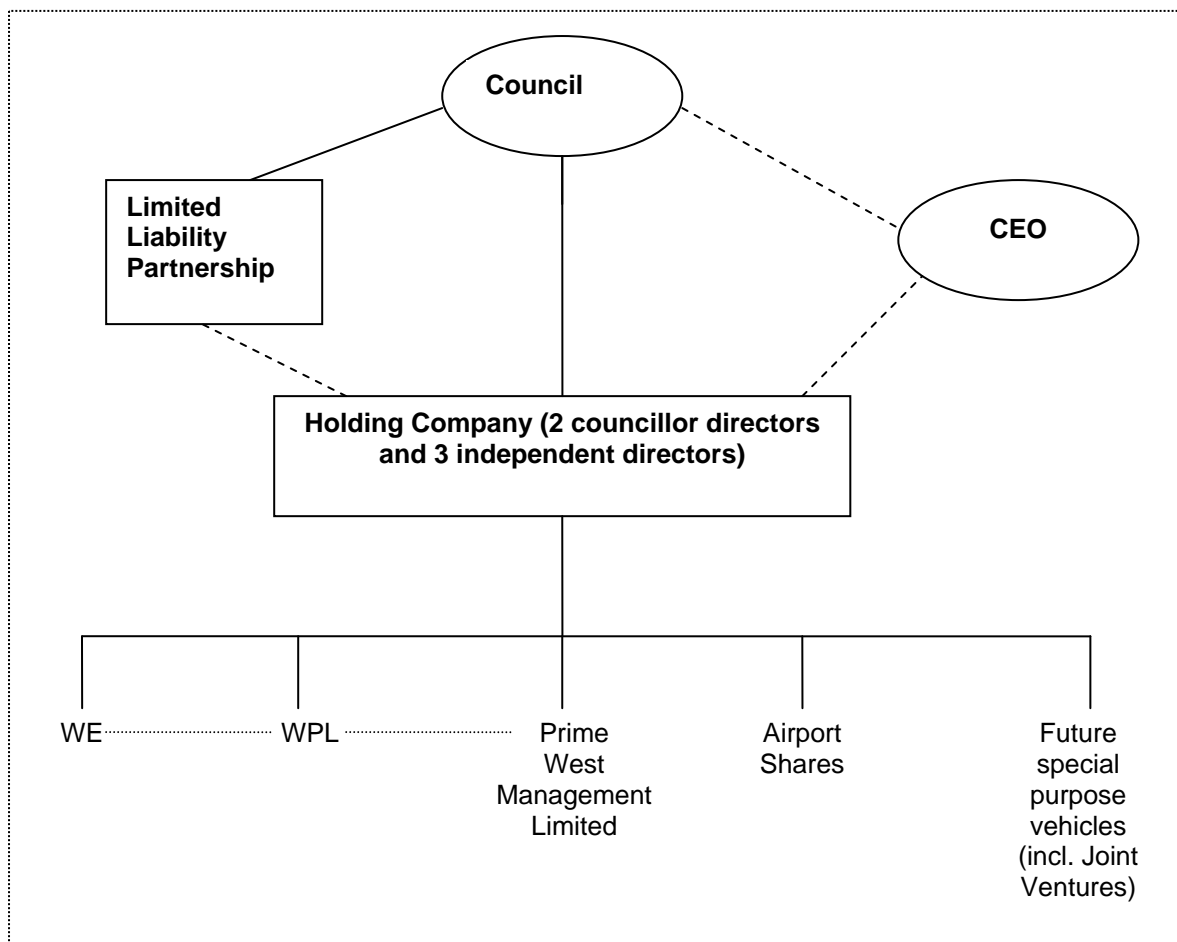


Diagram 2: Preferred Governance Structure

31. In this structure all CCOs report to the Council through the holding company, other than the limited liability partnerships. These partnerships offer some considerable tax benefits to Council particularly when operating in a minority joint venture structure. Income derived by a limited partner is taxed at the partner's marginal tax rate, which in the Council's case is nil (assuming the partnership is not a CCO). A limited partnership is managed by a general partner in which the Council may or may not have an ownership stake. If in the future the Council was to invest in a limited partnership and wished to hold a stake in the general partner, the holding company would be the obvious vehicle for ownership of any interest in the general partner, thereby to enable consistent monitoring and reporting lines for such activities.

Role and objectives of the holding company

32. The review and consultation process also identified a need to review the role and objectives of the holding company. The vision is a holding company which is actively engaged in the achievement of the Council's strategic and financial goals; an organisation which is driven by the achievement of excellence by all of its subsidiaries and the Council's CCOs.
33. The following matters were identified as appropriate roles for a holding company:
- interacting with the Council at political and management levels to provide expert advice, or to act as a sounding board, in relation to the broad range of commercial and economic activities in which the Council is engaged, or might consider becoming engaged;
 - reviewing periodic financial reporting by subsidiaries CCOs (and any Council Organisations (COs) for which it has responsibility) and reporting to the Council (thus eliminating the current duplicated reporting regime);
 - undertaking capital structure, capital adequacy and value for money reviews of subsidiaries, CCOs (and any COs for which it has responsibility);
 - reviewing SOI of subsidiaries and CCOs (and any Cos as delegated by the Council);
 - monitoring compliance with SOI and ensuring alignment with Council's strategic objectives;
 - recommending, through a robust and transparent process, director and chair appointments to subsidiaries, CCOs and COs;
 - monitoring business developments;
 - where appropriate, assisting subsidiaries, CCOs and other COs on relationship issues with the community;
 - keeping the Council and the Chief Executive Officer informed on strategic issues facing the sectors within which the subsidiaries and CCOs operate and understanding and directing the subsidiaries and CCOs to meet key goals set by the Council;
 - where appropriate, holding strategic discussions with subsidiaries and CCOs;
 - providing opportunities for subsidiaries, CCOs and other COs to network and discuss developments in governance practice; and
 - reporting progress on achievement of the holding company's SOI and other goals agreed with the Council.
34. The holding company should not however be restricted by the formal prescription of its roles. It should be able to provide leadership and play an important part in areas such as

- investigating investment opportunities which have the potential to enhance employment opportunities or to stimulate economic growth;
 - promoting investment in Waitakere;
 - seeking out opportunities for diversification of the Council's income streams; and
 - identifying present and future infrastructure needs;
35. The review group believes that neither WCHL nor the Council should play any part in the management of the subsidiaries and CCOs. That should be the sole responsibility and the prerogative of their respective board and management teams, who are charged with running their respective businesses in a commercial manner. The only involvement the Council should have in the running of those businesses is through the appointment of directors.

Membership of the holding company board

36. The proposal contemplates that the holding company will be reconstituted from its present form, initially with a board of 5 members. The final number will depend on the scale of the activities to be undertaken. If the scale of activities of the holding company is restricted then a board of 5 may not be able to be justified. The skills required of the directors of the holding company if it is to be successful have a close correlation to the final role and objectives for the holding company approved by the Council. For example recent changes to Watercare Service Limited's objectives to sustainable management of the three waters and a renewed focus on risks associated with utility companies necessitated the recruitment of directors with risk management, engineering and sustainability skills to the board to compliment general management and financial skills. Watercare Services Limited recognised that legal skills were no longer required by the board on a full time basis and could be purchased on a case by case basis as required. Determination of the appropriate skills on the Board is a separate piece of work that can be done once the role and objectives of the holding company are formalised.
37. The proposal envisages 3 external directors and 2 Elected Member directors. The Office of the Auditor General report on "Local Authority Governance of Subsidiary Entities" March 2001 recommends that boards of holding companies should include Elected Member directors to enhance the accountability of local authorities to their communities for the performance of the holding company and its subsidiaries. The report noted that Elected Member directors are best placed on holding company boards than subsidiary company boards. The review group agrees with that view and also takes the view that from a good governance perspective persons appointed as directors of the holding company should not also be directors of an organisation which the holding company is directed to monitor. Such dual roles (as performer and reviewer) involve an inherent and irreconcilable conflict of interest.
38. There is a sound argument for having elected members on the board of the holding company to increase elected member involvement through active participation. These would be the only appointments made by the Council. All other appointments, whether to the holding company or to CCOs, should be based around a needs and contribution assessment i.e. does this person have the necessary skills, having regard to the nature of the activities of the organisation and the skills of other board members, to make a positive contribution to the achievement of that organisation's strategic and financial goals?
39. When appointing elected members to these positions there is merit in having clear protocols around term and resignation:

- The appointment should be personal so that there is no hiatus in the event that the director member is not re-elected. It is not satisfactory that there might be up to 2 casual vacancies on the board following an election which cannot be filled until the first Council meeting or until the Council can agree who it wishes to appoint;
 - The member directors should give a written acknowledgement that the appointment is at will and that they can be removed by the Council at any time if they lose the confidence of their fellow councillors; and
 - The elected member directors should also give a written undertaking on appointment that if not re-elected to the Council he or she will resign when requested to do so and pending resignation will consult fully with the Council before voting at a meeting of the holding company.
40. During the consultation and discussion of this structure it was proposed that the Chief Executive Officer of WCC should also be a director of the holding company. This proposal was considered as inappropriate, by giving rise to the potential for conflict of interest between the role of the Chief Executive Officer and duties to the Council on the one hand and the role of a director and duties to the holding company on the other. However there is merit in ensuring that the constitution of the holding company is drafted so that the Chief Executive Officer is entitled to receive copies of all board agenda, reports and minutes and is entitled to attend and speak (but not vote) at meetings of the board.

STRATEGIC CONTEXT

41. Council's mechanisms for the delivery of Council services and achievement of sustainable social, economic, environmental and cultural outcomes include either ownership or control of a number of entities where Council is required to maintain appropriate governance structures.
42. Council has a financial investment in its holding company and subsidiaries. These companies assist the Council in meeting strategic outcomes by a return on investment, involvement in strategic projects, economic development and in support of service delivery.

CONSULTATION

43. Consultation has occurred with the Chairman of WCHL and the Chairmen and Chief Executives of both WPL and WE.

RESOURCES

44. The holding company will need to be adequately resourced to carry these recommended expanded functions and staff will be dedicated as part of the role within the Council to assist the board to meet its obligations. Some of this resourcing can be achieved by redeployment and/or 'back filling' or other means as determined by the Chief Executive Officer. Once the 'new' board of the holding company has established its works programme the resourcing will need to be matched to the level of approved activity.

IMPLEMENTATION ISSUES

45. The second stage, assuming the draft proposal is approved may involve an external peer review of the conclusions reached to that point from a governance perspective, completion of the value for money review which has been

commenced and a review of tax issues, to the extent that might be considered necessary.

46. The third stage will involve implementation of the approved outcome and will include a review of existing constitutional documents to ensure that they are appropriate, a review of existing board membership balance and skills; new board appointments (if appropriate or necessary) and review of the SOI for each CCO for consistency with the outcomes sought from the governance review.
47. This programme is to be fully completed no later than 30 June 2009.

Value for money – Waitakere City Holding Limited

48. Under the current structure the company operates at a low level. It has no income producing subsidiaries following the sale of Techscape. The skills of its board are not properly utilised. Change needs to occur, either by winding the company up or expanding and emphasising the role that it plays. The recommendation is for the latter course.

Value for money review – Waitakere Properties Limited

49. The value for money review of WPL has to date identified, the following:
 - WPL has maintained its capital value over the last 10 years;
 - Council has received cash distributions from the development of trust account land;
 - Capital gains have been made on the Waitakere Central and Henderson Film Studio developments;
 - Waitakere Central lease revenue covers the cost of borrowing but the current dividend from Prime West Limited does not fully cover the cost of borrowing;
 - there is anecdotal evidence of Council receiving strategic benefits as a result of its investment in Waitakere Central and the Henderson Film Studio; and
 - transparency of the trust accounts could be strengthened by use of appropriate procurement policies and formalised monitoring and review.
50. Action already commenced includes enhancing the relationship plan between WCC and WPL, the introduction of better accounting treatment including the full cost of capex for projects in the long term council community plan and a better understanding and more monitoring of the trust accounts.

Value for money review – Waitakere Enterprise

51. A value for money review of WE will also be carried out in due course.
52. The relationship plan between WCC and WE will be further enhanced.

Report prepared by: Andrew Pollock, Director: Finance and Jaine Lovell-Gadd, Director: Corporate and Business Services.



PART G - REPORTS FROM THE SUBCOMMITTEES

20 CREATIVE COMMUNITY SCHEME ALLOCATION SUBCOMMITTEE

THE SUBCOMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 16 OCTOBER 2008 AND RECONVENED ON TUESDAY, 21 OCTOBER 2008

1 CREATIVE COMMUNITIES SCHEME ALLOCATION - FIRST ROUND 2008/2009

The Subcommittee recommends to the Finance and Operational Performance Committee to:

Approve the allocation of funds to the Creative Communities Scheme - First Round 2008/2009, according to criteria and available budget, from applicants as follows:

Applicant	Eligible	Funds Requested	Funds Allocated
McCahon House Trust	YES	2855.00	0.00
Thaumatology Visual Associates	YES	3251.00	0.00
Titirangi Theatre Inc	YES	3000.00	2000.00
Ranui Community House	YES	5000.00	3000.00
Waitakere Central Community Arts Council	YES	4817.50	2000.00
Oratia Media	YES	4422.00	3000.00
Te Kura Kaupapa I Waititi Marae	YES	1920.00	960.00
Nga Kakano O Te Kaihanga Childhood Centre	YES	4259.59	2200.00
Oratia School	YES	1550.00	0.00
F C Bruce	YES	4444.52	3500.00
C C Barford	YES	4837.50	2800.00
United Sri Lanka Association	YES	2300.00	1300.00
Operatunity Class Act Opera	YES	5000.00	2500.00
Interacting Trust	YES	5000.00	3000.00
Stage Challenge Foundation	YES	4000.00	0.00
Lopdell House Society	YES	5000.00	0.00
Ranui Action Project Incorporated	YES	3387.80	3000.00
M R Gasparini	YES	3300.00	0.00
B C Marsom	YES	4746.40	0.00
C Tunks	YES	4950.00	0.00
M Hill	YES	1646.07	1200.00
Woodlands Park School	YES	3000.00	2500.00
Waitakere Arts & Cultural Dev Trust	YES	2800.00	0.00
Titirangi Community Radio Trust	YES	5000.00	2500.00
Raw Films Limited	YES	5000.00	0.00
D S Wiggins	YES	1600.00	0.00
Titirangi Painters	YES	3376.65	1600.00
Taiohi Tataki	YES	4500.00	2000.00
Waitakere College	YES	450.00	0.00
Body Casting - Art For Health	YES	2655.07	0.00
Musica Ariosa	YES	500.00	0.00
B B Courtney	YES	5000.00	0.00
D A Sampero	YES	5000.00	3321.00

Applicant	Eligible	Funds Requested	Funds Allocated
T V Kourotchkina	YES	3750.00	0.00
G Prime	YES	5000.00	3321.00
B Andrews	NO		0.00
West Auckland Schools Multicultural Festival	NO		0.00
The Parau Studio	NO		0.00
TOTAL FUNDS REQUESTED		127319.10	45702.00

CARRIED

2 MATTERS CONSIDERED

A222-A229

The Subcommittee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meetings held on Thursday, 16 October 2008 and reconvened on Tuesday, 21 October 2008 are attached at pages A222 to A229.

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the meeting report of the Creative Communities Scheme Allocation Subcommittee held on Thursday, 16 October 2008 and reconvened on Tuesday, 21 October 2008.

AK Corban, OBE, JP

CHAIRMAN



21 TENDERS SUBCOMMITTEE

THE SUBCOMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON FRIDAY, 3 OCTOBER 2008 AND FRIDAY, 17 OCTOBER 2008

MATTERS CONSIDERED

A230-A237

The Subcommittee 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 A230 to A237.

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the meetings reports of the Tenders Subcommittee held on Friday, 3 October 2008 and Friday, 17 October 2008.

RI Clow

CHAIRMAN



PART H - PUBLIC EXCLUDED MATTER

22 WILSHER VILLAGE DEVELOPMENT AND FUNDING PROPOSAL FOR CONSULTATION

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely Wilsher Village Development and Funding Proposal for Consultation.

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

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
Wilsher Village Development and Funding Proposal for Consultation	The withholding of information is necessary in order to: <ul style="list-style-type: none"> • Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). 	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *This report contain information which if released could affect the Council's negotiations.*

