

Lisa Lowe

From: Monday, 12 March 2018 10:09 AM
Sent: Craig Stevenson
To: Neil Holdom; Richard Jordan; Gordon Brown; Murray Chong; Harry Duynhoven; Richard Handley; Stacey Hitchcock; Colin Johnston; John Mcleod; hugh.jory@oag.govt.nz; Mike Merrick; Marie Pearce; Roy Weaver; John Williams; e.sage@ministers.govt.nz; Shaun Biesiek
Subject: RE: Complaint

Dear Mr Stevenson,

Further to my questions below, could you also provide me with minutes of the meeting(s) in which Council first tabled the idea of selling part of Reserve Land occupied by Fitzroy Golf Course and the decision to include the option in the Draft Long Term Plan?

Regards

From:]
Sent: Monday, 12 March 2018 9:43 a.m.
To: craig.stevenson@npdc.govt.nz
Cc: 'neil.holdom@npdc.govt.nz'; 'richard.jordan@npdc.govt.nz'; 'gordon.brown@npdc.govt.nz'; 'murray.chong@npdc.govt.nz'; 'harry.duynhoven@npdc.govt.nz'; 'richard.handley@npdc.govt.nz'; 'stacey.hitchcock@npdc.govt.nz'; 'colin.johnston@npdc.govt.nz'; 'john.mcleod@npdc.govt.nz'; 'hugh.jory@oag.govt.nz'; 'mike.merrick@npdc.govt.nz'; 'marie.pearce@npdc.govt.nz'; 'roy.weaver@npdc.govt.nz'; 'john.williams@npdc.govt.nz'; 'e.sage@ministers.govt.nz'; 'shaun.biesiek@npdc.govt.nz'
Subject: Complaint

Dear Mr Stevenson,

Please could you let me know if you received the complaint I sent to you on 7th March, and a timeframe in which I might expect a response?

Further to my complaint I understand that a workshop was held by the Council to discuss matters related to my complaint on Friday 9th March. Could you confirm to me that the workshop was not a meeting in the sense of Part 7 of LGOIMA – i.e. “a meeting ... at which no resolutions or decisions are made is not a meeting”?

If resolutions or decisions were made at the workshop, please could you provide me with full minutes of the meeting?

For context I have attached a document issued by the Chief Ombudsman in 2010 that outlines the definition of a meeting, in particular the following:

- This has caused some confusion in the past when local authorities held “workshops” to which the public were not admitted. The meetings provisions in Part 7 cannot be avoided just by calling a meeting a workshop. If a “workshop” meets the definition of “meeting”, including the requirement that resolutions or decisions are made, then Part 7 applies. However, local authorities are entitled to hold private workshops to debate and find out more about an issue.
- “...it was noted that local authorities needed to be careful where a ‘workshop’ has been held to discuss an issue, ... not [to] create a perception that the matter has been predetermined when the issue is brought to an open meeting for deliberation and decision.”

Regards

Residents 2010 Conference

Notes prepared to assist delegates in discussing the issues of managing complaints about local government processes and practices and citizens' access to information.

By Beverley A Wakem – Chief Ombudsman

Introduction

Thank you for inviting me to help bring to a close events at the first ever conference of residents' associations in New Zealand. The very fact that this conference is occurring demonstrates both a growing concern by residents' associations about ratepayers' interactions with their Councils and a willingness to engage at a regional, and perhaps a national level, to contribute more vigorously to the debate about governance and policy development which will shape the society we live in. Particularly to respond proactively to the changes which may affect the structure of local government in the wake of the establishment of a "super city" in Auckland and the merging of DHB's – among two recent developments.

From where I sit as an Ombudsman, looking out over New Zealand and the nature and quality of transactions between the governed and the governing, I am more than ever convinced that residents' associations play a very valuable role, in what is an increasingly fragmented society, in educating the wider community about issues which will affect them and in reflecting their concerns to Councils at every level.

None can question the motivation and dedication of people who freely give their time and effort to advocate for, and represent their local communities. They represent in their membership, talents, skills and know how which not only bear upon their function of advocating on behalf of ratepayers, but are also a fruitful source of expertise for Councils that is, I suspect, not drawn on often enough by those bodies.

Many residents' associations are already very active and sophisticated operations – with their own websites, wikipedia pages, newsletters, online forums and bulletin boards – even sponsors. Today has set the scene for even greater levels of coordination, support and information dissemination between residents' associations.

I was once a member of something called The Commission for the Future. What struck me then is that all over New Zealand there were people beavering away on common issues but without any linkage to one another to share ideas about processes and practices that worked well in specific situations. I suspect that's still a prevalent experience.

Local bodies have Local Government New Zealand to use (among other things) as a clearing house for ideas and best practice, and importantly to speak on their behalf on matters of national importance.

It would be a good outcome of today's discussions if a national Residents and Ratepayers group was to emerge to begin a conversation about matters which affect us all and which will enable a more considered participation in the democratic process than is sometimes our experience.

Delegates have already learnt a lot today about effective ways of engaging with local councils and communities and the main themes which have emerged are not news to anyone here.

I would like to add some information about the work we do as Ombudsmen in the area of local government, and some tools you may be able to use to become more effective advocates for your communities. In the workshop on aspects of local government law and the use of the Ombudsmen Act and the Local Government Official Information and Meetings Act (LGOIMA) and in conversation with delegates throughout the day, it became clear to me that knowledge of how you can use these Acts to assist your work may not be as widespread as it should be. That presents a challenge for my Office and it is one we are attempting to address in a variety of ways.

So, to start the process, here are a few thought starters on key issues such as:

- complaints about maladministration;
- requests for official information; and
- local authority meetings.

Complaints about maladministration

Local government – comprising regional, district, and city councils, community boards, and many other local organisations – carries out a huge range of functions, the exercise of which can have a big impact on the lives of citizens: resource management; roading and transport; civil defence; community well-being and development; environmental health and safety; building control; and infrastructure planning and maintenance. It's not surprising then that citizens sometimes feel aggrieved about decisions, acts, recommendations or omissions that have affected them personally.

The Ombudsmen Act

In the Ombudsmen Act 1975, Parliament has given the Ombudsmen the function of investigating the administrative acts and decisions of central and local government agencies that affect a person or persons in their personal capacity. Our jurisdiction covers regional, district, and city councils, as well as community boards and council-

controlled organisations within the meaning of the Local Government Act 2002. After investigating, we form an opinion on whether the act or decision was:

- contrary to law;
- unreasonable, unjust, oppressive, or improperly discriminatory, or in accordance with a law or practice that was unreasonable, unjust, oppressive, or improperly discriminatory;
- based on a mistake of law or fact; or
- just plain wrong – that is, a decision that no one in their right mind could have made.

We may also form the opinion that a discretionary power has been exercised for an improper purpose, or on irrelevant grounds, or has taken into account irrelevant considerations; or that in the exercise of the discretionary power reasons for the decision should have been given and were not.

We can make any recommendation we consider appropriate in the circumstances; for instance that an 'omission' should be rectified, a decision cancelled or varied, practices should change, laws should be reconsidered, or any other step should be taken. So while our recommendations may address an individual's specific grievance, they can have a wider impact too if the source of that grievance is a systemic issue. Although our recommendations are not binding, they are usually accepted.

There are, however, some limitations on our powers under the Ombudsmen Act.

Committees of the whole

A significant one in the local government context is that Ombudsmen can only investigate the acts or decisions of a committee of the Council – but not where that committee is a committee of the whole Council – and actions of Council officers, employees or members. This limitation also applies to all other local organisations subject to the Ombudsmen Act.

The effect of this limitation is to put outside our oversight decisions concerning such matters as the setting of rates and various fees (e.g. dog registration fees, building and resource consent application fees), which are decisions that cannot be delegated downwards by the agency concerned.

However, an Ombudsman may investigate recommendations provided to a Council or an organisation by its officers or committees. Such an investigation may lead to a recommendation that the chief executive ask the Council or organisation to reconsider the matter afresh in light of new or different information.

Appeal rights

Another significant limitation is that Ombudsmen are not authorised to investigate acts or decisions for which there is a statutory right of appeal to a court or tribunal

(unless there are special circumstances that would make it unreasonable for that right to have been exercised).

For this reason, the involvement of the Ombudsmen in Resource Management Act (RMA)-related complaints is limited, because there are extensive rights of review and appeal to the Environment Court. However, an Ombudsman can investigate some RMA-related complaints, such as:

- the enforcement of conditions on consent;
- refusals to reduce or refund fees;
- concerns about the standard of service provided in assessing resource consent applications.

An Ombudsman can also investigate decisions not to notify applications for resource consents. However, this does not affect the decision to approve the resource consent. The only way to overturn or modify resource consents that have already been granted is to seek judicial review. It is for this reason that in a number of our annual reports we have urged councils to take care when deciding not to notify a resource consent application.

Adequate alternative remedy

An Ombudsman also has the discretion not to investigate a complaint if there is an adequate remedy or right of appeal to which the complainant could reasonably resort. This discretion reflects the position that an Ombudsman's investigation is a "*remedy of last resort*". An Ombudsman will not usually commence an investigation until a complainant has first raised their concerns with the agency.

Complaining to the agency first

This means that it is important that agencies – including those in the local government sector – have in place effective internal complaints-handling processes. We made this point in our last annual report when we noted that we were seeing a number of complaints (mostly noise and drainage-related complaints) where the issues raised by the complainants were not sufficiently addressed by local authorities until a complaint was made to us. We will be pursuing the issue of effective internal complaints-handling processes in our ongoing interactions with central and local government.

It also means that complainants need to know how to raise their concerns effectively – and that is potentially where residents' associations may have a useful role to play. Some key components would be:

1. Knowledge – arm yourself: Ask for information about the issue. Do you have all the facts? Make sure there is not a simple misunderstanding. It is good to find out about the organisation's policies. This is where LGOIMA or the Privacy Act can be helpful.

2. Think things through: Identify the key issues in the complaint. Think about what actually happened. When and where did it happen? Clarify the issue – what is it that affects you? What outcome do you want? For example do you want an apology, a change in policy, a change in the decision? Identify some options for resolving your complaint.
3. Keep records: It's a good idea for you to record information about the issue, what you have done to try to sort it out and who you have been dealing with. Make a folder for all correspondence. It is usually best to write a letter of complaint, particularly if you are dealing with a large organisation. However, an initial phone call may help to clarify some of the issues.
4. Follow the Process: Find out what process the organisation has for people who want to make a complaint and follow it.
5. Be persistent: If nothing happens, call or write again to the organisation to check on the progress of your complaint. If they are unable to provide you with an update, make it clear to the person you are dealing with that the problem will not go away unless it is resolved.
6. If you're unsuccessful: If your concerns have not been resolved you can take them to the Ombudsmen.

Requests for official information

No doubt many of you are very familiar with the Local Government Official Information and Meetings Act (LGOIMA). There are some obvious provisions with which you will already be familiar. However, there are some lesser known or used provisions of LGOIMA, which may be useful tools for residents' associations.

First, I observe that the numbers of complaints under LGOIMA have been tracking upwards in recent years. Last year saw an increase of 11 per cent over the previous year to 231. While this still seems a relatively small number given the size of the local government sector in New Zealand, the increase could signify a greater degree of interest in decisions of local authorities and greater use of LGOIMA by individual ratepayers and media to seek information about those decisions.

In the past year, we had two high profile LGOIMA investigations. There was a request by the Christchurch Press for the amount paid by Christchurch City Council for the Ellerslie Flower Show. I formed the opinion that the request should not have been refused and recommended disclosure. The Council complied with my recommendation. This case led my colleague, Ombudsman David McGee, and I to develop general principles of application to requests for information about local authority events funding (available on our website www.ombudsmen.parliament.nz).

There was also a request by the Dominion Post for Hawkes' Bay Regional Council's Hazardous Activities and Industries List (listing potentially contaminated sites). In that case, Dr McGee formed the opinion there was no good reason to withhold the list (his detailed finding in this regard is also available on our website). He did not consider that commercial interests or confidentiality justified withholding. While he accepted there may be a privacy interest in some information pertaining to individual landowners, he considered this was outweighed by the public interest in the public having access to information about potentially contaminated sites, so that they are in a position to assess for themselves whether there are any risks to the environment or to their person.

In the current context – with the significant changes that are underway in relation to governance arrangements, and with Councils' increasing involvement in commercial enterprises – I expect the upwards trend in LGOIMA complaints will continue.

Now, to those lesser known provisions. Your ordinary everyday LGOIMA request is one made under Part 2 of that Act. There are other parts, particularly Parts 3 and 4, which often escape people's attention.

Requests for internal rules affecting decisions

In Part 3 of LGOIMA, section 21 provides a "*right*" of access to internal rules affecting decisions – that is, to any document (including a manual), which is held by a local authority and which contains policies, principles, rules or guidelines in accordance with which decisions or recommendations are made in respect of any person of body of persons in their personal capacity.

This is different from Part 2 under which people "*may request*" official information held. Section 21 provides for a "*right of access*". The reasons for refusing a request for internal rules affecting decisions are more limited. Those reasons relate to maintenance of the law, safety of persons, privacy, commercial prejudice, confidentiality, commercial activities and negotiations.

Requesters and agencies are often unaware that special provisions apply to this particular type of official information.

Requests for statements of reasons

Also in Part 3, there is another "*right of access*" by a person to reasons for decisions affecting that person. Section 22 provides that where a local authority makes a decision or recommendation that affects a person in his or its personal capacity, that person has a right to be given a written statement of:

- the findings on material issues of fact;
- a reference to the information on which the findings were based; and
- the reasons for the decision or recommendation.

The proviso is that the request must be made within a reasonable time after the decision or recommendation.

Again there are limited reasons for refusing such requests, relating to maintenance of the law, the safety of persons, and commercial prejudice. There are also certain circumstances in which a local authority is justified in not providing a reference to the information on which the findings were based.

The thing that makes section 22 different is that it is not just a right to request official information already held. Compliance with section 22 requires an agency to create information in order to respond to a request.

Section 22 is a useful, but often overlooked, tool for people wanting to know why a local authority has taken a particular decision that affects them. By using it effectively, people can better "*arm themselves*" with the knowledge necessary to pursue their complaints.

For instance, someone may be aggrieved that a Council has declined to exercise the discretion to waive a fee. They may request all information held by the Council in relation to their request under Part 2 of LGOIMA and the Privacy Act. They may request the Council's policies or guidelines on waiving fees under section 21 of LGOIMA. They may request a statement of the Council's reasons for declining their request under section 22 of LGOIMA. Armed with this information they can decide whether they think the Council has acted reasonably, or whether it is worth pursuing a complaint with the Council, and ultimately the Ombudsman.

I should note that the rights conferred by sections 21 and 22 are statutory rights that may be enforced through the courts. I should also note that an Ombudsman's recommendations under Parts 3 and 4 do not create a public duty.

Requests by bodies corporate for personal information

Part 4 of LGOIMA gives a person a right to access information about that person, and a right to request the correction of that information. This should sound familiar to those of you who know about the Privacy Act. When the Privacy Act came into force in 1993, "*natural*" people's rights to access information about themselves, and to request the correction of that information, went into that legislation. LGOIMA continued to provide those rights to "*legal*" people – or bodies corporate. Again, the reasons for refusing requests for personal information about bodies corporate are limited, so, for instance, a request could not be refused on the grounds of section 7(2)(f)(i) – free and frank expressions of opinion necessary for the effective conduct of public affairs. I understand that most residents' associations are bodies corporate, and they may at times be interested in obtaining official information about themselves. Such requests must be considered under Part 4 of LGOIMA, not Part 2.

Council-controlled organisations

At this point, I note that the application of LGOIMA to council-controlled organisations has been a hot topic lately. Council-controlled organisations are nothing new, but the issue attracted some attention recently in the context of the Auckland super city when the Government legislated for three council-controlled organisations.

I would like to clarify that council-controlled organisations **are** subject to Parts 1 – 6 of LGOIMA, by virtue of section 74 of the Local Government Act 2002. So people can request official information from them, including “*internal rules*” and statements of reasons. However, council-controlled organisations are **not** subject to Part 7 of LGOIMA, which contains the meetings provisions.

Local authority meetings

Part 7 then, places certain obligations on local authorities with regard to the conduct of meetings, including obligations relating to:

- the notification of meetings;
- availability of agendas and minutes; and
- public admission to meetings.

Most of you will be quite familiar with the requirements around notification of meetings and availability of agendas and minutes. I thought I would focus on the often contentious area of public exclusions from local authority meetings.

When is a meeting a meeting?

So, when is a meeting a meeting?

Part 7 of LGOIMA only applies to “*meetings*” as defined in the legislation. Section 45(2) makes it clear that “*a meeting ... at which no resolutions or decisions are made is not a meeting*” for the purposes of Part 7. So if there are no resolutions or decisions made, it is not a meeting, and the obligations set out in Part 7 don’t apply.

This has caused some confusion in the past when local authorities held “*workshops*” to which the public were not admitted. The meetings provisions in Part 7 cannot be avoided just by calling a meeting a workshop. If a “*workshop*” meets the definition of “*meeting*”, including the requirement that resolutions or decisions are made, then Part 7 applies. However, local authorities are entitled to hold private workshops to debate and find out more about an issue.

Ombudsmen have commented on this issue in previous annual reports (2002 and 2003):

"...it was noted that local authorities needed to be careful where a 'workshop' has been held to discuss an issue, ... not [to] create a perception that the matter has been predetermined when the issue is brought to an open meeting for deliberation and decision."

When can local authorities exclude the public from meetings?

So when can local authorities exclude the public from meetings?

The starting point, in section 47 of LGOIMA, is that every meeting of a local authority shall be open to the public. This is consistent with section 14(1)(a)(i) of the Local Government Act, which states that a local authority should conduct its business in an open, transparent and democratically accountable manner. However, this does not mean that all Council business must be conducted in public. Section 48 of LGOIMA sets out the specific circumstances in which local authorities can exclude the public from meetings.

These circumstances are:

1. that public conduct of the meeting would be likely to result in disclosure of information there would be good reason to withhold under sections 6 or 7 of LGOIMA (there is one exception to this: the public cannot be excluded from a meeting because of a concern to protect the free and frank expression of opinions);
2. that public conduct of the meeting would be contrary to the provisions of an enactment or constitute contempt of court;
3. that the purpose of the meeting is to consider an Ombudsman's recommendation under LGOIMA;
4. if it is necessary to enable the local authority to deliberate in private on its decision or recommendation in proceedings where there is a right of appeal to a court or tribunal against the authority's decision, or the authority is required by an enactment to make a recommendation.

Public exclusions must be done by resolution stating:

- the general subject matter to be considered while the public is excluded; and
- the reason for the exclusion (mostly this will be in relation to the particular interests protected by section 6 or 7 of LGOIMA).

A resolution must:

- be put when the meeting is open to public;
- be available to any member of public present; and

- form part of the minutes of the local authority.

In addition, section 50 of LGOIMA provides that a member of the public may be required to leave a meeting if the person presiding at the meeting *"...believes, on reasonable grounds, that the behaviour of any member of the public attending that meeting is likely to prejudice or to continue to prejudice the orderly conduct of that meeting...."*

What if you are unhappy with a decision to exclude?

So what can be done if you are unhappy with a decision to exclude?

Well there is nothing to preclude you from requesting information pertaining to the meeting.

Section 51(3)(a) states that any request for the minutes of any part of a meeting where the public has been excluded is deemed to be a request for official information under LGOIMA. Such requests must be considered on their own merits. The fact that the public has been excluded from part or all of a meeting does not mean the relevant minutes and associated material can automatically be withheld if requested. Often the need to withhold official information can abate over time and as circumstances change.

There are also limited circumstances in which a decision to exclude the public may be the subject of a complaint to the Ombudsmen. If the decision was taken by a full Council, community board, or other agency, then, as noted above, we will have no jurisdiction to consider the matter. But if the decision was taken by a committee we may. Of course, being a remedy of last resort, we would expect a complainant to first raise their concerns with the relevant local authority. If, having done so, the complainant remained dissatisfied, we may consider investigating.

Such an investigation would look at the information available to the committee during the public excluded session, and consider the committee's reasons for excluding the public. We would form a view as to whether, in light of this information, the committee's decision was one that was reasonably open to it.

In one of my cases, a local authority decided to exclude the public during consideration and discussion of a report on a commercial venture. The report and discussion canvassed detailed Council-prepared cost estimates which, if disclosed, would have been likely to prejudice anticipated negotiations with successful tenderers. I formed the opinion that it was reasonably open to the committee to decide under section 48 to exclude the public in terms of section 7(2)(i) of LGOIMA, which applies where withholding is necessary to enable a local authority to carry on negotiations without prejudice or disadvantage.

An example of an unlawful exclusion came up on one of Ombudsman David McGee's cases. In that case, the relationship between a committee and a particular member

of the public had unfortunately broken down. As a means of managing that, the committee met on private business premises, effectively excluding the member of the public. The committee had not utilised section 48 (which sets out the circumstances in which a public authority may by resolution exclude the public), or section 50 (which provides for a member of the public to be excluded if the presiding officer believes on reasonable grounds that their behaviour is prejudicing the orderly conduct of the meeting). The Ombudsman therefore concluded the committee had acted "*contrary to law*", specifically, contrary to section 47 of LGOIMA which provides that local authority meetings shall be open to the public.

Central government

Now I have made an assumption that your primary area of interest will be in the local government area, so before concluding, I want to acknowledge that the actions of central government agencies too will be of interest and concern to residents' associations. For instance, former Chief Ombudsman John Belgrave once considered a complaint by a residents' association concerning a decision by Transit New Zealand not to proceed with construction of a roundabout. I would simply say that central government agencies are also subject to the Ombudsmen Act, and to the Official Information Act, and therefore the same principles I have discussed today (barring the local authority meetings provisions) apply to them.

Conclusion

I hope that this analysis will be helpful to you in the process of engaging with your local, district or regional council.

Finally, I would say, "It's OK to complain" but you also have a responsibility to do so in a manner that is focussed and constructive.

It's also OK and is your right to have access to information that will help you to participate fully in the democratic process.

To councils I would say, make sure your officials understand and abide by the requirements of the Local Government Act, the Ombudsmen Act and LGOIMA. Too often, in my experience, there is variable knowledge of these important legislative instruments that govern your work. With increasing turnover of staff, core knowledge is being diluted, and for some newer staff – particularly those from a private sector background, these Acts are not well known and, in some extreme cases, are clearly ignored. That will lead to unnecessary exposure for Councils.

Today's conference and the discussions and information exchange which has taken place will, I am sure, contribute positively to the health of democracy in New Zealand and to better informed decisions at every level of governance.

Julie Straka

From: Peter Handcock
Sent: Friday, 6 April 2018 4:58 PM
To: Julie Straka
Subject: FW: Point England Development Enabling Act - Reserve revocation
Attachments: ris-mbie-pte-dec16.pdf

From: Peter Handcock
Sent: Friday, 9 March 2018 3:48 PM
To: Catherine Croot <Catherine.Croot@npdc.govt.nz>; Liam Hodgetts <Liam.Hodgetts@npdc.govt.nz>; Juliet Johnson <Juliet.Johnson@npdc.govt.nz>; Alan Bird <Alan.Bird@npdc.govt.nz>; Craig Stevenson <Craig.Stevenson@npdc.govt.nz>; Charlotte Dunning <Charlotte.Dunning@npdc.govt.nz>
Subject: Point England Development Enabling Act - Reserve revocation

Hi all – this is possibly the reserve revocation/ development the Mayor referred to – Total reserve is 48 ha and Crown owned portion just over 45 ha . Used legislation to revoke 12 ha for sale.

In December last year, the Government announced it would take steps to sell almost 12ha, or about a quarter of Pt England Reserve in east Auckland to Ngati Paoa iwi through the Pt England Development Enabling Bill.

On May 30, Housing, Building and Construction and Environment Minister Nick Smith made changes to the bill, banning grazing and farming on the reserve.

Changes also ordered Auckland Council to provide at least 8ha of sports field on the headland where dotterels and other shore birds nests.

The bill passed its third and final reading on Thursday night, which clears the way for iwi to build 300 new houses and a marae on the reserve land as part of its Treaty of Waitangi settlement.

<https://www.stuff.co.nz/auckland/94212099/government-gives-the-go-ahead-for-the-controversial-plan-for-pt-england-reserve>

<http://www.legislation.govt.nz/act/public/2017/0028/20.0/DLM7057105.html>



Regulatory Impact Statement – Point England Development Enabling Bill

Agency disclosure statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Business, Innovation and Employment (MBIE). The RIS provides an analysis of options to make up 11.69 hectares of land at Point England in Tāmaki, east Auckland, available for housing. The key issue for this RIS is whether to introduce standalone legislation to achieve the government's objectives.

Parameters for development of options and limitations

The available due diligence information suggests the land at Point England is suitable for housing with some limitations and challenges. The RIS assumes the land will support at least 300 houses.

Auckland Council is currently working on an open space network plan that will contain its assessment of the reserve needs in the Tāmaki area due mid-2017. This information would have contributed to the analysis of the impacts of the proposal on local residents' access to reserves. The Auckland Council has completed analysis into the Auckland-wide shortage of sports fields which included plans for investment at Point England.¹

Cabinet has agreed the parameters for the Auckland vacant and underutilised Crown Land Programme (the Crown Land programme) [Cab 15-Min-0297 refers]. The RIS does not revisit these decisions, and the accompanying business case, which set the parameters for all housing developments under the programme and the Crown's role in them. Cabinet has also approved the offer of a development opportunity at Point England to Ngāti Paoa [Cab 16-Min-0399 refers].

Limitations on consultation

Key stakeholders have been consulted although the wider public has not been. The proposal was first raised by Ngāti Paoa in September 2015, who initiated consultation with Auckland Council, the Maungakiekie-Tāmaki Local Board and Tāmaki Redevelopment Company. The Office of Treaty Settlements (OTS) then supplemented this engagement – formally seeking the Auckland Council's views in June 2016. The public was not consulted at this stage as the proposal was in the confidential phase of Treaty settlement negotiations.

¹ http://infocouncil.aucklandcouncil.govt.nz/Open/2015/09/PAR_20150916_AGN_6191_AT.PDF with an update on progress at page 20 of this document:
http://infocouncil.aucklandcouncil.govt.nz/Open/2016/08/PAR_20160831_AGN_6636_AT_SUP.PDF

MBIE has subsequently consulted on the proposal, with a particular focus on the area to be developed, with Ngāti Paoa, Auckland Council, the Chair of Maungakiekie-Tāmaki Local Board and Tāmaki Redevelopment Company. However, MBIE has not discussed the proposal with the full Local Board or the Tāmaki community in the time available. In addition local body elections mean there is now a new Auckland Council and Local Board Chair. Ngāti Paoa and the Office of Treaty Settlements have continued to lead engagement with iwi/hapū with interests in the area.

Claire Leadbetter
Manager, Construction and Housing Policy

21 October 2016

Regulatory Impact Statement – Point England Development Enabling Bill

Status quo

Point England Recreation Reserve: existing uses, values and interests

1. Point England Recreation Reserve is in Tāmaki in east Auckland. The total public reserve land is approximately 48 hectares. The Crown-owned portion of the Reserve is just over 45 hectares in size and is bounded by roads and residential housing on three sides and a Council-owned beach reserve and coastal walkway to the east.² The reserve services the local suburban neighbourhoods of Glen Innes and Point England.
2. This RIS only discusses the Crown portion of the reserve (**the Reserve**) and more specifically the 11.69 hectares of land to be made available for housing (**the development land**). A map of the development land is attached as Appendix 1. Throughout the RIS the term “development land” is used to refer to this area. The process used to identify the development land is discussed further below.
3. The Reserve is vested in trust in Auckland Council as a recreation reserve under the Reserves Act 1977. If reserve status is revoked the Reserve will revert to the Crown.

Formal and informal interests

4. A list of existing and future uses for the Reserve, as compiled by the Auckland Council, is attached as Appendix 2. In summary, about half the Reserve is used for sports fields or informal recreation and the remainder is open rural land which is grazed. Formal and informal interests in the development land comprise:
 - an historic grazing licence. The licence has expired and is now rolled over from month to month.
 - sports fields – the development land encompasses 3.2 hectares of the approximately 8.4 hectares currently dedicated to this purpose.
 - Watercare infrastructure.
 - A right of first refusal (**RFR**) in favour of Ngā Mana Whenua o Tāmaki Makaurau. Note the land may be removed from the RFR by the Minister for Treaty of Waitangi Negotiations if the land is required for Treaty settlement (discussed further below).
5. Other formal and informal interests in the Reserve include:

² The Crown derived land of 45.4259 hectares is Lot 1, DP 44920 and the Council derived land of 2.9205 hectares is both Lot 16, DP 99636 and Lot 366, DP 18635. The reserve has a total area of 48.3464 hectares.

- A licence over 0.8 hectares of the Reserve to the Tāmaki Model Aircraft Club, for a landing strip, which is due to be renewed in 2017 and to expire in 2022.
 - A lease to the Glen Innes Family Centre (for the buildings in one corner of the Reserve).
6. Auckland Council's operational reserve management plan for the Reserve is dated 1997. A concept plan review was initiated in 2015 but this has not been finalised. No community engagement has occurred in respect of the concept plan.
 7. The Auckland Council provisionally budgeted some improvements, over and above its existing annual spend, as described in Appendix 2. In 2014/15 an upgrade was budgeted for one of the sports fields but this spending was deferred in favour of higher priority projects and no further investments are planned pending the decisions addressed in this RIS.
 8. The portion of the Reserve dedicated to sports fields is fully utilised in summer and winter, although in winter the clay-base and lack of lighting means playing hours are sometimes limited to a maximum of 7 hours each week. In summer the only limitation on use within daylight hours is the available area.
 9. Aside from existing recreational uses, the site adjoins a primary school (Pt England School) and the Glenn Innes Pool and Leisure Centre, as well as providing access to the Omaru Creek and the Tāmaki River.
 10. Parts of the Reserve hold significant ecological and cultural values. The Reserve contains part of a coastal walkway with a formed and fenced walkway along the seaward margin. Volunteer pest control occurs, in particular, to protect shorebirds such as nesting dotterels which can also be found in the grazed area of the Reserve.
 11. The lower reaches of the Omaru Creek flow through the Reserve. There are community efforts underway to improve the Creek's water quality. Auckland Council reports that Omaru Creek has the worst quality of all thirty-six monitored sites in the Auckland region.³

Existing zoning and infrastructure

12. The proposed Auckland Unitary Plan (the PAUP) zoning currently provides Open Space – Sport and Active Recreation and Open Space – Informal Recreation zones for the site. The surrounding suburbs have been zoned Mixed Housing Urban and Mixed Housing Suburban under the PAUP. The PAUP overlays/controls include Volcanic Viewshafts, the Stormwater Management Area Control and the Coastal Inundation Control.

³ Auckland Council, State of the Environment Monitoring, River Water Quality Annual Report 2014, published November 2015, Technical report 2015/028

13. An existing designation for wastewater management purposes is located within the Reserve and overlaps part of the development land. Watercare has advised Ngāti Paoa planned upgrades to service the population growth anticipated in the area mean not all this infrastructure will be required in future.
14. Roading and water infrastructure upgrades have been planned in Tāmaki as part of the regeneration. In addition the Reserve is close to public transport being 1.8km from the Glen Innes Train Station. The rail connection to the Auckland CBD will benefit from the upgrades being made to the Auckland rail network.

Ngāti Paoa interests

15. Historically Point England was an important Ngāti Paoa kainga or settlement. Missionary reports written prior to 1840 record extensive settlement and agriculture in the area. A large number of Ngāti Paoa rangatira signed te Tiriti o Waitangi/the Treaty of Waitangi at nearby Karaka Bay.
16. Ngāti Paoa entered historical Treaty of Waitangi negotiations with the Crown in 2009. As part of their negotiations Ngāti Paoa has been seeking redress to enhance their presence in the Tāmaki area. Ngāti Paoa originally engaged with the Crown seeking cultural redress on the Reserve [REDACTED] s 9(2)(j) [REDACTED].
17. In 2015 Ngāti Paoa became aware the Tāmaki Redevelopment Company was planning housing development at the Reserve. The Iwi advised the Crown and Tāmaki Redevelopment Company it sought the opportunity to undertake the housing development as part of its Treaty settlement.
18. Cabinet subsequently approved Ngāti Paoa involvement in a housing development as Treaty settlement redress, but the proposal remains outside settlement policy. If the proposal was progressed by the Minister for Treaty of Waitangi Negotiations it would require an exception to be made and Treaty settlement legislation to be enacted.

Reserves Act 1977: overview

19. Reserve land is held for the general purpose of the preservation and management of that land for the benefit and enjoyment of the public. In certain limited circumstances, the Reserves Act 1977 enables the Minister of Conservation to revoke the reserve status of all or part of a reserve. There are several stringent statutory tests which must be met and a statutory process the Minister of Conservation must follow.
20. The primary objective of the statutory process is to enable the administering body for the land, and the public, to have input into the revocation decision. The decision maker is obliged to take into account the objections of affected persons and that decision can be reviewed by the courts.

21. Councils actively consider reserve provision as part of their open space network planning, and occasionally revoke reserve status of reserves they own and sell the land. Under the Reserves Act 1977 these proceeds must be reinvested in reserves.

Tāmaki Redevelopment Company: overview

22. A housing development on the Reserve would be one piece of a much bigger project. Tāmaki Redevelopment Company has been established to lead a suburb-wide regeneration of the Tāmaki area. The Crown and Auckland Council are both shareholders in the Company which will redevelop the existing 2500 social houses in Tāmaki into 7500 houses over the next ten to fifteen years.
23. The Tāmaki Redevelopment Company's redevelopment primarily involves the intensification of existing housing. Tenants who wish to stay in Tāmaki will need new housing. As part of its early master planning Tāmaki Redevelopment Company identified part of the Reserve as a potential housing development site to provide these houses and facilitate its redevelopment.
24. Reserve changes, including realignment and improvements, are being considered as part of the redevelopment and intensification of the Tāmaki suburbs. The regulatory barriers to these reserve changes have been recognised by the Government.⁴
25. Auckland Council and the Tāmaki Redevelopment Company intend to improve the amenity of reserves in Tāmaki as housing is increased in the area. A portion of the development contributions for the area will be put towards reserves.
26. Auckland Council's open space strategy for the Tāmaki area, which will assess the reserve needs of the existing and future residents and inform the Tāmaki Redevelopment Company's plans, is currently in development and is due to be finalised in mid-2017. However, as noted above, new investment in the Reserve is on hold pending the decisions covered by this RIS.

MBIE's Auckland vacant and underutilised Crown land programme: overview

27. Any housing development at the Reserve would be undertaken under the development parameters established for the Auckland vacant and underutilised Crown land programme (the Crown land programme).

4

s 9(2)(f)(iv)

6

28. The Crown land programme is one of several government measures to increase housing supply. Crown Land within the Auckland region which is suitable for housing and not required for another purpose is progressively being identified for development. A developer is then contracted to take on the risks of delivering new housing to the market, at pace, and with a proportion of social and affordable housing. The Productivity Commission identified a programme such as this as one of the ways in which more affordable housing can be brought to market.⁵
29. The Crown land programme involves iwi/hapū of Auckland as developers, consistent with their rights under Treaty settlement, including the Ngā Mana Whenua o Tāmaki Makaurau Redress Deed and Act 2014.
30. The Ministry of Business, Innovation and Employment (MBIE) has also signed a Mahi Ngātahi agreement with 13 iwi/hapū.⁶ This agreement anticipates joint MBIE and iwi involvement in a wide range of development projects, such as those initiated by iwi/hapū on their own land. MBIE also has a role in Māori economic development under He Kai Kei Aku Ringa (the Crown- Māori Economic Growth Partnership) and He Whare Āhuru He Oranga Tāngata (the Māori Housing Strategy).

The development land identification

31. The Tamaki Redevelopment Company identified approximately 10 hectares of the Reserve for housing development as part of the initial phase of master planning for the regeneration. The 10 hectares was intended to provide sufficient new supply to assist with the rehousing of its tenants while retaining a balance of open space.
32. The Government approached the 10 hectares as a starting point and was open to the Ngāti Paoa proposal the development land be up to 13 hectares to increase total housing supply. In consultation with Auckland Council and the Chair of the Maungakiekie-Tāmaki Local Board the proposal was refined and the area reduced to 11.69 hectares as this area would still support a development at scale but would mean:
- no housing, and therefore low impact, on the elevated headland and the area proposed for a marae where there are views across the Tāmaki River and back towards Maungarei / Mt Wellington;
 - a set back from the Omaru Creek which maintains the existing ecological corridor and may also be suitable for a new recreation route to the Point England headland;
 - space for a community park in the west close to the Glen Innes Indoor Community Pool and Recreation Centre;
 - the retention of two full sports fields which, with an upgrade, could support a higher number of winter playing hours than the existing six fields.

⁵ New Zealand Productivity Commission, Using Land for Housing, September 2015.

⁶ The thirteen iwi/hapū who are party to the Ngā Mana Whenua o Tāmaki Makaurau Redress Deed.

Problem definition

Problem 1: Reserve land is not generally available for housing

33. The regulatory regime which applies to this proposal primarily comprises the Reserves Act 1977 and the Resource Management Act 1991 (as given effect to through the Auckland Council's plans, in particular for the purposes of this RIS, the PAUP).
34. As above, reserve lands are held for the benefit and enjoyment of the public. Even where the land does not have any significant reserve values, revocation will not necessarily follow. It must be clearly established the land is no longer required for its present purpose or any other reserve purpose. As in this case, Councils also apply complementary zoning such as "open space" to reserves which do not permit housing development and would require a fully notified private plan change to amend.

Problem 2: Tāmaki Redevelopment Company requires new housing for existing tenants

35. As above, Tāmaki Redevelopment Company has promised those of its residents who wish to stay in Tāmaki will have the opportunity to do so. This requires new land to be converted into housing for these residents before redevelopment of existing housing can proceed.
36. The redevelopment of the Maybury Block, adjacent to the Reserve, is one of the Blocks included in Phase One of the Large Scale Redevelopment which involves 1000 houses. The expectation is around 200 - 300 of these existing houses will be redeveloped in each year but the key constraint is new housing for existing tenants.

Problem 3: The Auckland housing market requires new supply

37. Statistics New Zealand projects that Auckland's population will grow by a further 939,600 people by 2043 based on its high-growth scenario, or 750,000 based on medium-growth, with an average household size of 2.7 persons.
38. The existing housing under-supply in Auckland is complex to estimate. The Independent panel for the PAUP estimated the unmet demand to be 40,000 dwellings⁷. The PAUP provides for an additional 400,000⁸ additional dwellings over 30 years — over 13,000 houses per year — to provide for the projected demand.
39. The PAUP will also create more space for housing by accelerating the supply of greenfields land and by zoning existing areas for higher intensity development. However the PAUP is only enabling: for new houses to be built developers need to respond to the demand.

⁷<http://www.aucklandcity.govt.nz/council/documents/unitaryplan/ihpoverviewofrecommendationsann1.pdf>, page 23.

⁸ This final number depends on the outcome of appeals, which could take up to 12 months to resolve.

40. Although the Auckland Unitary Plan has modelled the additional dwelling capacity based on market feasibility capacity of over 400,000 additional dwellings over the life of the Plan not all – or perhaps even a majority of — feasible development capacity will be utilised.
41. In addition, the model's output shows that capacity is mostly being provided in peripheral suburbs and not in the more market-attractive central areas. It will be necessary to provide a lot more opportunities than demand requires in order to have a well-functioning market.
42. Several factors will reduce the achieved reality of model results:
- development chance – i.e. most current owners are happy with a site's current use and are unlikely to increase the density, at least in the short-medium term.
 - capacity utilisation – many developers won't develop a site up to its maximum feasible capacity, for a variety of internal and external reasons.
 - infrastructure constraints – for example, until the Central Interceptor project is completed after 2023 parts of the city cannot be significantly densified, and developers have also anecdotally identified infrastructure barriers to projects.
43. The 300 dwellings it is estimated the development land may support are 2.3% of the new housing the Auckland Council estimates will be required in Auckland in any one year. However, under the Crown Land programme the government will contract for a rapid development which speeds the provision of new housing to maximise its impact on the current level of demand. In addition, the development will act as a catalyst for the redevelopment and intensification of adjacent housing by providing new places for existing Tāmaki Redevelopment Company tenants.

Problem 4: The Crown wishes to achieve a Treaty settlement with Ngāti Paoa

44. The Crown and Ngāti Paoa have been in historical Treaty of Waitangi settlement negotiations since 2009. The Iwi have sought redress at Point England and Cabinet has subsequently approved their involvement in a housing development on this land.

s 9(2)(j)

Summary of problem and objectives

45. The Reserve is in the Auckland region which is experiencing a well-documented undersupply in housing, a building backlog, high demand and escalating prices.
46. Two of the government responses to this undersupply are the Tāmaki Redevelopment Company, which has plans to regenerate the entire Tāmaki area, and the Crown Land programme, which is focused on facilitating developments on specific parcels of vacant and underutilised land.

47. A portion of the land at Point England is well used and has significant reserve values, however, at least 18 hectares of the reserve, is difficult for the public to access and use and is grazed by cattle and horses. There are other examples of grazed reserve land in Auckland, including iconic sites such as Maungakiekie / One Tree Hill, although usually the grazing is managed so that it is complementary to recreational activity.
48. The analysis which follows considers which proposal will best meet a number of the government's objectives including:
- protection of reserve values;
 - increasing the supply of housing, at pace in Auckland, including social and affordable housing;
 - assisting with the Tāmaki Redevelopment Company's redevelopment project by providing new housing to facilitate the redevelopment of existing housing; and
 - achieving a Treaty settlement with Ngāti Paoa and providing for iwi economic development.
49. MBIE weights the supply of new housing, at pace, as the most important objective. The analysis is focused only on the revocation of reserve status of the development land within the Reserve.

Options and impact analysis

50. The following options have been identified to achieve the government's objectives:
- **Option 1:** (status quo) no change, so the development land remains a recreation reserve.
 - **Option 2:** making the development land available for housing via the Reserves Act 1977 process, and the Council process for subdivision from the balance of the Reserve and rezoning.
 - **Option 3A:** (preferred) enabling legislation to, revoke the reserve status of the development land, change the zoning of the land, and inclusion within the Crown land programme i.e. providing for its sale on conditions.
 - **Option 3B:** enabling legislation to revoke the reserve status of the development land, change the zoning of the land and sale without conditions to allow any kind of development.
 - **Option 3C:** Ngāti Paoa Treaty settlement legislation to revoke the reserve status of the development land.

Options		Protect reserve values	Increase housing supply at pace	Assist with TRC's redevelopment	Ngāti Paoa Treaty settlement	Likely timeframe for housing development to start	Summary
Option 1	Status quo: No change	√	X	X	X	N/A	Protects reserve values
Option 2	Existing statutory and plan change process	Likely, due to the threshold in the Reserves Act 1977	X	X	X	Unlikely, but 10 – 24+ months	If existing statutory tests are met development will proceed
Option 3A	Enabling legislation (controlled development)	Possibly	√	√	√	6- 10 months	Achieves housing objectives and Treaty settlement
Option 3B	Enabling legislation (open development)	Possibly	X	X	√	6 – 10 months	Some housing objectives not met as Crown loses control of development outcomes
Option 3C	Enabling legislation (Treaty)	Possibly	X	Maybe	√	12 – 18 months	Likely too slow to meet some objectives

51. The RIS also contains an overview of the extent of public input into the process under each option given the significance attached to this within the existing regulatory scheme.

Option 1 (status quo) no legislative change so the land remains a reserve

Discussion on objectives

Increase housing supply at pace and assist with TRC's redevelopment

52. The status quo does not achieve any of the identified housing objectives. Instead the status quo preferences the maintenance of the existing reserve values in the land.

53. If the land remains a reserve the Crown will need to find alternative ways to meet its other objectives. As with the rest of the Tāmaki area the location is very well suited for housing as it is close to transport networks and employment.

Protect reserve values

54. This Option fully protects the reserve values of the development land including any future potential for investment in the area to improve its attractiveness as a destination. The demand for open space in Tāmaki is likely to increase over time. The Tāmaki Redevelopment Company's project will increase the number of people living in the Tāmaki area, which will increase pressure on the existing reserves. The Tāmaki Redevelopment Company and Auckland Council are likely to increase investment in the Reserve at Point England to increase its amenity and functionality.
55. However, reserve land is valued by the public both for its utility and amenity as open space; total size is not the only relevant measure of value.

Achieve Ngāti Paoa Treaty settlement

s 9(2)(i)

Impacts and mitigations

57. Under Option 1 there is no impact on the existing reserve values or the users and uses of the development land such as sports fields and grazing. There is a potential impact on people waiting for housing in Auckland as they will have to rely on other new supply coming to market.
58. There is a potential impact on Tāmaki Redevelopment Company as alternative locations for new housing will be required before it can begin the redevelopment of housing for existing tenants. However, due to uncertainty as to whether this proposal would proceed, Tāmaki Redevelopment Company has been actively investigating these alternatives.

Option 2 - making the land available via the existing Reserves Act 1977 process, and Auckland Council process for rezoning

Summary of Option 2

59. Option 2 involves the government taking each of the existing statutory and regulatory steps under the Reserves Act 1977 and the Resource Management Act 1991 to make the land available for housing. Following this process could result in a housing development starting within 10 - 17 months if the statutory tests are met and there are no appeals. The timeframe could extend beyond 24 months if there are challenges and appeals.

60. As the challenges and appeals may be successful this Option does not guarantee a housing outcome. It is not possible to assess this Option accurately without the benefit of public consultation; however, we believe some challenges or appeals would be likely if decisions were in favour of development. A housing outcome could be in doubt for some time.

61. This Option enables Ministers to receive the best possible information on the value placed by the public on the development land and therefore receive a full assessment of potential impacts.

62.  s 9(2)(i)

Discussion on objectives

Protect reserve values

63. This Option first involves taking the steps under the Reserves Act 1977 to enable the Minister of Conservation to revoke the reserve status of the development land. The Department of Conservation has indicated even this first step is unlikely to proceed due to the high bar represented by the requirement to establish the land is no longer required for its present purpose or any other reserve purpose. The statutory scheme does not include an assessment as to whether an alternative purpose for the land might be reasonably preferred.

64. The Minister of Conservation must then give the public the opportunity to provide submissions on the revoking of reserve status in recognition reserve land is held for the benefit of the public.

65. The public consultation under this Option enables the Minister of Conservation, and therefore the government, to have good information on the value of the development land affected by the proposal. Not all of these values may be apparent, or be able to be assumed. If the Minister of Conservation was satisfied the statutory tests were met he or she could then decide to revoke the reserve status of the development land. The timeframe for decisions by the Minister process, without appeals, is estimated to be three to six months.

66. The views of the Auckland Council, as the administering body of the land, would be an important consideration for the decision-maker under the Reserves Act 1977. The Auckland Council's views are provided in more detail below in the Consultation section. In summary, the Auckland Council seeks mitigations for the proposal that result in no net loss of open space within the Tāmaki area, and that result in reserve improvements in the area. The Council also seeks protections for the balance of the Reserve.

67. As the most certain way to achieve these mitigations is to accommodate them within the Tāmaki Redevelopment Company's plans it is possible the Council would not agree to this proposal proceeding independently of the redevelopment plans for the entire Tāmaki area.

Increase housing supply at pace and assist with TRC's redevelopment

68. This Option has the potential, should threshold tests be met, to achieve housing outcomes but with considerable delay. Any decision of the Minister to revoke reserve status could be judicially reviewed.

69. If the courts agreed reserve status could be revoked it would then be necessary to complete the Auckland Council's regulatory steps to enable a development. A fully notified private plan change would need to be sought as the land is currently zoned Open Space under the PAUP which does not permit housing.

70. In the first two years of the PAUP the Auckland Council has the discretion to decide not to consider any private plan changes although it would be material the reserve status had been revoked. The plan change would first be notified, would generally go to a hearing and would also be able to be appealed. The timeframe for this process, without appeals, is estimated to be six to 12 months.

71. One possible example – included in this RIS as a comparator on timeframes only – is the Three Kings development in Auckland. The Three Kings proposal also involves impacts on open space and reserve provision. The matter remains unresolved after 24 months. Fletcher Residential initiated a private plan change to the Operative Auckland District Council Plan on 13 October 2014. The plan change went before Hearings Commissioners who issued a decision on 2 November 2015. The subsequent appeal to the Environment Court was decided on 3 August 2016 but further appeals have been signalled in the media.

72. As above, under Option 1, if the land remains a reserve the Crown will need to find alternative ways to meet its housing objectives.

Ngāti Paoa Treaty settlement

s 9(2)(i)

Impacts and mitigations

74. Under this Option there may be impacts from a housing development but, as above, this is assessed to be unlikely. Analysis under Option 3A on the potential impact of a housing development also apply to this Option should a development proceed.

Public input into decisions

75. If threshold tests for the revocation of reserve status are met there is then a significant opportunity for stakeholders who seek to maintain the status quo at the Reserve to ensure their views on the proposal are taken into account. Further, if decisions are in their favour, the housing development will not proceed.
76. The impact on those waiting for housing in Auckland and the Tāmaki Redevelopment Company depends on how quickly all processes are completed and whether or not a development progresses as a result.

Option 3A (preferred) enabling legislation introduced to revoke reserve status and change the zoning of the land

Summary of Option 3A

77. Option 3A achieves the majority of the government's objectives but does not necessarily achieve the highest and best use of the land.
78. This Option results in land becoming available for a new housing development in 6 – 10 months. The Riccarton Racecourse Development Enabling Bill provides an example of the possible statutory timeframes, with introduction on 19 October 2015 and enactment on 21 June 2016.
79. By promoting legislation, the government is deciding the development land should be enabled for housing, preferring the interests of those who will benefit from this new housing, including social and affordable housing, over those who would benefit from the retention of open space.
80. Option 3A achieves certainty where Option 2 does not, and is also likely to be quicker than Option 3C with a higher possibility a development on the land will begin in 2017. Therefore, it is more likely to meet the objectives of increasing the supply of housing at pace, assisting the government to achieve a Treaty settlement with Ngāti Paoa and providing houses for Tāmaki Redevelopment Company tenants.
81. This Option has impacts on the existing and future uses of the Reserve although it may be there is scope within the wider reserve network to absorb some of the impacts of the loss of the development land. Auckland Council's analysis of the open space needs for Tāmaki will provide a full assessment of how likely this is to be achieved.
82. The public would be able to provide submissions through the parliamentary select committee process, but there is no right of appeal. The opportunity for public input on the potential impacts is, therefore, more limited than under Option 2. Auckland Council and Maungakiekie-Tāmaki Local Board will also be able to present their views to select committee over and above the engagement that has occurred to date.

Discussion on objectives

Increase housing supply at pace and assist with TRC's redevelopment

83. In contrast to the status quo, introducing legislation to revoke the reserve status on the development land, and using that legislation to provide an enabling zoning such as 'Residential - Mixed Housing Urban', will provide a comparatively high degree of certainty about the timing and outcomes of the proposal to make the land available for housing development.
84. The Riccarton Racecourse Development Enabling Bill provides an example of the time it may take to enact standalone legislation. This Bill also revoked reserve status on land to enable its development for housing, and took eight months to progress through all stages from introduction in October 2015 to enactment in June 2016.
85. MBIE anticipates this Option is most likely to achieve the Crown objectives of increasing housing supply at pace. This Option is also most likely to assist the Tāmaki Redevelopment Company with rehousing tenants and therefore support the redevelopment of its housing.
86. The development outcomes sought, such as pace and social housing, will be achieved through the conditions of a contractual development agreement with Ngāti Paoa. As noted in the Disclosure Statement, this RIS does not re-examine the parameters of the Crown Land programme. MBIE will seek to secure development outcomes through the obligations contained in the development agreement in the same way it does at other sites. Contracting to achieve outcomes provides a useful degree of flexibility to both parties but also enables the Crown to maintain oversight of the development outcomes.

Reserve values

87. The impact on reserve values is discussed further under the heading "Impacts and mitigations". In summary Option 3A will not preserve all the existing reserve values in the development land as a decision is being made that housing is preferred on this site.

Ngāti Paoa Treaty settlement

s 9(2)(j)

89. When the development land is confirmed as required for Treaty settlement with Ngāti Paoa it will be removed from the existing right of first refusal by the Minister for Treaty of Waitangi Negotiations under section 120 of the Ngā Mana Whenua o Tāmaki Makaurau Redress Deed and Act 2014.

90. MBIE will be endeavouring in good faith to provide Ngāti Paoa with the opportunity, and expects to be able to negotiate a development agreement, but will retain the right to offer the opportunity to another developer.⁹

91. [REDACTED] s 9(2)(j) [REDACTED]
[REDACTED]. Commercial opportunities provided in Treaty settlement always come with conditions to ensure transactions are at market value such as the involvement of an independent valuer.

92. The risk of Ngāti Paoa or another developer suffering extraordinary losses or extraordinary profits is not considered to be high. However the parameters of the Crown land programme have been set to ensure the development is as close as possible to a market transaction which means the developer must assume the ordinary commercial risks of property development.

93. The regulatory impact as between Ngāti Paoa undertaking the development versus another developer is assessed to be negligible, so it has not been the subject of separate analysis. In addition, as noted in the Disclosure Statement, Cabinet has already decided Ngāti Paoa should have the opportunity.

Impacts and mitigations

94. This Option will impact on local residents. There are few directly adjoining private neighbours to the Reserve but the housing development can be expected to impact on their peace and enjoyment.

95. This Option will impact on sports as the development land reduces the amount of land dedicated to this purpose from six fields to four. It may be possible to mitigate the impact on winter sports as upgrades would significantly increase the available playing hours. Surface upgrades and lighting can increase the available playing hours on fields from 7 hours per week to 20 hours. Summer sports use will be limited by the reduction in field size so direct mitigations would require other suitable land to be found.

96. This Option also impacts on the future potential of the Reserve. As noted above, reserve lands are likely to come under increasing pressure as the population in the Tāmaki area increases. As the number of residents in the area increase there will be more demand for reserve space both for recreation and passive enjoyment.

⁹ MBIE's expectation is the development opportunity would be offered to the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership under the Department of Building and Housing Protocol, as the land would remain subject to their right of first refusal and therefore the Protocol included in the Ngā Mana Whenua o Tāmaki Makaurau Redress Deed will apply.

97. As above, Auckland Council is still completing its assessment of the existing open space provision in Tāmaki, and intends to have this report complete by mid-2017. The 11.69 hectares is a comparatively large area to lose from within the Reserve. However, there are other factors such as the usability and amenity of the existing and future reserves in the Tāmaki network which are also relevant to assessing the impact of this proposal. Investments in the network as a consequence of the Tamaki Regeneration project could mitigate some of the impacts identified such as loss of sports fields area and open space.
98. On the other hand the Auckland Council is already certain it will not be able to mitigate the impacts of the proposal on reserve provision. As detailed in the Consultation section the Auckland Council seeks mitigations such as replacement land for reserves, investment in existing reserves, and enhanced protections for the balance of the Reserve.
99. This Option may impact on the formal interests in the Reserve. The Model Aircraft Club license does not permit the Club to fly model planes close to houses so the area available to members will be reduced. The Option will impact on the informal interests in the Reserve by reducing the amount of grazing land available and therefore requiring the grazier to reduce the number of cattle and horses or remove them altogether.
100. To avoid significant impact on conservation values any housing development will need to preserve as far as possible the areas of the reserve with significant natural values. The development land avoids the headland and is set back from Omaru Creek but there may also need to be mitigations in the development proposal to protect bird habitat. Auckland Council advises dotterels, which nest in the area, do not nest in the same place every year and it should be possible to protect their nests for the month of incubation during adjacent housing development. The Auckland Council does recommend considering whether the introduction to the housing of family pets which are also bird predators can be mitigated.
101. The housing development will also have a direct impact on the environment such as increased run-off into water bodies of soil and potential contaminants. Environmental impacts are a concern for Ngāti Paoa who are likely to seek to limit these impacts in their approach to the development or to mitigate them. The Auckland Council is also able to manage some of these impacts as they are regulated under the Resource Management Act 1991 but cannot eliminate them completely.

Public input into decisions

102. Under this Option there is an impact on the public and other stakeholder's opportunity to have a say on the proposal. There is an opportunity for the public, Auckland Council, the Maungakiekie-Tāmaki Local Board to make submissions to the parliamentary select committee on the proposal, and for changes to be made to the proposal as a result. However, as above, if the select committee does not recommend amendments to the legislation, or if these amendments are not adopted by Parliament, there is no right of appeal.

Assessment of precedent effect

103. Policy work on Urban Development Authorities is currently underway. s 9(2)(f)(iv)
 This work responds to previous investigations into New Zealand's planning system, including most recently by the Productivity Commission, which concluded it was cumbersome and unresponsive to development.
104. A systematic response is more preferable to address the identified regulatory barriers than standalone legislation. In cases such as the Riccarton Racecourse Development Enabling Bill, due to the presence of a Local Act which could not be amended without Parliament, standalone legislation will always be required. However, if policy for Urban Development Authorities broadly follows the Productivity Commission recommendations standalone legislation such as that discussed in this RIS is much less likely to be contemplated in future.
105. If there is no national response then standalone legislation may occasionally be considered again. However, the circumstances of this case, which brings together a number of different government objectives, are considered unique.

Option 3B: enabling legislation to revoke reserve status, and allow any kind of development

Discussion on objectives

106. This Option is identical to Option 2 except that, instead of seeking pace, and affordable and social housing, the government would not place any restrictions on the development.
107. This Option does not provide certainty as to development outcomes and therefore may not meet the government's housing objectives. The land could be land banked, or the developer could delay stages of the housing to increase the market value of completed lots. It is also unlikely the developer will voluntarily build social housing so the development will not assist the Tāmaki Redevelopment Company with new housing for its tenants. Therefore, despite enabling the highest and best use of the land, this Option does not meet the government's housing objectives and is not preferred.

Impacts and mitigations

108. The discussion on Option 3 for impacts and mitigations and public input into decisions applies here also.

Option 3C: enabling legislation, as part of Treaty of Waitangi settlement

Discussion on objectives

109. Ngāti Paoa has sought this opportunity through Treaty settlement which provides an alternative legislative vehicle for the lifting of reserve status over the development land. The Ngāti Paoa settlement legislation is due to be enacted, at the earliest, in 2017. This will result in the land becoming available for housing development in approximately 12 to 18 months.
110. This Option has several of the benefits of Option 2 in that it increases the certainty of an outcome which meets the majority of the government objectives.
111. [REDACTED] s 9(2)(j)
[REDACTED]
[REDACTED]. Enactment in 2017 is the most optimistic scenario with 2018 also assessed to be likely. This will slow the bringing of new houses to market, which impacts the government's objective on pace, and also the potential for the development to assist the Tāmaki Redevelopment Company with new housing for its tenants. For these reasons it is not preferred.

Impacts and mitigations

112. The discussion on Option 3 for impacts and mitigations and public input into decisions applies here also.

Public input into decisions

113. The legislative process for Treaty settlement, as with standalone legislation, provides an opportunity for public submissions on the proposal. However the legislation's sole purpose is to give effect to the Treaty settlement deed which is where the proposal for revoking of reserve status will be contained.

Consultation

114. The consultation on this proposal has been led by Ngāti Paoa and OTS, both within government, with the Tāmaki Redevelopment Company, Auckland Council and the Maungakiekie-Tāmaki Local Board. Consultation was initiated in the fourth quarter of 2015 and has been continued by MBIE from mid-2016.

115. The former Mayor of Auckland Council wrote to the Minister for Treaty of Waitangi Negotiations providing the Council's views and the views of the Maungakiekie-Tāmaki Local Board on the proposal. Without the benefit of public consultation the views of Auckland Council and the Maungakiekie-Tāmaki Local Board provide the closest approximation to community views. The Auckland Council notes the land is Crown land, so decisions are for the Crown, but advises that it seeks:
- mitigations that result in no net loss of open space within the Tāmaki area, through the acquisition and development of land for open space elsewhere in Tāmaki;
 - mitigations that result in the further enhancement of open space elsewhere in the Tāmaki area;
 - enhanced protections for the balance of the reserve.
116. The Maungakiekie-Tāmaki Local Board also seeks mitigations for the loss of open space at Point England, in particular:
- investment in smaller and larger park spaces adjacent to Elstree Avenue, Point England Road and on the Point England headland;
 - open space connections including ecological and recreational connections (walking/cycling) along Omaru Creek and the Tāmaki River Foreshore, into the Glen Innes Town centre and rail station and along surrounding streets;
 - a quality suburb scale park at Point England which supports sport and active recreation.
117. The Local Board also asks that the planned development reduce the impact on the recreational spaces and landscape, in particular, the expansive coastal headland south of Omaru Creek, the elevated headland and vegetated banks to the north of Omaru Creek and the foreshore of the Tāmaki River, and to avoid reverse sensitivity effects on the sports fields from near neighbours.
118. Some of these potential impacts, as discussed above under Option 3, have been mitigated through the choice of the development land which was discussed with Auckland Council and the Chair of the Local Board. The reverse sensitivity concern can be addressed directly with the developer as part of MBIE's negotiations.
119. Ngāti Paoa and OTS have engaged with iwi/hapū with interests in the reserve in respect of the proposal, as part of the OTS process on overlapping claims. The Minister for Treaty of Waitangi Negotiations will consider the views of these groups in making any decision to maintain an offer of redress to Ngāti Paoa.

120. As above, there will be an opportunity for public input into the proposal via parliamentary select committee. However the Government is still likely to be criticised for reducing the opportunity for public input into the reserve revocation in light of the statutory scheme and the public interest in reserve space.
121. The following departments and agencies have been consulted on the proposal either through consultation on Cabinet papers, the draft legislation, or directly on the RIS: Treasury, Department of Conservation, Land Information New Zealand, the Office of Treaty Settlements, Ministry for the Environment and Te Puni Kōkiri. The Department of Prime Minister and Cabinet and Crown Law Office have been informed.

Conclusions and recommendations

122. The primary regulatory impact of this proposal is the loss of open space to the residents of Point England and Glen Innes and the wider Tāmaki community including land currently used for sports fields.
123. It is likely over time, as the number of residents in the area increases, there will be more demand for reserve space both for recreation and passive enjoyment.
124. This loss of reserve land is balanced against the ability for the land to provide much needed additional housing supply in Auckland including for the Tamaki Redevelopment Company to assist its regeneration project. The preferred option enables the Government to have a reasonable degree of certainty about a housing outcome and its timing, which the alternative options do not provide.

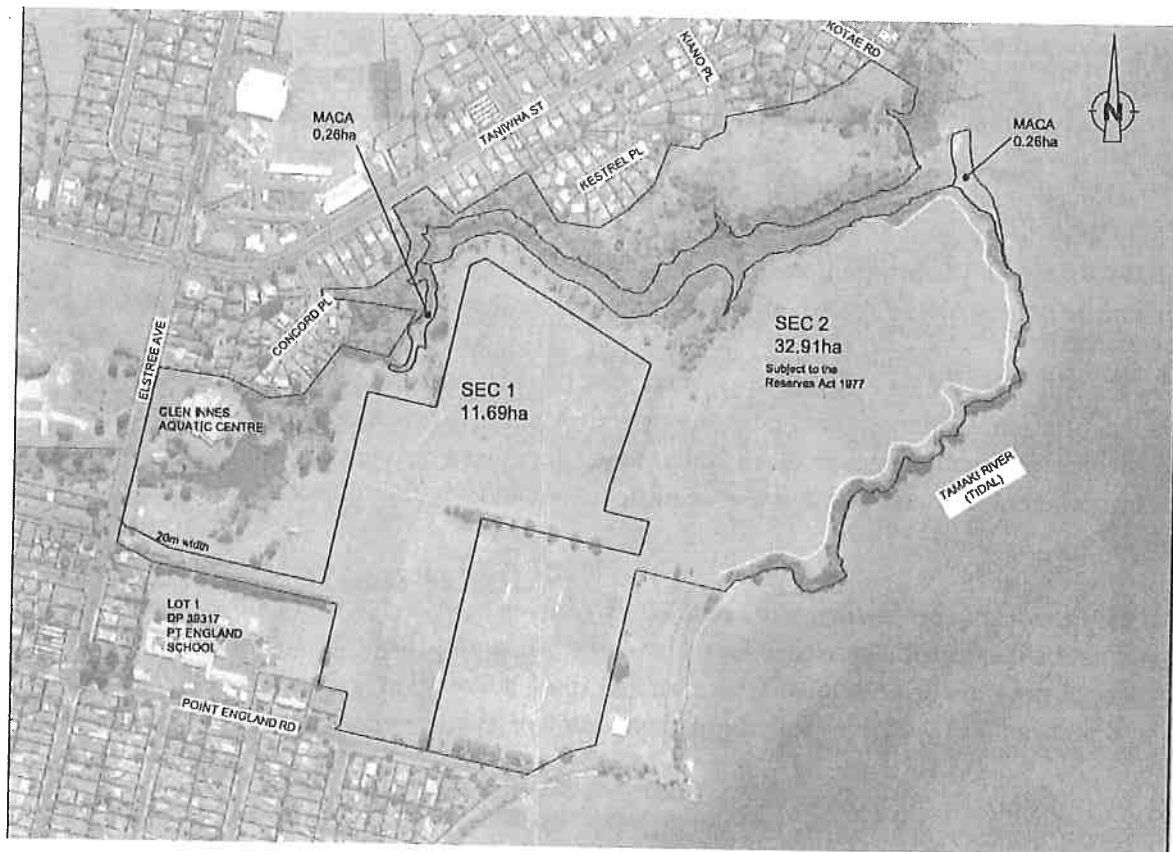
Implementation plan

125. The implementation steps will involve:
- legislation to revoke the reserve status and provide the land with a zoning enabling for housing;
 - the negotiation of a development agreement between Ngāti Paoa and MBIE which will result in a contractual agreement for the delivery of housing to meet the government's objectives. Under the contract, the Crown has remedies in the event a development does not proceed as agreed. Ngāti Paoa will be responsible for financing the development, resource and building consents, and all other aspects of delivering on the agreed development.

Monitoring, evaluation and review

126. There are MBIE checks on whether housing developments, including any development on the Reserve, are meeting the Crown's objectives as part of the monitoring and evaluation of the Crown Land programme. There are also government checks on the CrownLand programme.
127. As part of the Crown land programme MBIE is required to monitor progress against all its development agreements and report to delegated Ministers. MBIE maintains an ongoing relationship with developers and schedules regular meetings to provide it with assurances the land is being developed as agreed under contract.
128. At the initial stages of development these meetings can be held monthly. MBIE also visits the land to check on progress. If the developer does not make as much progress as agreed, or could be reasonably expected, the contractual agreements give MBIE the option to end the agreement and invite another developer to deliver the housing.
129. The Government oversees the Crown land programme via Treasury, Ministers and Cabinet. The programme is authorised by Cabinet [Cab-15-Min-0297 and Cab 16-Min-0189.03 refer]. The programme operates under a multi-year appropriation based on an estimate of how much Crown land will be acquired for development for up to five years.
130. At the end of each financial year the Crown, via Treasury, assesses whether the appropriation is being spent to meet the objectives of the Crown land programme. MBIE provides information on how much land is being purchased for the programme and an assessment of how many houses are being delivered and whether objectives are being met.
131. If the Crown land programme does not deliver housing as intended by the Government it will not be continued. These checks and balances, while not specific to any development at Reserve, provides an additional assurance that there is oversight and review of the Crown land programmes outcomes and regular evaluation of its effectiveness.

APPENDIX 1: MAP OF DEVELOPMENT LAND



APPENDIX 2: AUCKLAND COUNCIL SUMMARY OF POINT ENGLAND PLANS

Internal briefing: Configuration and Use of Point England Recreation Reserve

1. Under Council's Parks and Open Spaces Interim Provision Guidelines 2014, the Point England Recreation Reserve provides a sub-regional park function for the wider Tāmaki-Maungakiekie area. Sub-regional parks are often large (over 30 hectares) and provide a variety of environments and a range of informal recreational experiences.
2. The Reserve has an operational reserve management plan dated 1997. Amendments were undertaken in 2012 to accommodate the Tamaki Model Aircraft Club under a licence. A concept plan review was commenced in 2015 but has not been finalised and no community engagement has occurred.
3. The reserve currently contains:
 - i) 6 sports fields and associated infrastructure catering for rugby league and football in the winter and 4 cricket/kilikiti pitches used in the summer – the fields are fully utilised during summer, and are effectively utilised in winter given the constraints imposed by being clay-based fields. They are also used informally by the adjacent Point England Primary School;
 - i) The Glen Innes Indoor Community Pool and Recreation Centre and early childhood facility on Elstree Avenue;
 - ii) Approximately 18 hectares of grazing for cattle and some horses under an expired grazing licence which continues to operate on a month-by-month basis;
 - iii) A runway for model aircraft within the grazed area, which is used by the Tamaki Model Aircraft Club Incorporated under an unregistered licence (final expiry 2022);
 - iv) A coastal track which is part of a track network along the Tāmaki coast and the Omaru Stream;
 - v) Carparking and a dilapidated and closed boat ramp on the Council-owned portion of the Reserve.
4. The Reserve has an annual operational cost of approximately \$203,000 per year, mainly for maintaining the sports fields. An additional approximately \$450,000 has been spent over the last five years on improvements to sports facilities, visitor facilities, tracks and foreshore restoration. Future budget for the Reserve includes:
 - i) \$400,000 for a splash pad near the Recreation Centre in the next three years;
 - ii) \$300,000 for park improvements in the next two years (choosing priorities from the 2015 concept plan);
 - iii) A portion of the \$3.2 million for the Tāmaki Estuary path (greenways network) over the next three financial years.

APPENDIX 2: AUCKLAND COUNCIL SUMMARY OF POINT ENGLAND PLANS

5. The Omaru Stream is an important ecological corridor from the Tāmaki River coast through the Glenn Innes urban area, and linking westward to Purewa Creek and Orakei Basin. The stream is part of a catchment with planned stormwater improvements that will involve the exchange of local reserve land to accommodate stormwater retention areas. A foreshore restoration scheme has also been planned for the Point England Reserve and amenity planting and wetland restoration programmes involving community volunteers have been undertaken.

6. A number of proposals have been or are currently under consideration on the Point England Reserve. These include:
 - i) Upgrade the sports fields to a sand base to enable greater winter use, and install training lights (currently on hold);
 - ii) Site for relocation of Mt Wellington Rugby League club;
 - iii) Location for displaced pony clubs;
 - iv) Upgraded neighbourhood playground;
 - v) Stormwater and stream restoration areas, daylighting and fish passage to help improve water quality and habitats;
 - vi) Retaining the existing open spaces for passive recreational activities;
 - vii) Route for a new cycle and pedestrian trails;
 - viii) Basketball courts (sponsored);
 - ix) Community gardens;
 - x) Additional tree planting;
 - xi) Additional car parking.

From: .
Sent: Wednesday, 7 March 2018 8:17 PM
To: Craig Stevenson
Cc: Neil Holdom; Richard Jordan; shaun.bieseck@npdc.govt.nz; Gordon Brown; Murray Chong; Harry Duynhoven; Richard Handley; Stacey Hitchcock; Colin Johnston; John Mcleod; hugh.jory@oag.govt.nz; Mike Merrick; Marie Pearce; Roy Weaver; John Williams; e.sage@ministers.govt.nz
Subject: Complaint re LTP supporting information and Consultation Document
Attachments: Council Complaint re LTP information and CD.pdf

Dear Mr Stevenson

Please find attached a letter outlining a complaint regarding the LTP supporting information and Consultation Document presented by NPDC, in particular concerning the Funding of Flagship Projects through the revocation and sale of established Recreation Reserve land.

I have copied the Councillors and Mayor, together with Audit New Zealand, the Office of the Auditor General and the Minister of Conservation for their information.

Regards

7th March 2018

New Plymouth

Complaint regarding the LTP Consultation Document and LTP Supporting Information

Dear Mr Stevenson

I am writing as a concerned resident of Fitzroy, New Plymouth to express my disappointment and to make a formal complaint regarding the failure by NPDC to provide quality and sufficiency of information; effective evaluation of assumptions and risks; and means for informing 'the right debate' in the Long Term Plan Consultation Document and the information provided to support the Long Term Plan Consultation Document.

Executive Summary

The LTP supporting information and CD related to the Funding of Flagship Projects through the sale of Recreational Reserve land is fundamentally flawed and does not provide sufficient information for the public to make informed submissions. Further, there are a number of implicit assumptions in the supporting information and CD for this option that carry significant risk of not returning any funds to NPDC.

Of particular concern is that the supporting information and CD do not provide the means for informing the 'right debate' and is therefore not fit for purpose under the Local Government Act and OAG guidelines. In fact, the publicity surrounding the option, CD and supporting information has created a platform for the 'wrong debate' based on misinformation, prejudice, ignorance and greed.

I have copied the Councillors and Mayor of NPDC and also Audit NZ / Office of the Auditor General for their review. I believe it is critically important that this information is included in the LTP supporting information and CD, and the option is changed to reflect the 'right debate' for the public, as at present you are seeking submissions from the public on an option that appears to have no legitimacy and carries significant undisclosed / unidentified risk.

Context

- Wednesday 28th February an extraordinary meeting of the NPDC was scheduled to consider, among other things "the adoption of the Consultation Document (CD) for the Long-Term Plan 2018-2028" and the recommendation to approve the CD.
 - The extraordinary meeting was publicly notified in the late afternoon on Monday 26th February
 - The two major issues for inclusion in the CD included options to fund Flagship Projects and whether or not to invest in Zero Waste 2040.

- "The recommended option outlined in each report meets the purpose of local government and:
Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council."
 - "We could recycle a small portion of NPDC owned land to help pay for these Flagship projects that would benefit more of our community. This would include both the residential development of land (roads & pipes) and the sale of land to other parties to build on. It would take place over a number of years. This would provide around \$40 million cash after all costs"
 - "Development and sale of land at Weka Street"
 - "Development and sale of approximately 50% of Fitzroy Golf Club"
 - "Use \$4.5 million for extension of the Coastal Walkway from Bell Block to Waitara"
 - "Create a fund for \$15.5 million for other Flagship Projects"
 - "Allocate \$20 million for long-term land development, including purchase of land for development – risks, costs, opportunities and returns unknown."
- The adoption of the CD was postponed by Council on 28th February on the recommendation of the CEO in order to include water infrastructure in the document.
 - Prior to the amended meeting on 28th February a Public Forum was held where 3 speakers were allowed to present and respond to questions from Councillors, these being Karen Venables, Mike Earley and Craig Williamson. The meeting was recorded on video by NPDC and is available on the NPDC website.
 - During the meeting the Mayor claimed that the supporting information for the Consultation Document (500 pages of it) were available on-line but no link was provided. Searching of the NPDC website could not identify this information.
 - A 499 page document was subsequently found on the NPDC website, listed under an agenda for an extraordinary meeting of NPDC held on the 21st December 2017. The agenda includes the Long-Term Plan 2018-2028 Covering Report with the Recommendation the Report be noted, together with the following excerpts:

Flagship projects: \$40 million

There is an opportunity to recycle some recreational land to pay for big projects that contribute to Building a Lifestyle capital. One idea is to:

- sell some recreational land such as half of the 18 hole Fitzroy golf course. This could provide an income of around \$40 million
- this could pay for extending the coastal walkway from Bell Block to Waitara, \$8 million (\$4 million NPDC and \$4 million from central government)
- this could provide \$16 million for other flagship projects e.g. redeveloping TSB Stadium, Todd Energy Aquatic Centre, Pukekura Park's Bellringer Pavilion, or working with Port Taranaki to develop a marina at Breakwater Bay
- prepare us for tomorrow by allocating \$20 million for long-term land investments.

IMPLICATIONS ASSESSMENT

This report confirms that the matter concerned has no particular implications and has been dealt with in accordance with the Local Government Act 2002. Specifically:

- Council staff have delegated authority for any decisions made;
- Council staff have identified and assessed all reasonably practicable options for addressing the matter and considered the views and preferences of any interested or affected persons in proportion to the significance of the matter;
- Any decisions made will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
- Any decisions made are consistent with the Council's plans and policies; and
- No decisions have been made that would alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or would transfer the ownership or control of a strategic asset to or from the Council.

Lifestyle projects

A number of lifestyle projects are discussed in the Infrastructure Strategy such as the TSB Stadium multi-sport facility, Todd Energy Aquatic Centre redevelopment, Coastal Walkway to Waitara and the Mountain to Sea Walkway. We are not able to afford all of these projects to be developed at the same time. Therefore the Infrastructure Strategy discusses the merits of each project along with costs and potential timing.

F11. Asset Sales

Assumption	Excluding the sale of some surplus properties and operating assets, there will be no major asset sales other than those agreed to in the LTP.
Detail	Other than any property identified in the LTP and for some surplus property assets and operating assets, no other major or surplus asset sales are planned.
Risk Assessment	Without asset sales the Council will need to continue to fund any long-term assets through external borrowing.
Uncertainty	Low
Impact on the Council and Community	Low

ADOPTION OF COUNCIL SERVICES SUPPORTING INFORMATION IN RELATION TO THE LONG-TERM PLAN 2018-2028 AND CONSULTATION DOCUMENT

MATTER

The matter for consideration by the Council is the adoption of the Council services supporting information required to be adopted by section 93G of the Local Government Act 2002 (LGA 2002) in relation to the Long-Term Plan 2018-2028 (LTP) and the Consultation Document.

- 16) Management of Investments and Funding - Include opex service level improvements of \$3.5m highlighting the following:
- Adopting the approach to divestment of minor surplus properties, and re-invest the income equally between land purchase/development and a reserve for funding significant capital projects
 - Adopting the approach to develop and divest half of Fitzroy Golf Club and the Welke Street surplus reserve land, and to re-invest income equally between land purchase/development and a reserve for funding significant capital projects

Surplus property divestment and re-investment

Over the life of the Long-Term Plan a range of property sales are proposed. These are for properties that are either currently surplus to the Council's requirements or that will become surplus. They are generally smaller properties that are already serviced by infrastructure.

Properties proposed for disposal will be subject to individual decisions by the Council at the time of sale, and will be sold in accordance with the "Approval of Properties for Sale and Method of Sale Policy". Properties will be sold at market value.

Many of these properties have specific statutory obligations to consult the community before their disposal. For instance, the disposal of reserves and parks are regulated by the Reserves Act 1977 and the Local Government Act 2002. This will enable the community to be consulted on those properties.

The net sale proceeds are estimated at \$5 million. Half of the proceeds (\$2.5 million) will be set aside for further land purchase and development, while the other \$2.5 million will be set aside to fund capital projects.

Property development, divestment and re-investment

For two substantive properties - being part of the Fitzroy Golf Course and Weka Street - it is proposed that the Council develop the sites into residential sections and then sell the sections. Undertaking the development of these sites will enable the Council (and therefore the wider community) to receive the standard developer profit margin.

The proposal is to develop approximately 3 hectares of undeveloped reserve land at the eastern end of Weka Street, between the existing residential area and Lake Rotomanu. This land could deliver approximately 20 sections, with an estimated \$4 million return to the Council. Approximately 15ha of the Golf Course (total of 30ha) would be developed into approximately 160 sections, with an estimated \$30 million return to the Council. This would leave half of the Golf Course remaining for a 9-hole course and possible opportunities for further community infrastructure improvements such as parks and picnic areas.

Both of these sites will undergo the Reserves Act 1977 disposal process, requiring public consultation and the approval of the Minister of Conservation.

There are a range of potential options for how the Council will undertake development, including the potential for establishing a property development Council Controlled Organisation. The Council will need to undertake a review under section 17A of the Local Government Act 2002 to consider the most appropriate delivery arrangement.

The net sale proceeds are estimated at \$34 million. These proceeds will be split into two. Half of the proceeds (\$17 million) will be set aside for further land purchase and development, while the other \$17 million will be set aside to fund capital projects.

Complaint

My complaint consists of several elements as outlined in the introduction to this letter:

1) Quality and sufficiency of Information:

Neither the CD or the supporting information provide sufficient information to allow members of the public to make informed comment or submissions to NPDC, including the following:

- a. Information defining the NPDC ownership of the Reserve Land at Weka Street and Fitzroy Golf Course.
- b. "The recreation reserve held by the Council is vested "in trust" in the Council as the local authority administering body under the Reserves Act 1977" – NPDC document.
- c. Any will or deed or other instrument creating the trusts on which the reserve is held.

- d. "If formalised use of this area ceases at some time in the future, the area will be reverted to public open space and used for the purposes of casual and organised outdoor recreation." NPDC Council Coastal Reserves Management Plan.
- e. The current lease of the Fitzroy Golf Club, and the history of the Golf Club custodianship, upgrading and maintenance – there is evidence that the Golf Course has been in existence since the 1920's, close to 100 years at that location.
- f. "This park provides for recreational enjoyment in a coastal, riverside and lakeside setting. As such it is **unique in the district**. The wildlife values of the reserve add to its amenity value." Coastal Reserves Management Plan 2015.
- g. The current status related to the renewal of the Fitzroy Golf Club lease, including advice from Council that the golf club has a right to exercise renewal of its lease on expiry of the current term (Conclusions of "Review of Revocation and Disposal Process of Recreation reserve – Fitzroy Golf Course" 2012).
- h. The Council must grant a renewal lease provided it is "satisfied there is sufficient need for the continued operation of the Golf Club" (Council document).
- i. Information on the decision to declare the reserve land occupied by Fitzroy Golf Club as 'surplus'.
- j. Information on the business case, including risks, opportunities and assumptions – where did the numbers come from?
- k. Information on the risks, costs, opportunities and returns of a CCO funded by the sale of Reserve Land.
- l. Information related to council staff assessment of options and consideration of views and preferences of any interested or affected parties.
- m. Information related to proposals of housing types, roading requirements, effects on schools, business and other infrastructure.
- n. Information confirming that no decisions have been made that would transfer the ownership or control of a strategic asset to or from the Council under this proposal.
- o. Information about the sale of land under the Reserves Act 1977, the disposal process and the requirements to get approval from the Minister of Conservation.
- p. The need to undertake public consultation of the **intent** to seek ministerial consent to revoke the reserve status and consider all objections before making a final decision (Council document).
- q. The weight of public objection to the loss of the reserve land / open space makes it likely that the Minister's delegate would refuse to give consent (Council document).
- r. Need to consider any statutory offer back requirements under Section 40 of the Public Works Act 1981, to any former owner or successor (Council document).
- s. Information related to any consultation undertaken with the Conservator / Commissioner with respect to proposed revocation of the Reserve Land.

2) Assumptions

A number of implicit assumptions have been made that relate to the Option provided by the NPDC, for which no information has been provided or risk evaluated, including:

- a. **The NPDC council owns the Reserve Land and has the right to sell it and keep the money.** The risk is that the NPDC does not own the land, has no right to sell it and cannot receive the proceeds from the land. Research is unequivocal on this matter, e.g. the Reserves Act 1977, and the titles of the land that indicate that the Reserve

Land is vested in the NPDC for the purpose of being a Recreation Reserve, by way of deed or other instrument creating trusts on which the reserve is held – it is not land over which the NPDC has ownership rights (administering body under the reserves Act) and the vesting can, in certain previously Crown-Owned land, be revoked by the Crown:

- (3) Notwithstanding anything in subsection (1) or subsection (2), where any land the reservation of which is revoked had been transferred to the Crown by way of gift for the purpose of a reserve, the following provisions shall apply:
- (a) in the case of land that immediately before its transfer to the Crown was Maori land, the Minister, unless he or she considers it would not be in the public interest, shall offer the land, on such terms and conditions as he or she thinks fit, to the former owner or, if he or she is deceased, to his or her descendants, those descendants being as determined by order of the Maori Land Court;
 - (b) in the case of any other land, the Minister, unless he or she considers it would not be in the public interest, shall offer the land, on such terms and conditions as he or she thinks fit, to the former owner or, if he or she is deceased, to his or her personal representative.

and

26 Vesting of reserves

- (1) For the better carrying out of the purposes of any reserve (not being a government purpose reserve) vested in the Crown, the Minister may, by notice in the *Gazette*, vest the reserve in any local authority or in any trustees empowered by or under any Act or any other lawful authority, as the case may be, to hold and administer the land and expend money thereon for the particular purpose for which the reserve is classified.
- (2) All land so vested shall be held in trust for such purposes as aforesaid and subject to such special conditions and restrictions as may be specified in the said notice.

26A Vesting of certain reserves

- (1) Where any administering body that is a territorial authority has, before 1 January 1980 been appointed to control and manage any reserve classified under section 16 (whether before or after 1 January 1980) as a recreation reserve or local purpose reserve, that reserve shall, without further authority than this section, vest in that administering body.
- (2) All land so vested shall be held in trust for the purpose or purposes for which the reserve is classified.

(?) If at any time the Minister is satisfied that a breach of the trusts upon which any such reserve is vested has been committed, or that after the expiration of 5 years from the date of the vesting of the reserve the land is not being used for the purpose for which it is vested, whether that period of 5 years has expired before the commencement of this Act or will thereafter expire, or that the administering body has failed to comply with the provisions of this Act, he or she may cause to be served on the administering body a notice in writing stating that unless cause to the contrary is shown in writing within 2 months he or she will cancel the vesting.

b. The Golf Club does not have a right to renew its current lease on the current terms. The risk is that the Golf Club does have such legal right and can renew its lease based on presented documents from NPDC (below), and that NPDC cannot seek to dispose of the land in the timeline provided for under the LTP.

I. CONCLUSION

Based on the fact that the Fitzroy Golf Club, has

1. A secure lease tenure until 30 June 2023.
2. A right to exercise renewal of its lease on expiry of the current term on the same terms and conditions subject to a new rental for the new term.

Document name: Review of Revocation and Disposal Process of Recreation Reserve - Fitzroy Golf Club
lease. CM 08 28 01, v04, 11 03 2022
Document Number: 1366252

9

c. The proposal will be accepted by the community with little fuss and will be approved by the Minister of Conservation. The risk is that the community will be offended by the potentially illegitimate nature of the proposal and that the Minister of Conservation will not support the proposed change of purpose or divesting of the Reserve Land for money (NPDC advice below).

11. Undertake the hurdle to secure ministerial consent to revocation to remove the "reservation and trust" from the land on the basis that the Minister's delegate would take into account all objections and iwi concerns, and make any enquiry he or she sees fit, noting that the weight of public objection to the loss of the reserve land/open space that the Minister's delegate would likely refuse to give consent.

d. The option of selling the Reserve Land at Fitzroy Golf Course is the only option to raise funds for the Flagship Projects. The risk and opportunity costs are that there may be many more options that have not been considered by NPDC which have a better and less encumbered chance of success.

3) Means for informing 'the right debate'

As it stands the CD and supporting information do not provide means for informing 'the right debate' (as outlined in OAG and SOLGM documents) and are therefore not fit for purpose under the Local Government Act and AOG guidelines.

By way of examples the public debate resulting from the issue of the information and various press releases, predominantly from the Mayor, and radio interviews, has focused on a variety of manifestly 'wrong' debates from the community such as:

- Do golf courses add any value to the community?
- Do we have too many golf courses in the New Plymouth District?
- Would it be better to have a 9-hole golf course?
- Is it unfair to the public that the Fitzroy golf club has an exclusive right to use the Reserve Land under a lease from the NPDC?
- Do you think the Fitzroy Golf Club should close and amalgamate with other private Golf Clubs in New Plymouth?
- Is it selfish of the Golf Club to want to continue after 80+ years of operation on the Reserve Land?
- Aren't golfers a minority in the community and selfish to need so much space to play golf?
- Do the views of those affected parties such as local residents, neighbours and golf club members matter in the decision making process? (cf Mayor's interview on Hokonui Radio in which neighbours and golf club members were excluded from the definition of "the community")
- Are the affected parties selfish in trying to deny the Community funds to pay for Flagship Projects that benefit everyone?
- Is it a win-win to have prime residential sections on former reserve land with sea views and pay for the Flagship Projects?
- Do those organisations and individuals that will profit from or personally benefit from the sale of the Reserve Land support the sale of the Reserve Land?
- Are there alternative uses of the Reserve Land that the public might want to see?
- Is the sale of Reserve Land a panacea for funding the Flagship Projects?

This approach to presenting the option has caused significant divide in the community, simply because the 'right debate' has not been properly informed. In this case the 'right debate' could be the "selling of identified, surplus, council-owned land for housing development, where there are no encumbrances from trusts or land vested in the NPDC for Reserve Land"

Summary

The LTP supporting information and CD related to the Funding of Flagship Projects through the sale of Recreational Reserve land is fundamentally flawed and does not provide sufficient information for the public to make informed submissions. Further, there are a number of implicit assumptions in the

supporting information and CD for this option that carry significant risk of not returning any funds to NPDC.

Of particular concern is that the supporting information and CD do not provide the means for informing the 'right debate' and are therefore not fit for purpose under the Local Government Act and OAG guidelines. In fact, the publicity surrounding the option, CD and supporting information has created a platform for the 'wrong debate' based on misinformation, prejudice, ignorance and greed.

I have copied the Councillors and Mayor of NPDC and also Audit NZ / Office of the Auditor General for their review. I believe it is critically important that this information is included in the LTP supporting information and CD, and the option is changed to reflect the 'right debate' for the public, as at present you are seeking submissions from the public on an option that appears to have no legitimacy and carries significant undisclosed / unidentified risk.

I look forward to hearing from you.

Yours sincerely,



Lisa Lowe

From: Wednesday, 7 March 2018 5:00 PM
Sent: Neil Holdom
To: RE: "Fore!"
Subject:

I haven't followed the Fitzroy proposal that closely so don't know the ins and outs - was part of the plan that the NPDC would be the developer of the 'acquired' land? Maybe the message needs to be redefined to appease the stalwarts and 'greenies'. Wouldn't the development be targeted to golfers. Living beside a golf course must be every golfer's dream..haha. Doesn't Regional Councillor Williamson live on Puni Street? :)

"I learned one thing from jumping motorcycles that was of great value on the golf course, the putting green especially: Whatever you do, don't come up short." Evel Knievel

Also you are possibly putting your head on the block as you appear to be a one-man band on the issue. Are other Councillors into it? I ended up being a one-man (mad) band during my term regarding the F word.....didn't win the first round but we got there ultimately. And....plan to keep it that way.

Latest on the F issue - I think the "powers-that-shouldn't-be" are awaiting the Supreme or High Court decision on South Taranaki before moving forward and, hopefully, that decision will consign it to the toxic dump where it belongs.

Cheers

This is a study funded by the United States of America Government

PRESS RELEASE - BREAKING NEWS

New US Government Study on Fluoride Damage to Brain must Spell End to Fluoridation in New Zealand

Fluoride Free New Zealand is calling on the 23 councils (out of the total of 67) that still fluoridate, to urgently implement a moratorium on fluoridation to protect the brains of children being born today in their community.

A major study <https://ehp.niehs.nih.gov/ehp655/> published on Tuesday in the US Government's Environmental Health Perspectives has found that children born to mothers exposed to fluoride while pregnant, have significantly lower IQ scores. This is particularly relevant to New Zealand where half of the population is currently subjected to fluoridation.

The study measured fluoride in urine and found the average level of fluoride in urine was 0.9mg/L (mg/L = parts per million). To relate this to water fluoride concentration, a separate study found that pregnant women in an area with 0.4 to 0.8 ppm water fluoride only had slightly lower urine fluoride than the average participants in this study. The Ministry of Health recommends fluoride chemicals be added to the water at 0.85ppm.

Pregnant women in New Zealand in fluoridated areas likely have similar levels of urine fluoride as those in the Mexican study. Urine fluoride reflects total fluoride intake from all sources, not just fluoridated water. The paper also reports that in the USA, which is 70% fluoridated, urine fluoride ranges from about 0.5 to 1.5 mg/L which fully overlaps the range found in the Mexican study.

The child of a mother who was drinking water with 0.85ppm fluoride would be predicted to have 5 lower IQ points than if the mother had drunk water with close to zero fluoride in it. This obviously has huge consequences for New Zealand children.

The Ministry of Health recommended 1ppm until the 1990s when it reduced to a range from 0.7ppm to 1ppm, with a target of 0.85ppm. The US Human and Health Services have directed a maximum of 0.7ppm for fluoridation.

This study was very carefully done by a group of researchers who have produced over 50 papers on the cognitive health of children in relationship to environmental exposures. It was funded by the US Government's National Institute of Health and was a multi-million dollar study. This was the group's first study of fluoride - their other studies mostly dealing with lead, mercury and other environmental neurotoxics.

This study controlled for a wide range of potential factors that might have skewed the results and produced a false effect. It was able to largely rule out confounding effects by these other factors. The factors ruled out included lead, mercury, socio-economic status, smoking, alcohol use, and health problems during pregnancy.

This study offers confirmation of previous studies in Mexico, China and elsewhere. Some of those studies had higher fluoride exposures than are commonly found in fluoridating countries, but many did not. The sole study in a country with artificial water fluoridation was by Dunedin dentist Jonathan Broadbent. That study found no association between water fluoridation and IQ and was trumpeted by fluoridation defenders. But that study was shown to have almost no difference in TOTAL fluoride intake between the children with fluoridated water and those with non-fluoridated water, since at least half of the children in the non-fluoridated area were given fluoride supplements. This left only a small proportion of the study children without substantial fluoride exposure. Nor did this study look at maternal fluoride exposure during pregnancy, which could be the most vulnerable time of exposure.

The study authors are cautious in their conclusions, as is common for scientists. But the implications of this study are enormous. There have been 58 other human studies looking at fluoride exposure and harm to the brain - 51 of them have found an association.

-----Original Message-----

From: Neil Holdom [mailto:Neil.Holdom@npdc.govt.nz]

Sent: Wednesday, 7 March 2018 2:58 p.m.

To: F

Subject: Re: "Fore!"

Perhaps I was naive to think people would be prepared to make a sacrifice now in order to deliver greater gains in the future. Anyway we will see how the wider consultation goes and I am confident all the core work on basic infrastructure can be funded without hitting ratepayers for more than 5% and we are actually working to getting a new reservoir. No word on your favourite peice of Government legislation!

Regards

Neil Holdom
New Plymouth District Mayor
P +64 27 284 5875

Sent from my iPhone

> On 7/03/2018, at 1:49 PM,

>

> Yep...it's weird that people are always calling for change but are

> afraid of it when its touted.

>

> -----Original Message-----

> From: Neil Holdom [mailto:Neil.Holdom@npdc.govt.nz]

> Sent: Wednesday, 7 March 2018 1:22 p.m.

> To:

> Subject: Re: "Fore!"

>

> Yep Spotted that one and Dunedin is looking at selling up to \$60

> million of property in the city to help fund the future.

> I think there is a growing realisation that rates growth needs to be

> constrained as household budgets get squeezed.

> I think it's a good thing for New Plymouth district to have this

> debate now, get a clear steer from our community early while council

> debt levels are low, the infrastructure assets are in reasonable

> condition and we have the breathing space to make informed decisions

- > without some sort of crisis hanging over us.
- > When I look at the debt levels of many other councils I just don't
- > think NPDC wants to go there.
- >
- > Regards
- >
- > Neil Holdom
- > New Plymouth District Mayor
- > P +64 27 284 5875
- >
- > Sent from my iPhone
- >
- > On 7/03/2018, at 1:15 PM, I...
- > <
- >
- > FYI
- >
- > <https://www.stuff.co.nz/dominion-post/news/102032209/angry-golfers-tak>
- > e-a-sw ing-at-council-as-it-looks-to-slash-course-in-half
- >
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- >
- > Statements in this email and any attachments do not necessarily
- > reflect the views of New Plymouth District Council.
- >
- > For more information about New Plymouth District Council, visit our
- > website at www.newplymouthnz.com
- >
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- > Sign up now at www.newplymouthnz.com/rates
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- >

Julie Straka

From: Peter Handcock
Sent: Friday, 6 April 2018 4:57 PM
To: Julie Straka
Subject: FW: Fitzroy Golf Club :Disposal Investigation
Attachments: Land Subject to Preliminary draft LTP Consultation Document.xlsx

From: Peter Handcock
Sent: Tuesday, 6 March 2018 11:02 AM
To: 'kstewart@doc.govt.nz' <kstewart@doc.govt.nz>
Cc: Mitchell Dyer <Mitchell.Dyer@npdc.govt.nz>; Murray Greig <murray.greig@npdc.govt.nz>
Subject: FW: Fitzroy Golf Club :Disposal Investigation

Hi Ken

We refer to your email below and attach the legal descriptions of the land referred ,including that currently part of the land subject to the lease to the Fitzroy Golf Club.

The Council is intending to carry out further investigations and analysis of the land status and acquisition history, prima facie the land is not Crown derived but our research is not yet complete. We hope to make progress over the next week, but the extent of that progress will be dependent on the availability of historic documents and records.

Regards

Peter Handcock
Property Team Manager
New Plymouth District Council | Liardet St | Private Bag 2025 | New Plymouth 4342
Phone: 06 759 6060 Mobile: 027 280 0780

From: Ken Stewart [<mailto:kstewart@doc.govt.nz>]
Sent: Friday, 2 March 2018 10:02 AM
To: Mitchell Dyer <Mitchell.Dyer@npdc.govt.nz>
Subject: Fitzroy Golf Club :Disposal Investigation

Hi Mitchell

Thanks for your time this morning.

As discussed the Minister of Conservation has been asked by a member of the public for an explanation of the Ministers role with respect to the possible disposal of part of the Fitzroy Golf Course in New Plymouth.

To enable me to provide advice I need the legal description of the land and also the land status and whether it was derived from the Crown or not. This is necessary as it dictates who makes the decisions and whether there is a need to offer the land back to former land owners

I appreciate the proposal is in the earlier stages of investigation as part of Long Term Plan and the community views will be sought as part of that process.

A separate process under the Reserves Act will be necessary if the land is a reserve subject to that Act

Ken Stewart

Statutory Land Management (SLM) - Advisor
Department of Conservation - *Te Papa Atawhai*
DDI: +64 3 474 6942 | VPN 5642 Mobile 027 408 3343
Email: kstewart@doc.govt.nz

Conservation leadership for our nature *Tākina te hī, Tiakina, te hā o te Āo Tūroa*

Dunedin Shared Services
Otepoti/Dunedin Office
Conservation House
77 Lower Stuart Street
PO Box 5244
Dunedin 9058

Get kids into nature



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Land Subject to Preliminary draft Consultation Document

Parcel ID	Legal Description	Full Title Area	Computer Freehold Register	Status	Underlying Reversionary Reserve Title Ownership *	Remarks	Current use	Future proposed use
4628169	Lot 1 DP 1910	0.5868	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4636486	Lot 2 DP 1911	0.1467	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4625941	Lot 3 DP 1912	0.1695	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4621223	Lot 4 DP 1913	0.1872	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4622437	Lot 5 DP 1914	0.1745	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4612927	Lot 6 DP 1915	0.1872	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4615796	Lot 7 DP 1916	0.1973	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4632252	Lot 8 DP 1917	0.2099	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4613305	Lot 9 DP 1918	0.215	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4621946	Lot 10 DP 1919	0.2074	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4654906	Lot 11 DP 1920	0.2023	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4609454	Lot 17 DP 1910	0.2125	TNH3/1028 (was 52/21)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4636487	Lot 16 DP 1911	0.2125	TNH3/1028 (was 52/21)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868	Fitzroy Golf Club lease	Development
4654911	Lot 5 DP 6496	0.1085	TN160/34	Primarily pleasure ground and secondly for recreation ground	NPDC	No record of classification of this reserve for recreation reserve purposes	Fitzroy Golf Club lease	Development
4632004	Lot 6 DP 6496	0.0545	TN160/34	Primarily pleasure ground and secondly for recreation ground	NPDC	No record of classification of this reserve for recreation reserve purposes	Fitzroy Golf Club lease	Development
4646205	Lot D DP 1100	2.6165	90/154	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation Reserve by NZ Gazette 2011 page 4243	Fitzroy Golf Club lease	Development
4634459	Part Section 159 Hua District SO 8607	6.1215	CFR 557167 (was TN 188/77)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Part Fitzroy Golf Club lease, part grazed, part recreation use	Part development
4625645	Part Lot 2 DP 5985	Included with Part Lot 2 DP 5985	CFR 557167 (was TN 188/77)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4244	Part Fitzroy Golf Club lease, part grazed, part recreation use	Grazed
4634149	Part Section 159 MR (Lot 2 DP 5664 and Lot 1 DP 8987 and Part Section 159 Hua District)	20.8939	658892 658893	Not Public Reserve - held for a local public work for "public abattoir"	NPDC	Used as park (see Approved Coastal Reserves Management Plan) but not a reserve subject to the Reserves Act 1977, so is not subject to the revocation process for disposal purposes.	Small portion occupied by Fitzroy Golf Club - majority Lake Rotomanu & community leases	.2500 part development, balance unchanged
4614209	Part Section 159 Hua District SO 8617	2.6092	TN191/67	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Part Fitzroy Golf Club lease, part recreation use	Part developed, recreation use unchanged
4634620	Pukeweka 17B Block	5.3621	TN133/185	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868 and 1989 page 1812	Part Fitzroy Golf Club lease, part recreation use	Part developed, recreation use unchanged
4616651	Pukeweka 17A Block	24.9135	TNH3/1030 (was TN 105/81)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868	Part Fitzroy Golf Club lease, part recreation use	Part developed, part new lease to FGC, recreation use unchanged
4614195	Lot 73 DP 2094	0.4143	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Weka St development
4669418	Lot 74 DP 2095	0.4287	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Weka St development
4619937	Lot 75 DP 2096	0.4135	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Weka St development
4669376	Lot 76 DP 2097	0.4097	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Weka St development
4635808	Lot 77 DP 2098	0.0556	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Weka St development
4661821	Part Lot F DP 1100	1.8661	557504 (was TN145/85)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Part Weka St development
4623122	Part Lot 1 DP 5985	0.9189	TN148/157	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing	Part Weka St development
4635324	Section 202 Fitzroy District	0.3355	TN148/157	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243	Weka Street grazing/ part FGC lease	Part Weka St development

Lisa Lowe

From: Fitzroy Golf Club <fitzroygolfclub@xtra.co.nz>

Sent: Thursday, 1 March 2018 12:15 PM

To: Alan Melody; Colin Johnston; Craig Stevenson; Gordon Brown; Harry Duynhoven; John Mcleod; John Williams; Marie Pearce; Mike Merrick; Murray Chong; Neil Holdom; Richard Handley; Richard Jordan; Roy Weaver; Shaun Biesiek; Stacey Hitchcock

Cc: sgrieve@rmy.co.nz

Subject: Presentation - NPDC Extraordinary Meeting 28/2/18

Attachments: Letter to NPDC 28-2-18.pdf

To: The Chief Executive, Mayor and Councillors,

Attached document is a copy of the letter our President, Mike Earley, presented at the NPDC's Extraordinary Meeting (EM) held at the Council Chambers on Wednesday, 28th Feb 2018. This document includes a copy of attachments mentioned in that letter, but not tabled at the EM.

Regards, John



FITZROY GOLF CLUB

John Masters

Club Secretary

Phone 06 758 2574



PO Box 3139, Fitzroy, New Plymouth 4341
3 Record Street, Fitzroy, New Plymouth 4312
Phone 06 758 2574
Email: fitzroygolfclub@xtra.co.nz

28th February 2018

The New Plymouth District Council
Private Bag 2025
New Plymouth 4342

Attention: The Chief Executive Officer

Dear Sir

**FITZROY GOLF CLUB INCORPORATED - NEW PLYMOUTH DISTRICT COUNCIL -
GOLF COURSE LEASE RENEWAL**

I am the current President of the Fitzroy Golf Club Incorporated - which has a strong and proud history and has provided (and continues to provide) significant amenity and recreational benefits to the community of New Plymouth (and the Taranaki region).

Fitzroy Golf Club has been in existence since 1932 – and a golf course has occupied land in the area we are now situated since that time. The course itself has seen several changes to both its lay-out and quality over the years and the clubhouse, which was built in about 1936, has been extended over the same period.

A constant during this time has been the tens of thousands of hours of hard work that volunteers have put into making the course what it has become today.

Also, over this time the club has spent millions of dollars maintaining the course - and our club feels rightly proud of its achievements in presenting a facility that can be enjoyed by both members and visitors alike.

It is the only public golf course in the New Plymouth city area and has high recreational, landscape and amenity values. The course is a significant community asset – and fits well with the recreational reserve purposes for which the land was set aside.

The club currently has a membership of approximately 300 people. However, is also heavily utilised by visitors and casual (non-member) golfers. Currently the club also employs two full time staff, and part time caterers.

In the last two years over 22,000 rounds of golf have been played with over 6,000 of these being played by visitors. This represents at least 66,000 hours of recreational activity, without including people practicing, coaching sessions and other non-golf related activities, which would put our course at the higher end of usage of council owned sporting facilities.

The course also plays host to a number of annual charitable golf events including, for example, Countdown for Kids, Mark Newman Memorial Trust, From Hardship to Hope and Mellow Puff - where the club gladly provides the course free of charge.

National statistics show that more people in New Zealand are playing golf; and with an ageing population recreational facilities, such as the golf course, are needed around the country for people's enjoyment, quality of life and health and wellbeing.

The club has been conscious of moving with the times – and has also put in place policies to attract and encourage the younger generations to play on the course (such as allowing more casual clothing/dress code, rather than more formal clothing that golfers may have worn in years gone by and in some cases still apply at other clubs).

As the value of golf tourism continues to grow nationally we also believe that our continuation as an 18-hole golf course can only help the New Plymouth district (and Taranaki region) benefit economically as an attraction to both domestic and international visitors, whilst continuing to provide residents a municipal golf course.

“2% of holiday visitors golfed in the last three years or 35k Golfers spend more and stay longer than average visitors. Golf visitors have an average spend of \$4,800 vs \$3,900 spend from an average visitor. Golf visitors stay on average 27 nights vs 16 nights for an average visitor. Average spend of a golf visitor from the US is \$19,000. Most golf visitors are from Australia, followed by China the UK and USA.” (from Tourism NZ).

With reference to the Lease between the Council and the club dated 14 June 1983 (and subsequent variations of lease) – and to the Council's recent discussion paper – ***Fitzroy Golf Club and Surrounds – Technical Report Overview on the Process for Revocation and Disposal of Public Reserve leased by the Council to the Fitzroy Golf Club Incorporated*** (Technical Report) – copy attached – it is recorded that:

“The Lease provides for the option for the club to seek a right of renewal for a further term of 21 years from expiry of the current Lease on 30 June 2023; subject to – “the Council being satisfied there is sufficient need for the continued operation of the Fitzroy Golf Club...”, (see section Ga) Conclusion Summary of Limitations on Disposal of the Technical Report).

For some years the club has advised the Council that it wishes to exercise its option for the further term of 21 years from 30 June 2023, and there is strong evidence that there is a sufficient need for the continued operation of the Fitzroy Golf Club (touched on above).

Discussions were held between club members and former Council Parks Manager Mark Bruhn in 2012 - and at that time we clearly advised the Council of our desire to exercise the above option to renew.

This was further reiterated to the Council in a letter to Mr Bruhn dated 16 May 2014 (from Ross Whitmore, the club President at that time) – and further by way of letter dated 8 July 2014 from the club Secretary to the Council (which incorporated the letter of 16 May 2014). For your information I have also attached copies of those letters. We have not yet received a reply, despite our requests.

The above letter of 8 July 2014 also gave formal notice to the Council that the club wished to take up the option referred to in clause E of the Deed of Variation of Lease between the parties duly executed and dated 27 November 2010 which reads:

“The option to use part or all of the upper level of the Council's land outlined in orange on the attached plan for the purpose of extending the Golf Course proper, such option to be exercised by giving notice in writing to the Council before 1 August 21014 is hereby acknowledged”.

Fitzroy Golf Club wishes to again reiterate to the council that it is our firm intention to enact our right as per clause 24 of the lease agreement between ourselves and the Council to take and accept a renewal of our lease for a further period not less than 21 years; and, that the above option under the Deed of Variation of Lease dated 27 November 2010 was exercised.

It is the intention of the club to strongly advocate that it continues to operate as an 18-hole golf course and act as the city's only municipal golf course.

We also ask that the Mayor, his councillors and council officers desist in calling for the revocation of the course's recreational reserve status to enable the land to be developed for residential housing purposes.

These actions are seriously under-mining our ability to carry out the club's strategies that will enable it to thrive and succeed in the future for the benefit of the community.

The club feels that a lot of decisions regarding development of the land are occurring "behind closed doors" and whilst the club has continued to be open and honest with the council over its future, the same courtesies have not been forthcoming from the council regarding its plans.

The current proposal in the draft LTDP to sell off part of the golf course seems to be in contradiction to the 2006 Council Coastal Reserves Management Plan and the 2015 Open Space, Sport and Recreation Strategy.

Under Objectives 5.27.3 the Coastal Reserves Plan provides,

"To provide opportunities for large scale outdoor recreational activities, such as golfing close to New Plymouth".

And the Open Space Strategy states:

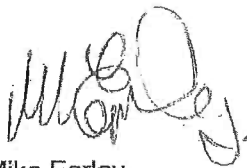
"Sport and recreation activities are an essential part of many people's lives. Participation in recreation and sport contributes to a healthy community, provides ways for people to interact with each other and improves social cohesion. While the population in New Plymouth District is increasing and is likely to continue to do so, we need to ensure that we have a consistent long-term decision-making framework for the delivery of open space, sport and recreation".

Reserves and recreational areas such as ours significantly contribute to the amenity values of the New Plymouth city and Taranaki region and must be preserved.

Such areas are one of the things that make a city an attractive place to live - as opposed to becoming an urban desert.

Once a town or city loses its reserve lands to development you never get them back.

Yours faithfully



Mike Earley
President
Fitzroy Golf Club Incorporated

**FITZROY GOLF CLUB AND SURROUNDS - TECHNICAL REPORT OVERVIEW
ON THE PROCESS FOR REVOCATION AND DISPOSAL OF PUBLIC RESERVE
LEASED BY THE COUNCIL TO THE FITZROY GOLF CLUB INCORPORATED**

A. PURPOSE

The purpose of this report is to outline the process for the revocation of the reserve reservation over public recreation reserve for disposal which is leased by the Council to the Fitzroy Golf Club, to provide facts on the potential for the sale of that land (or part / revenue, for consideration as part of the Council's current 2012 Activity Review.

B. DETAIL OF FITZROY GOLF CLUB LEASE

1. Lease

Original unregistered Lease dated 14 June 1983 (for a term of 21 years from 1 July 1981 expired 30/6/2002) with a conditional right of renewal for a further term of 21 years at annual fixed rental of \$2,400.

Lease renewed for another 21 year term by Deed of Variation in 2002, subject to new rental, and obligations relating to health and safety duties under the Health and Safety in Employment Act 1992 and 1995 Regulations, but otherwise on existing terms in original lease.

2. Authority

Issued pursuant to the provisions of Section 54(1) of the Reserves Act 1977 (subject to ministerial consent). Should also include the First Schedule to the Act.

3. Lessor:

New Plymouth District Council as the body corporate under the Local Government Act 1974 (Note that this should be more correctly recited as the Council as the administering body under the Reserves Act 1977).

4. Lessee:

The Fitzroy Golf Club Incorporated (an incorporated Society).

5. Current Lease Term

21 years from 1 July 2002. Expires 30 June 2023.

6. Conditional Right of the Club to a Renewal Lease.

Clause 24 provides that if the Council is satisfied that there is sufficient need for the continued operation of the Fitzroy Golf Club then the Club shall have the right or option (to be exercised in writing to the Council) to give at least six months' notice prior to the expiration of the term of the lease to take and accept renewal of the term created for the renewal period from the expiration of the term created at a rental to be agreed upon and failing agreement to be determined by a single arbitrator or in the case the parties cannot agree upon the appointment of such an arbitrator, then by two arbitrators one to be appointed by each party and an umpire selected by the two arbitrators, provided the rental shall not be less than the rental pertaining immediately prior to expiry of the said term, otherwise upon and subject to the same conditions as are herein contained excepting the present right of renewal.

7. Annual Rental from Term commencement 1 July 2002

Rental set at beginning of the term \$7,500 plus GST. Current Rent is \$8,293 plus GST.

8. Rental Reviews

Clause 21 provides for rental reviews based on the aggregated Consumer Price Index movement that has taken place over the three year period immediately preceding the review date.

9. Purpose of Lease

The lease requires the land to be used as a golf course for the playing of golf and the buildings thereon will be used as club rooms in connection therewith.

10. Rates

Clause 20 provides for the Club to pay rates levied. However a note on files indicates that the Club will not be charged rates on the land.

11. Buildings and Structures on the Land

Clause 7 provides that the Club remove buildings or structures on the land if required by the Council three calendar months from the date expiration or determination of the lease, but that if such removal is not effected within the specified date, the buildings and structures erected by the Club shall become absolute property of the Council.

Clause 8 provides that the Club shall not demolish or remove the original Club house or any other buildings erected or alter or make additions or erect new buildings or structures without the prior consent of the Council.

Clause 25 provides that the Club will not be entitled to compensation for any improvements effected by it, unless the Council exercises its discretion and decides to pay the Club the value of such improvements.

12. Other Conditions

Clause 11 - Club not to carry out acts which may cause sand drift or remove lupin on the foreshore without prior written consent of the Council.

Clause 27 provides for dispute arbitration under the Arbitration Act.

13. Limited Condition on Council Resumption of the Leased Land

Clause 22 provides that upon reasonable notice being given, the Council shall be entitled to resume possession of part or parts of the land along the foreshore during the term without payment of any kind and without reduction of rental provided however that the Council shall not resume possession of any part or parts where such resumption will affect the greens or fairways or the efficient operation of the said land as a golf course.

14. Schedule of Land listed in lease
(Note No Area specified in lease - not separately surveyed)

Legal Description	Full Title Area - not lease area	Computer Freehold Register	Status	Underlying Reversionary Reserve Title Ownership *	Remarks
Lots 1 to 11 DP 1910	2.4838	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868
Lots 16 and 17 DP 1910	0.4250	52/21 (now TNH3/1208)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868
Lots 5 and 6 DP 6496	0.1610	TN 160/34	Primarily pleasure ground and secondly for recreation ground	NPDC	No record of classification of this reserve for recreation reserve purposes
Lot D, DP 1100	2.6165	90/154	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation Reserve by NZ Gazette 2011 page 4243
Lots 73 to 77 DP 2094	1.7219	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Lot F DP 1100	1.3661	145/85 (now CFR 557504)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Lot I DP 5985 (and Section 202 Fitzroy District)	1.2523	TN 148/57 (correctly should be TN148/157)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Section 159 Hua District SO 8607 (and Part Lot 2 DP 5985)	6.1215	TN 188/77 (now CFR 557167)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Section 159 MR (Lot 2 DP 5664 and Lot 1 DP 8987 and Part Section 159 Hua District)	20.8939	TN 192/78	Not Public Reserve, held for a local public work for "public abattoir"	NPDC	Used as park (see Approved Coastal Reserves Management Plan) but not a reserve subject to the Reserves Act 1977, so is not subject to the revocation process for disposal purposes.
Part Section 159 Hua District SO 8617	2.6092	TN 191/67	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243

Part Section 17B Block SO 6926	5.3621	TN 133/85	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868 and 1989 page 1812
Pukeweka 17A Block (SO 5817)	24.9135	TN 105/81 (now TNH3/1030)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868

- Note that as standard practice to any revocation, the Council ownership would be subject to further scrutiny to confirm Council underlying reserve ownership. The cost of this work, and securing reports on the need to any offer of land to former owners depending on the number of titled land parcels decided upon for disposal would be up to \$20,000.

C. RESERVES ACT 1977

1. Statutory Provisions to Revoke the Reservation over Public Reserve under Reserves Act 1977

The recreation reserve held by the Council is vested "in trust" in the Council as the local authority administering body under the Reserves Act 1977.

Section 24(1) (b) of the Reserves Act 1977, provides that pursuant to a resolution of the local authority, it considers for any reason to be stated in the resolution that the reservation of the whole or part of the land as reserve should be revoked, then the Minister (of Conservation) at his discretion may by notice in the Gazette revoke the reservation of the whole or part of the land as reserve.

2. Public Notice Requirements under Reserves Act 1977

Subsection (2) (a) of Section 24(1) provides that the administering body (the Council) after consulting the Commissioner (Director General of Conservation) shall (mandatory) publicly notify the proposed revocation of the reservation specifying the reasons.

Note that the Council also has to take into account its statutory duty to consult with the community in its decision making under the Local Government Act 2002 (Sections 78, 81 to 83, 91 and 93) and in terms of its Consultation Policy P09-001.

3. Right of Objection

Subsection (2) (b) of Section 24(1) provides that every person claiming to be affected by the proposal to revocation shall have a right of objection and may at any time within one month after the date of the first publication of the notice of the proposal, give notice in writing of his objections to the proposed revocation to the Principal Administrative Officer or shall forward a copy of all such objections with a copy of the resolution of the administering body (the Council) in relation to those objections, after the administering body (the Council) has considered those objections.

Note that any person who does not lodge an objection shall be deemed to have assented to the revocation.

4. Iwi Consultation under Reserves Act 1977

Section 4 of the Conservation Act binds the Reserves Act, and the need to undertake iwi consultation on the revocation, alongside its obligations under the Local Government Act 2002 and Consultation Policy.

5. Consideration of Revocation by the Minister of Conservation

Subsection (2) (e) of Section 24(1) provides that the Minister (his delegate) shall as soon as practicable consider the proposed revocation and all objections received thereto and in the case of objections made to the administering body (the Council) the resolution of the administering body (the Council) and attitude of the administering body.

The Minister shall have power to receive such submissions and make inquiries as he thinks fit on the proposal. The Minister may follow such procedure as he determines.

6. Approval to Reserve Revocation

Gazettal of the Revocation over the whole or part of the recreation reserves would result in the uplifting of the "reserves trust and reservation" over the reserve and provide the Council as the body corporate under the Local Government Act 2002, with a freehold reversionary title (subject to any legal interests thereon).

Note that if only part of the reserve land title is involved, subdivision resource consent would be required in terms of the rules in the Council's operative District Plan and the Resource Management, to enable new titles to issue over subsequent allotments on deposit of the Land Transfer Plan for gazettal purposes.

7. Subsequent Council Disposal of the Land - Council Sales Policy

Any disposal of the land at current market value would then be in accord with Council Policy Approval of Properties for Sale and Method of Sale P05 -019.

That policy would require the Council to investigate if there was any requirement to offer the land back to the former owners or successors under Section 40 of the Public Works Act 1981 or an exemption prevails not requiring an offer back.

Any offer back at current market value, to any former owner or successors in title would be open for a 40 day period. If the "off market" offer is declined, the Council can then decide how it wishes to market the sale of property.

8. Approved 2006 Council Coastal Reserves Management Plan

The Council approved a Management Plan for its Coastal Reserves pursuant to Section 41 of the Reserves Act 1977, to which management regime it is bound, which was subject to a robust public/iwi consultation/submission process.

Chapter 5.27 covers Peringa Park including Lake Rotomau and includes the leased 18 hole Fitzroy Golf Course reserve land.

Under Objectives 5.27.3 the plan provides "To provide opportunities for large scale outdoor recreational activities, such as golfing close to New Plymouth".

Under Policies 5.27.4, the plan provides in respect of the golf course area:

“(k) The existing use of the reserve land as a golf course is recognised.”

“(i) If formalised use of this area ceases at some time in the future, the area will be reverted to public open space and used for the purposes of casual and organised outdoor recreation.”

“(m) Future landscape planning will investigate the provision of access across and around the golf course in consideration of safety and impacts on the use of the area as a golf course.”

Note that the Council can review its Management Plan at any time and is required to keep its plan under continuous review (Section 41(4)) so the plan can be adapted to changing circumstances. Note a plan change would result in public/iwi consultation/submission process and would follow the same statutory process for the initial approved plan.

D. FREEHOLD LAND - NOT PUBLIC RESERVE

1. Computer Freehold Register TN192/78 - Not Public Reserve

This land is held by the Council in an estate in fee simple (freehold) for the purpose of “public abattoir” and would therefore fall within the ambit of a local public work for that purpose as defined in the Public Works Act 1981.

It would not therefore be dealt with a revocation under the Reserves Act 1977, noting that this land forming Lake Rotomanu and lake margins is managed as reserve in terms of the Approved 2006 Coastal Reserves Management Plan.

2. Disposal/Retention of Public Abattoir Freehold

Any disposal would require the Council to initiate disposal through public/iwi consultation/consider submission or objection and then declare the land (or part) surplus to requirements which would then trigger consideration of the offer back requirements under Section 40 of the Public Works Act 1981. Thereafter the Council could sell the land in terms of its Sales Policy.

However, as this land comprises principally Lake Rotomanu, and land buffer margins around the lake and riparian strip along the Waiwhakaiho River, no disposal of the land would be contemplated as it would need to be retained for recreation purposes.

3. Disposal of Adjoining Stopped Road

Those areas of unformed legal road comprising Record Street (part may be used as golf course) and Weka Street (unless required to be formed as part of any subdivision) could be stopped under the Local Government Act 1974 subject to public notice, objections and/or any subsequent Environment Court decision.

On stopping the Council would secure a freehold title for disposal purposes.

E. PLANNING

1. District Plan Notations

Planning Maps B27 record the reserve (Peringa Park/Golf Club area) as open space A, B and C as delineated, with volcanic hazard 3 overlay and H1 (coastal hazard) overlays.

Any disposal of the land would require review/investigation in terms of any plan change to say residential.

2. Recreation and Open Space Strategy

The Council is about to begin the development of a Recreation and Open Space Strategy which has the objectives of –

1. To develop recreation and open space outcomes including consideration of –
 - The recreation, sport and leisure needs of the community and emerging trends.
 - High performance sport needs.
 - Connectivity and use of open space for community accessibility.
 - Regional biodiversity objectives.
 - Local identity and sense of place amenity.
2. To define levels of service for open space and recreation facility provision.
3. To identify options for acquisition of land that has a high potential to meet community recreational needs or is required through level of service provision.
4. To develop criteria for de-acquisition and identify priorities for de-acquisition of land and facilities that offer limited opportunities or public benefit.
5. To identify opportunities for improving and enhancing recreation opportunities, including (but not limited to) opportunities for bridle trails, mountain bike tracks and a dog park (as identified during the 2009-19 Community Plan consultation process).

This strategy is due to be available as a draft for consultation in late 2013 and adopted in early 2014. This strategy will assist the Council in determining if there is sufficient need to continue with the land as a golf course or if de-acquisition should occur.

F. VALUATION

Rating Value - as at 1 September 2010	
Capital Value	\$ 4,280,000
Land Value	\$ 3,584,000
Value of improvements (including value of greens and course infrastructure)	\$ 696,000

Based on 38.55 hectares the current land value equates to \$93,000/ha, and has been discounted to take into account the recreational use and zoning. Normal discount is around 30-50% which would indicate a 'Market Value' of around \$5-\$7,000,000. (\$130-\$180,000/ha).

The most recent sale of a larger seafront block is 6.18 hectares, adjoining Hickford Park that the NP Golf Club sold to the Links developers for \$1.5m or \$243,000/ha, in 2009.

Sections adjoining the coast have a rating valuation at \$550,000-\$650,000. Closer to town they are up to \$1.0m. Sections overlooking the golf course in Rophia Street are valued at \$250,000, however recent sales have been in the order of \$350,000 upwards.

G. CONCLUSION - SUMMARY OF LIMITATIONS ON DISPOSAL

- a) The Council's ability of being able to claw back the whole or part of the Fitzroy Golf Club Lease area for disposal purposes. The lease provides for the option for the Club to seek a right of renewal for a further term of 21 years from expiry of the current lease on 30 June 2023, but that is subject to "*the Council being satisfied there is sufficient need for the continued operation of the Fitzroy Golf Club*". On the basis that the Club would want to continue its operation, the Council would need essentially to negotiate a voluntary surrender of the lease or buy the Golf Club lease out or relocate the club's course to other land.

NOTE there may be some very limited ability to look at the revocation and saleability of those areas of reserve/land not under lease by the Golf Club, if not required for reserve.

- b) Public opposition to the proposed revocation for disposal purpose following public notice/iwi consultation calling for objections under the Reserves Act/Local Government Act 2002. In addition direct objection that would likely arise from the Golf Club and or members.
- c) The need to secure the consent of the Minister of Conservation's delegate consent. The Department of Conservation will take into account public objection and require the Council to prove that the land is currently not required for reserve or for future generations on the basis that adequate recreation reserve is available. That will likely require a comprehensive study and report by the Council on available recreation reserve to demonstrate that the land proposed for revocation is not required for reserve. Note the land owned by the Council for Abattoir purposes is not affected by any revocation and disposal can be dealt with more freely by the Council.
- d) A study of planning zoning requirements/limitations on land use to ensure that there are no planning impediments that would limit securing the maximum sale price for the land for its intended end use.

H. CONCLUSION - SUMMARY OF OPTIONS FOR DISPOSAL

- a) Buy out the Golf Club lease and on-sell to third party.

Their current rent is \$8,293 per annum. The 'market rent' is estimated at \$17,325 per annum (\$450/ha). The Fitzroy Golf Club has around 300 members with an annual subscription of \$475, indicating an income from subscriptions of \$143,000. Thus they would be unlikely to sustain any major increase in rent between now and 2023.

The lessee's interest is made up of:

- The net present value of the rent savings for the next 11 years.
- An allowance for the chance that the lease could be renewed.
- The value of the Golf Club's improvements.

The Property Team estimate the lessee's interest at \$850,000 - but a range of between \$800,000-\$1,000,000 is the likely amount the Fitzroy Golf Club could hold out for during a negotiation process.

The Council could then on-sell to a third party – Developer, OTS, JV partner, at a market value of between \$5m-\$7m.

- b) Sell lessor's interest to Golf Club

The Council could approach the Club to purchase the Council's lessor's interest. A market value of between \$5m-\$7m is indicated, however in this instance a discount of between 30-50% to take into account that the land could only be utilised for a golf course would reduce the market estimate to \$2.5m-\$3.5m at the lower end.

However, this is unlikely on an affordability basis – a mortgage of \$3.5m at 6% requires annual payment of \$210,000 interest only. The Golf Club would have to sell part of the land to fund the purchase which would be problematic.

- c) Investigate what portions of the property could be practically excised from the main lease and developed or sold for residential use ie. stopped road in Record Street and Weka Street.

There may or may not be parcels of land that fit this category. Sections could be expected to start at \$350,000 sale price. However the disposal issues are still apparent.

I. CONCLUSION

Based on the fact that the Fitzroy Golf Club, has

1. A secure lease tenure until 30 June 2023.
2. A right to exercise renewal of its lease on expiry of the current term on the same terms and conditions subject to a new rental for the new term.

3. The assumption that the Club is likely to wish to continue on with its lease into the foreseeable future provided its operation continues to be viable.
4. The lease for golf course purposes is a legitimate open space activity on recreation reserve.
5. The proviso that the Council must grant a renewal lease provided it is "satisfied there is sufficient need for the continued operation of the Golf Club"; and

that the Council would:
 6. In effect need to negotiate with the Golf Club to secure release of the land (or part) and or purchase the lease and or relocate the Club to other land.
 7. Undertake public notice/iwi consultation of its intention to seek ministerial consent to revoke the reserve status over the golf course and consider all objections before making a final decision.
 8. Comply with its statutory obligations under the Local Government Act 2002, and/or policy considerations.
 9. Undertake a comprehensive exercise or obtain an independent report to demonstrate that there was no need to retain the Golf Club land for continued recreation reserve purposes either now or into the future, on the grounds that there is sufficient remaining public reserve available for recreation.
 10. Await the outcome of the Recreation and Open Space Strategy planned for adoption early 2014, as a pre-requisite to the possible need for the continued use of the recreation reserve for golf course purposes and/or retention of the land for public reserve.
 11. Undertake the hurdle to secure ministerial consent to revocation to remove the "reservation and trust" from the land on the basis that the Minister's delegate would take into account all objections and iwi concerns, and make any enquiry he or she sees fit, noting that the weight of public objection to the loss of the reserve land/open space that the Minister's delegate would likely refuse to give consent.
 12. Consider any statutory offer back requirements under Section 40 of the Public Works Act 1981, to any former owner or successor, unless an exemption applies to an offer back.
 13. Undertake any further public notice to the proposed sale of the land on the open market in terms of Council Policy on the Approval of Properties and Method of Sale.
 14. Undertake the required plan change to rezone the land from Open Space to Residential in terms of the RMA, submissions and/or any appeal to the Environment Court.
 15. Investigate and consider other more potential viable options for land sale/revenue purposes based on that land being surplus to current requirements.

I. RECOMMENDATION

While noting the incumbent high revenue potential held by way of Council equity value in the rezone/sale of the land leased to the Fitzroy Golf Club, it is recommended that because of the burden imposed by the right of renewal terms under the current leasing regime, the Council's limitations to deal freely with the land, allied to the restraints in process imposed by statute under the Reserves Act 1977, Local Government Act 2002 and the Resource Management Act 1991, *that no further action be taken until the completion of the Parks Recreation and Open Space Strategy. That Strategy is proposed to be available a draft for consultation in late 2013, and for adoption in early 2014, and will be a pre-requisite in determining if there is sufficient need for the continued recreational use for golf course purposes and/or retention of the land for public reserve.*

2. In addition to 1 above, notes that, with a period of 2 to 3 years prior to the expiry of the current Golf Club lease term, the Council will need to consider the continued use and leasing of the recreation reserve land as part of the lease renewal process.

K. APPENDICES

Appendix A	Recreation Reserve (including Public Abattoir Area).
Appendix B	Fitzroy Golf Club Lease Area.
Appendix C	Planning Maps B26 and B28.
Appendix C	Copy of Fitzroy Golf Club Lease and Variation.

Murray Greig
PROPERTY ASSET TEAM

Jeremy Wichman

Peter Handcock

Anna Crawford
PARKS ASSEST TEAM

Mark Bruhn

08 July 2014

Property & Insurance Officer
NPDC
Private Bag 2025,
New Plymouth

Dear Steve,
RE: Fitzroy Golf Club Deed of Variation of Lease
Ref: CM-08-20:ID 8568 1025533

Para E of the Deed of Variation of Lease executed in 2012 between the Council and the Fitzroy Golf Club reads:

"The option to use part or all of the upper level of the Council's land outlined in orange on the attached plan for the purpose of extending the Golf Course proper, such option to be exercised by giving notice in writing to the Council before 1 August is hereby acknowledged"

Please accept this letter as formal notice that the Fitzroy Golf Club Management Committee intend to take up the option in para E of the Variation of Lease executed in 2010.

For your information I have also attached a copy of a letter sent to Mark Bruyn 16 May 2014 regarding our main Lease. The Club has not yet received a reply to this letter.

Yours faithfully



Vivienne Reed
Club Secretary

16 May 2014

File Ref ID 008568

Manager of Parks,
New Plymouth District Council,
Private Bag 2025,
New Plymouth 4342

Dear Mark,

RE: Fitzroy Golf Course Lease renewal /extension

In light of the current Recreation and Open Space Strategies I wish to advise the NPDC Councillors of the Club's plans, vision and aspirations for the future of the Fitzroy Golf Club Course.

Societal changes mean there is a need more than ever for the public to have access to affordable golf facilities. Based on Fitzroy Golf Club's location we are the only golf club that is centrally located to the city and within walking distance for a large number of residence and visitor accommodations.

In addition to this, the Fitzroy Golf Club management committee believe there is a real opportunity to create a community hub that will be of benefit to New Plymouth in general and the Fitzroy, Glen Aon and Strandon districts in particular through the development of club facilities. We envisage an inclusive club that will cater for the needs of our golfing membership as well as non golfers. Our club facilities are already used for a range of non golf activities There may also be an opportunity to accommodate other sporting codes in a new and modern facility.

The game of golf in New Zealand is undergoing significant change. This is being driven by golf's governing body, New Zealand Golf and the Taranaki Golf Association. Taranaki Golf is in full support of the process as they understand the need to provide an affordable centrally located facility to introduce people to the game of golf as well as servicing those existing golfers in the area*. The Fitzroy Golf Club recognises the need to rethink the way that we operate as a club and appreciate that we have an amenity which has real potential to benefit the wider community for many years to come.

To achieve these aims the first item on our strategic development agenda is to secure an extension on our existing lease [due to expire on 30 June 2023] or the opportunity to negotiate a new lease. In both cases it is envisaged that a term of not less than 30 years would be necessary to allow our club to carry out our plans both in the short and long term.

I wish to now make an appointment to discuss this with you and the Council to enable ongoing dialogue re our Lease.

Yours sincerely,



Ross Whitmore
President
0

Cc The Mayor and District Councillors [by email]

* Letter from Taranaki Golf Assoc attached

Lisa Lowe

From: Thursday, 1 March 2018 10:10 AM
Sent: Neil Holdom
To: 2018 Draft LTP :Subdivision of reserve land leased by Fitzroy Golf Club
Subject:

Further to the meeting on 28February I make two points.

Firstly the proposal to develop housing will stand or fall on whether the Council can revoke the reserve status of the land in question. In my opinion based on my research and advice I have received it would at the very least be extremely difficult to achieve and will be subject to a final decision by the Minister of Conservation. Secondly as described by Ms Venables at the meeting it would not be possible to use any money if the land was sold other than for "improvement of other reserves ---- or towards the purchase of other land for reserves "

(Chapter 9 appendix Reserves Act guide .I can supply copies to Councillors upon request.)

My submission is for the Council is to withdraw the proposal from the Draft Plan until these points can be clarified to their satisfaction.

Yours respectfully | former President Fitzroy Golf Club, former President Taranaki Golf and former Councillor N Z Golf.

Sent from my iPad

Lisa Lowe

From: Wednesday, 28 February 2018 1:47 PM
Sent: Neil Holdom
To: Fitzroy" Golf Course" to Retain "Of Course"
Subject:

Dear Mayor Holdom

My name is I I reside at 1 New Plymouth.

I was brought up in Fitzroy, attended Fitzroy school.Highlands and Boys High.

And following completion of Studies etc worked in New Plymouth for over 30 years.

I have enjoyed residing in Fitzroy /Strandon for 22 years with my family.

I repeat now, what I said a friend's obituary also from the Fitzroy suburb, that" Fitzroy was the best .it is the best."

That is my biased position. But it is also born out of some common sense in recognising that the natural amenities ,on tap here in Fitzroy, are second to none.

So I make my mark in the sand now, that it is my intention to fight Tooth and Nail to ensure that the Fitzroy golf Club Reserve land is retained for future generations.

It's simply must not be converted to cash in a "land grab "with short term gain and long term pain the Ultimate outcome.

Short sighted political decisions, by Central government are replete. Characterised by,Privatisation. Rogernomics. NZ think big projects of the 80s under the Muldoon era etc..

The Legacy is a sad one. Converting valuable assets to cash as a means of achieving quick fix solutions at considerable long-term cost.

What I believe ,you are now positing, is in many respects, a case of a same old,same old.A failed strategy employed by central government time and time again.

I am convinced that the Public do not have an appetite for it. Nor for that matter do they have an appetite for rampant rate increases.

Good governance is not about selling off iconic strategic public assets, such as the golf course, to fund pet projects. It is about managing a small City on a small budget, successfully.

I consider this will be the Paramount issue in the next local body elections.

The question will be: Who as Mayor, and who as Councillors, can manage a city in the same way that a prudent individual manages a household.

Restrained spending is the reality of good management, be that in the household, local government or Central government

The very rich have an open cheque, but the rest of us have to exercise self control, when it comes to spending. The Council is no exception. End of subject!!!

I am not appraised of all of the facts and my awareness of this proposal to sell off the golf course has only come to my notice with in recent weeks.

Having said that, I sincerely believe that my knowledge is probably a little more than the average man on the street.

It's entitles me to a mere opinion, but an opinion nonetheless.

With respect Mayor, I believe there are fundamental flaws in your present stance.

I trust when you have listened to the people which I have confidence you will) that there is a bigness within you, to reexamine your position.

1. You have asserted that the Fitzroy golf club does not have a right of renewal of the Lease upon it's expiry in 2023
2. You claim that you have a legal opinion to support that position. But to my knowledge you have not provided a copy of a Robust Written Legal Advice, supporting your claims, to Councillors or the Public at large. This I can hardly believe, as until this matter is resolved as you know the Golf Club committee assert the complete opposite. Having received their own legal advice that their lease can be renewed for a further 21 years, in perpetuity, subject to the rider that the golf course remains and active Sports Club

So the process cannot even get off the ground until this important issue is resolved.

And it is reasonable to predict is that if the matter proceeds to litigation that it could take years to resolve

Hence this is reason alone not to have the proposal of sale of the golf course placed in the long-term plan at this stage

2. I note also that you have been silent on the background historical matters giving rise to vist in the land is golf club Reserve. This is fundamental information which you should have considered in some detail. It appears that you have not done so.

appears also that you have not considered carefully the Council's role as a caretaker / custodian of Public Reserve land. Is what you appear to be advocating for is indirect contravention to the intended purpose we use the land was to be put to.

I have been told that some of the land vested was possibly gifted and some most likely transferred for the purpose of a golf club for a nominal sum. It is therefore important to consider what was in the minds of the original Grantors. Logically it would be that the land is held as a public golf course for the benefit of the public not for housing development

An analogy can be drawn with funds set aside, for example, in a trust for a specific purpose. For example an Education Trust, could not be used to build a sports stadium, without there being an amendment to the trust by way of A High Court review of the matter. In short the purpose of the trust has to be adhered to.

3. You appear not to have informed the public is that the golf course as Reserve land, carries a special and unique status.

This aspect, would appear to stop the council in its tracks. As there is no legal right to sell this land under any circumstances.

Is this a matter upon which you have taken legal advice on.? It is hoped that you have. And if you have, can you please address the meeting today as to the nature and content of advice. Is the matter to my mind, appears to be pivotal to the decision today as to whether the subject matter can be Incorporated into the draft long term plan. To do otherwise is amateurish and putting the cart before the horse. No pun intended, in relation to councillor Mcleod.

4. I am critical of your attempt to water down the importance of the land to the 300 plus paid up members of The Golf Club. It is a club which 50 years ago was nothing more than a sheep paddock. It was a green space yes. But more in the character of a farm. Today, with the splendid hardwork of members over decades, it has been transformed into a beautiful green space. The planting of rows of pohutakawa trees are now developing into maturity.

This is truly a public asset and some serious credit should be given to the golf club for their care of the greens etc, which has enhanced overall presentation for the benefit of all.

I would encourage you and your fellow Councillors to take a walk over the golf course and take in the beauty, you may be surprised with what you experience.

5. Contrary to your assertion that the public are locked out of the golf course amenity. I can say with absolute certainty that I have accessed the Beach via the golf course for over 50 years. Public access has never been formalised, I think it should, but it has never been denied.

6. There appears to be a virtual Silence in your presentations concerning planning issues. Others with more expertise than myself have presumably addressed these matters.

But even a cursory consideration of relevant issues throws up obvious that there are Numerous adverse impacts affecting the greater part of Fitzroy. Namely to the roading network, noise issues, loss of visual amenity, impact on schools in the locality, direct impact to neighbouring properties. And possibly most

importantly from my own perspective, the fact that the overall character of a Fitzroy Village / Community would be transformed and dominated by the development. This I believe is wholly unacceptable to the local residents and I think also the wider community.

7. I have been told by a local resident living nearby the golf course that you respond to his opposition to your pro sell the golf course, by accusing him of reacting as a NIMBY.

With respect this is not a NIMBY issue. That would be the placing of a structure or activity adjacent to a local community. That is not the case in this instance

What you are advocating, and I consider virtually a crime, is the removal of something Iconic. The NIMBY component comes would come second

8. New Plymouth District Council is not a land developer. It has no experience as such. It does not comprise part of its core activity. It should not in my view, venture down that path. There are great risks which have not been highlighted to the public

9. The projected profit figures are highly speculative. And I don't imagine you as the Mayor have the willingness(or for that matter the means) to make up the shortfall if the project goes belly up or does not yield the profit you have projected.

10. Beat scenario position of three options which are outlined in the newspaper today is patently false. And I believe it would be prudent of you to acknowledge that there are more than 3 options. AND also to openly admit that flagship projects, so-called, rest in the minds of certain council employees only. They are ideas and no more than ideas, and I believe it that some of these flagship projects would be rejected by the majority of ratepayers. And there may well be other means of funding the projects, for example the cycleway can quite possibly get funding from Central government.

11. In this regard I believe that the Council are disseminating misleading information and arriving at false conclusions. Another term for this is propaganda. The Germans were brilliant at it. The ministry of propaganda under Goebbels, misinformed with people with a false conclusions to mull over concerning the Jews

Simply put it was "Jobs or Jews". For an unemployed German, perhaps bearing residual prejudice against Jews, it was easy to buy into the lie. Get rid of the Jews and we get the jobs and the money.

12. This I believe is what you are unwittingly doing, saying to the public do you want rates increases. Answer, no. And if you want to avoid rates increases and get decent facilities then the only option is to sell off the golf course.

That is patently mis- information. It is also false. One only hopes that it is not calculated to deceive.

13. I see this issue developing into a hot bed if it is not stopped at this early juncture.

Mayor and also your fellow councillors have the opportunity put an end to it now!!

Regards

Lisa Lowe

From: Mike Merrick
Sent: Monday, 26 February 2018 3:00 PM
To:
Subject: Re: Fitzroy Golf Course

Greeting

I can't comment on the Fitzroy Golf Course situation because we are about to go into a consultation phase with the community.

But I have noted your comments.

Regards

Mike Merrick

Sent from my iPad

- > On 26/02/2018, at 9:00 AM, I
- >
- > Hi Mike
- >
- > It is great to know that you are in the council to have someone I know to voice my concerns to.
- > I am writing as I am concerned about the future of Fitzroy Golf Course and other green spaces in New Plymouth.
- > We attended a meeting at the Fitzroy Golf Course a few weeks ago where a discussion was held regarding the opposition to the Council proposal of subdividing off the golf course.
- > We are strongly against the subdivision and want to keep our golf course 18 hole's not reduce it to only 9. We don't like the idea of selling off land that we will never be able to have again as public land. We live in the area and often use the Fitzroy Golf Course to wander over in the evenings with our children and dog to enjoy the calm park like surroundings.
- > Please help us vote against the proposal to subdivide the Fitzroy Golf Course and stop the council from selling off our green spaces throughout New Plymouth.
- > What gives us the right to sell off land that has been there for everyone to enjoy for generations and hopefully generations to come.
- > Thank you
- >

Lisa Lowe

From: Monday, 26 February 2018 12:21 PM
Sent: Neil Holdom
To: Stop the golf course redevelopment
Subject:

Dear Mr Major,
OUR GREENSPACE IS NOT FOR SALE!

I am writing to you in support of preserving our iconic golf course and green space generally.

The whole area of Fitzroy is a natural gem including the beach, the river reserve, the lake, and the golf course, and are much loved by all. We must not lose them.

I urge you to remove this development plan from the Long Term Plan altogether. We do not want to lose any more green space for the sake of short term financial gain. Once lost it is gone forever.

I and many I have spoken to oppose the development very strongly.

Please stop any redevelopment of natural green space, both the Fitzroy golf club and any other plan to reduce our green space.

Regards,

New Plymouth

Lisa Lowe

From: Sunday, 25 February 2018 4:18 PM
Sent: Neil Holdom; Richard Jordan; Shaun Biesiek; Gordon Brown; Murray Chong; Harry Duynhoven; Richard Handley; Stacey Hitchcock; Colin Johnston; John Mcleod; Alan Melody; Mike Merrick; Marie Pearce; Roy Weaver; John Williams; Craig Williamson;
To: Matthew Rilkoﬀ
Subject: Re: Re Fitzroy Golf Club land

Dear Councillor,

Re Proposed sale of Reserve land at Fitzroy Further to my earlier Email, please note:

The time for stopping the idea of selling oﬀ Council land (held in TRUST as reserve) is fast running out.

1. If allowed to continue the proposal will inevitably end up costing the Council considerable amounts of money because:
2. It is attracting huge opposition as is evidenced by the support being given to the petition now circulating.
3. The Fitzroy Golf Club oppose any sale as they are a viable lessee and intend to continue as such.
4. Legal opinion (and the opinion of council staff investigations) is that the Golf Club have an inherent right to a renewal of their lease subject to the fact that the land remains required for its current purpose, which it is.
5. A prominent QC has been engaged to present the case for the objectors.

What is essential is that this whole idea is abandoned as soon as possible rather than wasting everyone's time (which is already doing) and money.
The way to avoid such waste is to vote this proposal out of the Annual Plan AT THE EARLIEST OPPORTUNITY.

If you haven't already read my draft submission (which was attached to my earlier Email) I urge you to do so.

Lisa Lowe

From: Friday, 23 February 2018 4:07 PM
Sent: Neil Holdom
To: Richard Jordan; Shaun Biesiek; Gordon Brown; Murray Chong; Harry Duynhoven; Richard Handley; Stacey Hitchcock; Colin Johnston; John Mcleod; Alan Melody; Mike Merrick; Marie Pearce; Roy Weaver; John Williams
Cc: Fitzroy Golf Course
Subject:

Kia ora Neil and Councillors,

I am writing to object as strongly as possible to the proposed redevelopment of a significant chunk of the Fitzroy Golf Course and some of its immediate environs. I want to put a stop to this ridiculous nonsense.

Sheer stupidity!

That end of the walkway is a wonderful spot to be out walking or riding as you appreciate the beauty of our surroundings. We are indeed blessed to have this area largely in its natural state.

I cannot abide the notion.....the possibilitythat we should finish up with some luxury beach side apartments or housing standing between us and our beautiful natural landscape. This would indeed be an ugly blot on the area.

No amount of financial gain will ameliorate the irritation and pain I would get from seeing high end housing encroaching on this landscape.

You need to reject this fanciful folly.

Sincerely,

Lisa Lowe

From: Jacqueline Baker
Sent: Tuesday, 20 February 2018 10:33 AM
To: Neil Holdom; Craig Stevenson
Subject: Update: Some more context for your interview

Hi Neil

Some more detail for you below. Good luck! Stay on message and I would suggest any mention of previous Mayors is light touch.
Jacs

- In 2007 NPDC proposed a 4.1% rise but the Uniform Annual-General Charge went up by \$112. Grey Power worked out a rise of 15%.
- 2008: rates rise of more than 9% with NPDC citing water and wastewater costs increasing (Oakura scheme).
- 2009: 10% rise with NPDC citing water, wastewater, refuse and a new road charge.
- Mayor between 2001 and October 2010 was Peter Tennant.
- He stood down in 2010 and October 2010 saw Harry Duynhoven elected.

Every three years NPDC looks at its 10-year work programme and asks the public for its feedback. The big issue facing our District is how we fund our future.

Our work programme over the next decade is looking at about \$2.1 billion in expenditure.

At the same time we will be capping rates rises at a maximum of five per cent or about \$43 a week. (The \$43 is the total rate in the first year of the plan) We also have to keep our debt at manageable levels.

Every year the cost of providing services to our community goes up and there are growing expectations from Central Government.

Over the next decade our population is expected to grow from about 83,000 to 92,000.

Many councils are at, or close to, their debt limits and simply don't have any options.

NPDC does have options, and we are looking to have these conversations now, as opposed to simply breaking the bad news in a decade.

We could use traditional methods like a rates hikes or increasing debt, to pay for big ticket items we call Flagship Projects.

But I don't want to lumber our kids with debt or make it tougher for ratepayers, some who already struggle to pay their bills.

So we've come up with some fresh or blue skies thinking.

We know NPDC has large amounts of land.

One idea is recycling a small portion of that land to help pay for Flagship Projects such as extending the Coastal Walkway from Bell Block to Waitara.

One example of this could be selling half of Fitzroy Golf Course and adjacent site near Weka street.

This golf course is only used by about 250 club members and their visitors.

Plus there is another course, New Plymouth Golf Club, about a kilometre away.

Key to the process is getting the views of people in the district.

We are open minded about the idea and everyone's opinion on the plans is important.

The sale of this land would provide about \$40 million. (\$35m, as another \$5m comes from other land sales)

About \$4.5 million would be used to extend the Coastal Walkway from Bell Block to Waitara with the Government chipping in a similar amount. \$15.5 million would sit in a fund for other Flagship Projects and we'd ask the public what they think before any of this money was invested.

About \$20 million would be set aside for long-term land development, to generate cash for future Flagship Projects, again any projects would be talked over with the public prior. It's about investing in something now, that will pay off for future generations and not lumbering our children with debts, running down infrastructure or avoiding environmental problems.

This land development proposal represents only about 1 per cent of our district's green space. It's just one idea in the draft 10-Year Plan, along with Zero Waste 2040 and Water.

We want to know what you care about so have your say, submissions open March 10. These are big serious conversations and, I believe it is time to start having them.

Comparisons

Hamilton residents currently facing 9.5% rates rise for two years.

This was originally a 16.5% hike in one year but was split to 9.5% over two years.

It will pay for some flagship projects and Hamilton will also charge for entry into the Hamilton Gardens.

Back here at NPDC

2008: 13.8 per cent, under Mayor XX, for XX

2009: 8.9 per cent, ...

2010: 9.1 per cent...

2011 8.9 per cent

Reactive, only used if asked

In terms of the legal position, a right of renewal was originally included in the 1983 lease and was exercised in July 2002.

I've been advised there is nothing to suggest the right of renewal is perpetual.

Lisa Lowe

From: Jacqueline Baker
Sent: Monday, 19 February 2018 8:23 PM
To: Neil Holdom
Cc: Craig Stevenson
Subject: FYI. 10 year plan narrative

Hi

Here are some key messages and note we are still working on the research. Apparently at NPDC there were rates hikes 2008/9/10 and we're working on finding out more. We've asked Julie Straka and will continue our online search.

Jacs

Every three years NPDC looks at its 10-year work programme and asks the public for its feedback. The big issue facing our District is how we fund our future.

Our work programme over the next decade is looking at about \$2.1 billion in expenditure.

At the same time we will be capping rates rises at a maximum of five per cent or about \$43 a week.

We also have to keep our debt at manageable levels.

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NPDC does have options, and we are looking to have these conversations now, as opposed to simply breaking the bad news in a decade.

We could use traditional methods like a rates hikes or increasing debt, to pay for big ticket items we call Flagship Projects.

But I don't want to lumber my kids with debt or make it tougher for ratepayers, some who already struggle to pay their bills.

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One idea is recycling a small portion of that land to help pay for Flagship Projects such as extending the Coastal Walkway from Bell Block to Waitara.

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This golf course is only used by about 250 club members and their visitors.

Plus there is another course, New Plymouth Golf Club, about a kilometre away.

Key to the process is getting the views of people in the district.

We are open minded about the idea and everyone's opinion on the plans is important.

The sale of this land would provide about \$40 million.

About \$4.5 million would be used to extend the Coastal Walkway from Bell Block to Waitara with the Government chipping in a similar amount.

This would open up numerous recreational opportunities for thousands of people and generate new business opportunities for Waitara.

\$15.5 million would sit in a fund for other Flagship Projects and we'd ask the public what they think before any of this money was invested.

About \$20 million would be set aside for long-term land development, to generate cash for future Flagship Projects, again any projects would be talked over with the public prior.

It's about investing in something now, that will pay off for future generations and not lumbering our children with debts, running down infrastructure or avoiding environmental problems.

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Hamilton residents currently facing 9.5% rates rise for two years.

This was originally a 16.5% hike in one year but was split to 9.5% over two years.

It will pay for some flagship projects and Hamilton will also charge for entry into the Hamilton Gardens.

Back here at NPDC

2008: 14.5 per cent, under Mayor XX, for XX

2009: 9.1 per cent, ...

2010: 9.6 per cent...

Reactive, only used if asked

In terms of the legal position, a right of renewal was originally included in the 1983 lease and was exercised in July 2002.

I've been advised there is nothing to suggest the right of renewal is perpetual.

Julie Straka

From: Peter Handcock
Sent: Friday, 6 April 2018 4:54 PM
To: Julie Straka
Subject: FW: Sale of Public Recreational Reserve (fitxroy Golf course)
Attachments: Potential land developments map.pdf

From: Catherine Croot
Sent: Wednesday, 14 February 2018 5:37 PM
To: Alan Bird <Alan.Bird@npdc.govt.nz>
Cc: Peter Handcock <Peter.Handcock@npdc.govt.nz>
Subject: RE: Sale of Public Recreational Reserve (fitxroy Golf course)

Hi Alan

Attached is map showing outline of the potential Fitzroy development areas.

Regards
Catherine

From: Peter Handcock
Sent: Monday, 12 February 2018 4:02 PM
To: Catherine Croot <Catherine.Croot@npdc.govt.nz>
Subject: FW: Sale of Public Recreational Reserve (fitxroy Golf course)

Can we please discuss

From: Alan Bird
Sent: Monday, 12 February 2018 12:18 PM
To: Peter Handcock <Peter.Handcock@npdc.govt.nz>
Subject: FW: Sale of Public Recreational Reserve (fitxroy Golf course)

Hi Peter,

Please see attached some questions from Richard Handley.

Can you please have a look at question

- 3 - provide a map
- 5 - are there other areas that you know of that would better suit development and raise \$35m ?
- 12 - are these steps correct and is anything missing ?

We can discuss the rest of the questions when we next catch up.

Thanks
Alan

From: Richard Handley
Sent: Friday, 9 February 2018 3:20 PM

To: Alan Bird <Alan.Bird@npdc.govt.nz>

Cc: Councillors Distribution List <councillorsdistributionlist@npdc.govt.nz>; Craig Stevenson <Craig.Stevenson@npdc.govt.nz>

Subject: Sale of Public Recreational Reserve (fitxroy Golf course)

Hi Alan, copied Craig and Councillors,

There is much to learn before being sufficiently briefed and be able to make a informed decision on the revocation and sale of this reserve land in the LTP.

I have attached a group of questions no doubt there are many more to be submitted by others.

I look forward to the workshop on this issue.

Cheers
Richard

Richard Handley JP
Councillor
0274660391
06 7574070

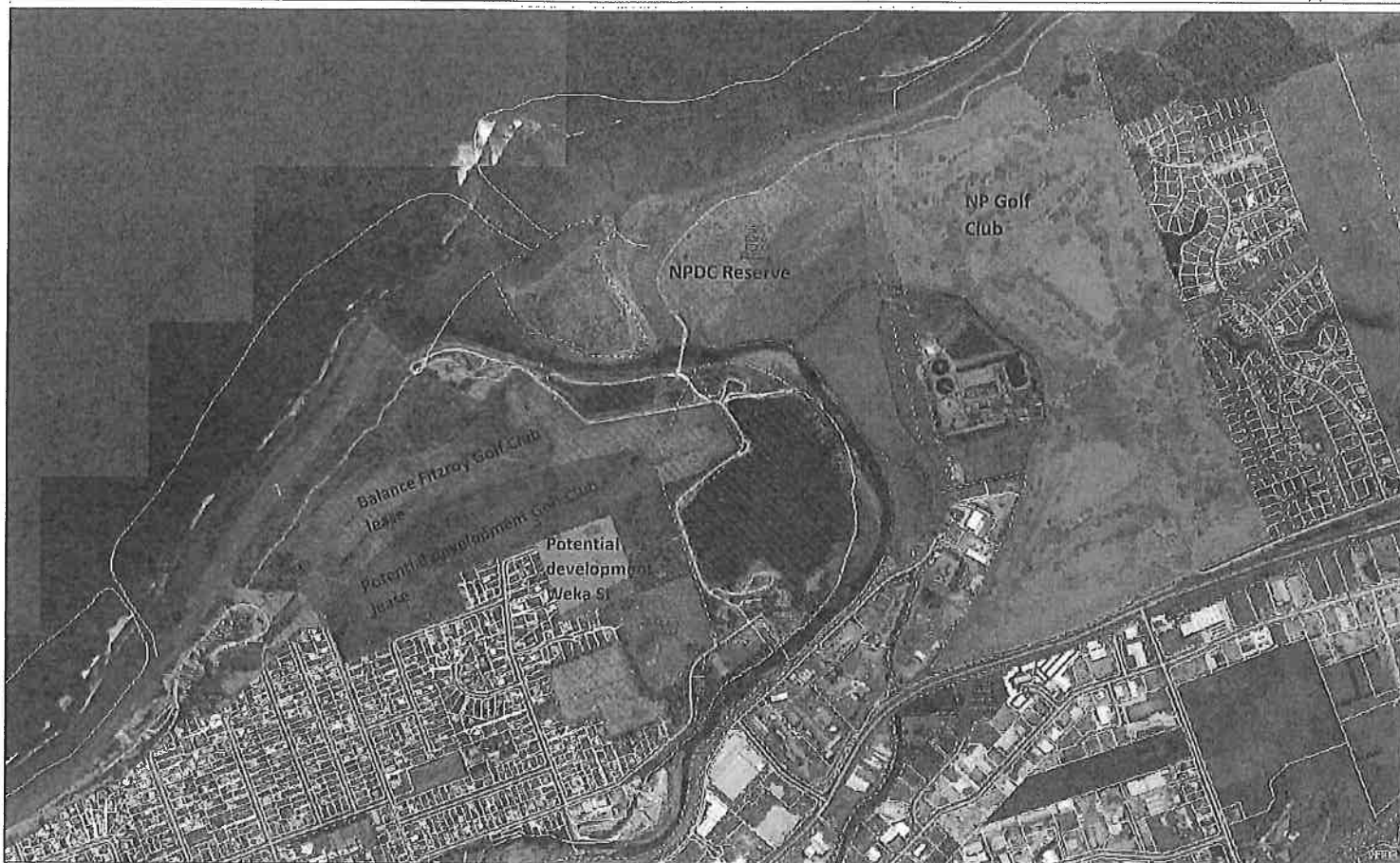


0 75 150 300 450 600
Metres
1:8,000

NPDC Proposed Land Development



NEW PLYMOUTH
DISTRICT COUNCIL
newplymouth.govt.nz



NPDC
Date: 14 February, 2018
COPYRIGHT: Cadastral information sourced from Land Information New Zealand data. Crown Copyright Reserved.
DISCLAIMER: NPDC assumes no responsibility for the completeness or accuracy of the data displayed on the plot. To be used for indicative purposes only.

Map Author: NPDC



0 155 310 620 930 1,240
Metres
1:16,000

NPDC Proposed Land Development



NEW PLYMOUTH
DISTRICT COUNCIL
newplymouth.govt.nz



NPDC
Date: 14 February, 2018
COPYRIGHT: Cadastral information sourced from Land Information New Zealand data. Copyright Reserved.
DISCLAIMER: NPDC assumes no responsibility for the completeness or accuracy of the data displayed on the plot. To be used for indicative purposes only.

Map Author: NEPC

Julie Straka

From: Catherine Croot
Sent: Thursday, 5 April 2018 11:19 AM
To: Julie Straka
Cc: Peter Handcock
Subject: FW: map of potential Fitzroy Golf Club development land
Attachments: Copy of ECM_7661841_v7_Waiwhakaiho Project - land titles subject to propo.xlsx

Hi Julie

Are you interested in this – map of land potentially involved in development.

I've put attached info together – not sure that 2nd worksheet in file would need to go (Although some of the info is in presentation).

From: Catherine Croot
Sent: Wednesday, 14 February 2018 12:25 PM
To: Peter Handcock <Peter.Handcock@npdc.govt.nz>
Subject: FW: map of potential Fitzroy Golf Club development land

Have a look at below link and let me know if any changes require – click on the land for areas.

Map can be printed or Councillor Handley can access link if on NPDC network.

From:
Sent: Wednesday, 14 February 2018 11:53 AM
To: Catherine Croot <Catherine.Croot@npdc.govt.nz>
Subject: RE: map of potential Fitzroy Golf Club development land

Hi, Catherine.

Thanks for catching up with me today. Please see link below for the web application we configured.
<http://npdc.maps.arcgis.com/apps/webappviewer/index.html?id=565ca803057f4777b295ea1d4e9069e9>

For security reasons, this link will only work within the NPDC network. Please let me know if you have any questions.

Cheers.