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Report to the Policy, Finance and Strategy Committee
from Peter O'Brien, Property Consultant

**Proposal to Exchange Land Between the Wellington Regional Council
and the Hutt City Council – Variations**

1. Purpose

- To report on the matters raised in report 00.840 dated 20 November 2000, (included as **Attachment 1**), and report PE-02.11 dated 25 January 2002 (Minute extract included as **Attachment 2**), relating to the proposal to exchange land between the Wellington Regional Council (WRC) and the Hutt City Council (HCC).
- To seek approval to a variation to the land exchange proposal.

2. Background

On 31 January 2002, the WRC resolved that the exchange proposal (as presented and detailed in report PE-02.11) be adopted in its entirety, subject to the HCC approving the exchange proposal in its entirety. Implicit in this approval was Council's approval of a write-off of approximately \$90,000 as a result of the HCC receiving a higher value of assets than the WRC through the exchange transaction. In effect the \$90,000 related to Waione Street which, in the view of officers, should have always been an asset of HCC.

In the event that only part of the proposal was acceptable to HCC then a further report on the land exchange was to be submitted to the Council with an appropriate recommendation.

HCC has not approved the proposal in its entirety. However, negotiations have been completed at officer level to vary the proposal. In the view of officers, the varied proposal continues to meet the WRC objectives.

3. **The Pencarrow Coast Road Variation**

The original proposal included provision for the land comprising the Pencarrow Coast Road to be transferred to the WRC. This was later modified and in report PE 02.11 it was presented as HCC offering the WRC a *right of way in perpetuity* to be registered against the titles which would cater for use of the road by both the Council and the public.

During the negotiation phase it surfaced that HCC considered that the road was a strategic asset associated with the combined Hutt City and Upper Hutt Sewage Scheme. While there seems to be no difficulty in granting the WRC access along the road so that we can manage the park, HCC is reluctant to relinquish full control of the road in perpetuity.

In addition, there was a considerable difference in each Council's expectation of the value of the right of way over the Pencarrow Coast Road. The joint valuers appointed by both Councils assessed that the right of way was worth \$5,595. However, HCC had an alternative assessment of the right of way worth at \$358,000 plus GST.

4. **Pencarrow Coast Road – Proposed Solution and Amendment**

It became clear during discussions that the value issue on one asset would potentially stop the whole proposal from proceeding.

To break the impasse, WRC proposed to HCC that the Pencarrow Coast Road right of way be withdrawn from the exchange proposal and that a WRC asset, deemed to be of similar value, also be withdrawn.

The WRC asset, which was similar in nature and value, was the proposal to grant HCC a network utility agreement to regularise the existing and possible future water, wastewater and stormwater pipelines within the Hutt River corridor. The network utility agreement had been assessed by the valuers to be worth \$5,494.

In tandem with the proposal to withdraw those two items from the exchange proposal was a further suggestion to HCC that these items continue be dealt with, but outside the exchange process and on a nil consideration basis.

It has been agreed between HCC and the WRC officers that the best way of formalising the situation is as follows:

- The WRC Flood Protection Department will negotiate with HCC a network utility agreement, which will deal with all the flood protection land within HCC boundaries. The agreement will cater for regularisation of all existing utilities and will provide for an approval process for future utilities within WRC flood protection land. The agreement shall be granted at no cost to HCC. We are anxious that this agreement be set in place, as it will, for the first time, impose rules, regulations and guidelines for the relationship between the two Councils for all utilities within the floodplains.

- In return, the HCC will grant the WRC vehicle access rights over the land comprising the Pencarrow Coast Road for the purpose of administering East Harbour Regional Park. This right shall be granted at no cost to the WRC.

HCC officers have confirmed in writing that HCC will enter into negotiations toward putting in place a network utility agreement. A draft agreement has been presented to HCC for comment. HCC has also confirmed that a licence will be granted to the WRC over the Pencarrow Coast Road.

5. East Harbour Regional Park – Northern Block

The other outstanding item relates to East Harbour Regional Park.

The East Harbour Regional Park proposal is for HCC to declare as Reserve all of its land within the Park boundaries and then to vest the control and management of those reserves in the WRC. The great majority of this land is in the Northern Block (area between Wainuiomata and Eastbourne) of the Park, but HCC land includes two esplanade reserves surrounding Lakes Kohangapiripiri and Kohangatera.

As part of a parallel process HCC and WRC have approached the Department of Conservation (DOC) with a view to having the control and management of DOC owned, but HCC administered, land within the Northern Block vested in the WRC.

The effect of this transfer of control and management of the Northern Block would be to create a true Regional Park. Up until now East Harbour Regional Park has existed primarily in name. In reality it has comprised two relatively small and inaccessible pieces of land at the Lakes Block and at Baring Head.

HCC Officers presented the management transfer proposal to the Eastbourne and Wainuiomata Community Boards on 12 and 13 November 2002. Both Community Boards accepted the Officer recommendation to endorse the transfer of control and management of the land to WRC.

HCC's Operations and Compliance Committee considered the matter on 19 November 2002. The HCC Committee passed the following resolution:

“That the Committee recommends that Council:

notes that the Wellington Regional Council is planning to commission the East Harbour Regional Park on 1 July 2003;

notes that there are properties owned by the Hutt City Council within the boundaries of the proposed East Harbour Regional Park;

agrees to transfer the management of all properties owned or managed by the Hutt City Council as reserve within the Park boundary to the Wellington Regional Council, in order to allow the vision of the East Harbour Regional Park to be realised;

notes that there are Treaty Claims over some of the properties in the Park;

supports the desire of Maori wanting to be involved with high level governance of the East Harbour Regional Park; and

makes it a condition of the transfer of the management that the Wellington Regional Council establish a method for appropriate Maori organisations who have an interest in the Park to contribute to the high level management and development of the Park.”

The proposal to transfer management of its land within the park boundaries will be formally considered by the HCC on 3 December 2002. Officers will update the committee on 10 December as to the outcome of this meeting.

The only difference between the effect of the HCC resolution and the exchange proposal that the WRC agreed to on 31 January 2002 (Report PE 2.11) is the condition requiring a method to facilitate Tangata Whenua contributions to the high level management and development of the Park.

HCC officers have advised us that the condition is intended to enable local Maori with an interest in the land inside the park boundaries to have their ideas and opinions heard in the planning and management of the Park.

On its face, the condition is consistent with the principles outlined in the Clause 21 of the Charter of Understanding between the Wellington Regional Council and Tangata Whenua.

The short timeframe available has meant that we have been unable to formally consult with Iwi about their expectations relating to the condition. However, informal discussions suggest that it may be relatively simple to develop a method that would meet Iwi needs and aspirations. We already have a number of processes in place for consulting with Iwi and addressing issues, which may in themselves meet the intent of the condition. Nevertheless, we feel that it would be prudent to discuss the matter further before the WRC makes a decision on whether to accept control and management of the Northern Block.

5. Conclusions

To proceed with the exchange process is to the mutual advantage of both WRC and HCC.

Withdrawal from the exchange proposal of the Pencarrow Road right of way and the network utility agreement ensures that the balance of the proposal is able to proceed.

The exchange of a licence for the WRC to use the Pencarrow Road with the granting to HCC of a network utility agreement will be cost neutral to both Councils and will ensure the integrity of the original agreement is preserved, albeit in a revised format.

The transfer of control and management of the Northern Block provides the opportunity for a true Regional Park at East Harbour. In the past East Harbour Regional Park has been a concept rather than a functional park. However, the transfer of control and management of the Northern Block is conditional upon the WRC having a method to allow Tangata Whenua to contribute to the high level management and development of the Park. In the view of officers this condition needs to be further investigated prior to WRC approving the transfer.

6. **Communication**

The exchange represents a significant advance for both Councils. A press release will be prepared highlighting the benefits of the exchange.

7. **Recommendations**

That the Committee recommend to Council that it:

- (1) **Receive** the report.
- (2) **Note** the contents of the report.
- (3) **Approve** the exchange proposal, as previously submitted, with the following modifications:
 - removal of the provision for Hutt City Council to grant the Wellington Regional Council a right of way over the land comprising the Pencarrow Road;
 - removal of the provision for the Wellington Regional Council to grant Hutt City Council a network utility agreement to regularise existing, and cater for future water, wastewater and stormwater pipes within the Hutt River corridor;
 - removal of the provision granting the Wellington Regional Council control and management of Hutt City Council owned and administered land within East Harbour Regional Park.
- (4) **Note** that it is intended that Hutt City Council will grant access rights over the Pencarrow Coast Road to the Wellington Regional Council and at the same time the Wellington Regional Council will grant Hutt City Council a network utility agreement to regularise existing and cater for future water, waste water and storm water pipes within the Hutt River corridor.
- (5) **Note** that the transfer from the Hutt City Council of control and management of the Northern Block (East Harbour Regional Park) is conditional on the Wellington Regional Council having a method to allow Maori groups with an interest in the Park to contribute to its high level management and development.
- (6) **Instruct** officers to consult with Hutt City Council and Tangata Whenua to determine the practical effect of the Hutt City Council condition noted in resolution (5) above, and to negotiate a suitable agreement for subsequent council approval.

- (7) **Instruct** officers, following the consultation, to report back with a recommendation on whether the Wellington Regional Council should accept control and management, and if so, the nature of any proposed agreement to give effect to the transfer.
- (8) **Recommend** that the Council's Common Seal be affixed to the necessary documents to give effect to the exchange transactions including the proposal outlined in resolution (3) above.

Report prepared by:

Approved for submission by:

PETER O'BRIEN
O'Brien Property Consultancy Limited

ROB FORLONG
Divisional Manager, Landcare

GREG SCHOLLUM
Chief Financial Officer

Attachment 1: Report 00.840 dated 20 November 2000

Attachment 2: Minute Extract of Report PE-02.11 dated 25 January 2002