
Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 16 August 2018 at 9.41am.

PRESENT

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr A O’Leary
	Cr R Pascoe
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman
	Cr R Hamilton

In Attendance:	Richard Briggs – Chief Executive
	Lance Vervoort – General Manager Community
	Sean Murray - General Manager Venues Tourism and Major Events
	Jen Baird – General Manager City Growth
	Eeva-Liisa Wright – General Manager Infrastructure Operations
	Sean Hickey – General Manager Strategy and Communication
	David Bryant – General Manager Corporate
	Natalie Palmer – Communication Unit Manager
	Debbie Lascelles – Community Service Manager
	Maire Porter – City Waters Manager
	Andy Mannering – Manager Social Development
	Maria Barrie – Parks and Recreation Manager
	Natasha Ryan – Key Projects Programme Manager
	Charlotte Catmur – Waste Minimisation Advisor
	Trent Fowles – Compliance Manager
	Zeke Fiske – Team Leader Urban Landscapes
	Jeff Neems – Communications Advisor
	Natalie Swart – Project Manager
	Brendan Stringer – Legal Services and Governance Officer
	Emily Acraman – Research Assistant
	Kirsty Quickfall – Waste Minimisations Advisor
	Natalie Young – PMO Manager
	Scott Copeland – Procurement Manager
	Kelvin Powell – City Safe Unit Manager

Tracey Wood – City Events Manager
Geoff Turkington – Visitor Destinations Manager

Governance Staff: Lee-Ann Jordan – Governance Manager
Amy Viggers, Claire Guthrie, and Rebecca Watson – Committee Advisors

Tame Pokaia carried out a blessing and the Venerable Paul Weeding carried out a reading to open the Council meeting.

1. Apologies

Resolved: (Crs Bunting/Pascoe)

That the apologies from Crs Mallett, Bunting (partial absence), and Pascoe (partial absence) are accepted.

2. Confirmation of Agenda

Resolved: (Mayor King/Cr Hamilton)

That the agenda is confirmed noting the following:

- a) that the debate will be 2 minutes with an extension of 1 minute if required;
- b) Item 13 (Waikato Regional Theatre Funding from Vibrant Hamilton Trust) is to be taken after item 6 (Chair's Report) to accommodate external presenters; and
- c) Item 15 (Representation Review 2017/18) is to be taken after item 13 (Waikato Regional Theatre Funding from Vibrant Hamilton Trust) to accommodate external presenters.

3. Declarations of Interest

No members of the Council declared a conflict of interest.

4. Public Forum

No members of the public wished to speak.

5. Confirmation of the Council Open Minutes - 2 August 2018

Resolved: (Mayor King/Cr Macpherson)

That the Council confirm the Open Minutes of the Council Meeting held on 2 August 2018 as a true and correct record.

6. Chair's Report - 16 August 2018

Resolved: (Mayor King/Cr Hamilton)

That the Council approves deferring the Waikato Plan Review Report to the 11 October 2018 Council meeting.

13. Waikato Regional Theatre Funding from Vibrant Hamilton Trust

Leonard Gardner (Chair, Momentum Waikato) provided an update on the Waikato Regional Theatre. He responded to questions from Elected Members concerning funding of the theatre.

Vibrant Hamilton Trust Board Trustees, Lance Vervoort and Thomas Gibbons (Chair), spoke to the report and noted the Trust Deed would be amended to allow all the Trust's funds to be transferred to Momentum Waikato. They responded to questions from Elected Members concerning the Deed

of Gift, the process to close the Trust, and the decision process that the Trust had followed in reaching its decision. Staff advised that since the report was written Waikato Regional Council had committed \$5 million to the theatre.

Action: Staff undertook to provide Elected Members with an update on the Council's debt to revenue ratio based on the closure of Vibrant Hamilton Trust.

Resolved: (Mayor King/Cr Henry)

That the Council:

- a) receives the report; and
- b) notes the actions being taken by Vibrant Hamilton Trust to bring effect to the instruction given by the Council for the Trust to make a \$6 million grant to the Waikato Regional Theatre project.

Cr Casson Dissenting.

15. Representation Review 2017/18

The Governance Manager introduced Dale Ofoske (Election Services Manager) and the Representation Review Project Team Natalie Swart, Brendan Stringer and Emily Acraman, and took the report as read. They responded to questions from Elected Members concerning how the split of councillors was determined based on East and West past population figures, voting trends, and the Representation Review process.

Motion: (Mayor King/Cr Taylor)

That the Council:

- a) receives the report;
- b) resolves, in accordance with sections 19H and 19J of the Local Electoral Act 2001, to adopt as its initial proposal for the review of representation arrangements for at least the 2019 triennial elections, the following option:
- c) **OPTION 1 – status quo:**
 - i. the Hamilton City Council comprises 12 councillors elected under the ward system, plus the mayor elected 'at large'
 - ii. the Hamilton City Council is divided into two wards, consisting of the following communities of interest:
 1. **East Ward** (represented by six councillors), comprising the area to the east of the Waikato River as shown shaded blue in Attachment 1 (i.e. the current East Ward);
 2. **West Ward** (represented by six councillors), comprising the area to the west of the Waikato River as shown shaded green in Attachment 1 (i.e. the current West Ward).
 - iii. no community boards are established as:
 1. effective representation would not be enhanced by establishing community boards, having considered the identified communities of interest in terms of distinctiveness, representation, access and effective governance;

2. if wards are confirmed, ward councillors are likely to provide sufficient representation of communities of interest and therefore ensure adequate representation and access between elected members and the population; and
- d) submits the above initial proposal for the representation review for formal public consultation, including inviting submissions for a month-long period commencing no later than 30 August 2018.

Amendment: (Crs Bunting/Hamilton)

- a) receives the report;
- b) resolves, in accordance with sections 19H and 19J of the Local Electoral Act 2001, to adopt as its initial proposal for the review of representation arrangements for at least the 2019 triennial elections, the following option:
- c) OPTION 2 – no wards ('at large'), retain 12 councillors, no community boards:
 - i. the Hamilton City Council comprises 12 councillors, plus the mayor;
 - ii. the mayor and all councillors are elected by electors city-wide ('at large'), as shown in Attachment 2;
 - iii. no community boards are established as effective representation would not be enhanced by establishing community boards, having considered the identified communities of interest in terms of distinctiveness, representation, access and effective governance;
 - iv. the reason for the change to electing councillors 'at large' rather than through a ward system is to provide effective representation to Hamilton electors, reflecting the city has a relatively compact geographic area and that Hamilton's communities of interest are not geographically distinct, rather they are spread across the city; and
- d) submits the above initial proposal for the representation review for formal public consultation, including inviting submissions for a month-long period commencing no later than 30 August 2018.

The Amendment was put.

Those for the Amendment: Councillors Tooman, Bunting, Southgate and Hamilton.

Those against the Amendment: Mayor King, Deputy Mayor Gallagher, Councillors Pascoe, O'Leary, Macpherson, Casson, Henry and Taylor.

The Amendment was declared lost.

The Motion was then put and declared carried.

Resolved: (Mayor King/Cr Taylor)

That the Council:

- a) receives the report;
- b) resolves, in accordance with sections 19H and 19J of the Local Electoral Act 2001, to adopt as its initial proposal for the review of representation arrangements for at least the 2019 triennial elections, the following option:

c) **OPTION 1 – status quo:**

- i. the Hamilton City Council comprises 12 councillors elected under the ward system, plus the mayor elected ‘at large’
- ii. the Hamilton City Council is divided into two wards, consisting of the following communities of interest:
 1. **East Ward** (represented by six councillors), comprising the area to the east of the Waikato River as shown shaded blue in Attachment 1 (i.e. the current East Ward);
 2. **West Ward** (represented by six councillors), comprising the area to the west of the Waikato River as shown shaded green in Attachment 1 (i.e. the current West Ward);
- iii. no community boards are established as:
 1. effective representation would not be enhanced by establishing community boards, having considered the identified communities of interest in terms of distinctiveness, representation, access and effective governance;
 2. if wards are confirmed, ward councillors are likely to provide sufficient representation of communities of interest and therefore ensure adequate representation and access between elected members and the population; and
- d) submits the above initial proposal for the representation review for formal public consultation, including inviting submissions for a month-long period commencing no later than 30 August 2018.

Cr Bunting Dissenting.

Item 7 (Rubbish and Recycling Service Business Case) was moved to the end of the open section to allow it to be taken in conjunction with item C2 (Contract 16234 - Rubbish, Recycling and Disposal Services) in the public excluded section.

8. CBD Activation Plan 2018-21 Service Level Agreement Hamilton Central Business Association

The Manager Social Development introduced the report and with Vanessa William (General Manager, Hamilton Central Business Association) responded to questions from Elected Members concerning the Service Level Agreement, and benefits from the implementation of the 2018-21 CBD Activation Plan.

Resolved: (Crs O’Leary/Macpherson)

That the Council:

- a) receives the report; and
- b) delegates the Chief Executive to sign the Service Level Agreement between Hamilton Central Business Association and Hamilton City Council, for the delivery of the 2018-21 CBD Activation Plan.

The meeting adjourned 11.35am to 11.57am.

Cr Bunting left the meeting during the above adjournment.

9. Hamilton Central City Safety Strategy 2018/19 Action List

The Manager Social Development spoke to the report noting that it was in response to the adoption of the Hamilton Central City Safety Strategy in February 2018. Staff responded to questions from Elected Members concerning projects on the action list including the 'Your help may harm' campaign, increased City Safe staff presence, and funding of projects. It was noted that the expected completion date of projects on the list would be within 2018/19 financial year where possible.

Resolved: (Crs O'Leary/Southgate)

That the Council receives the report.

10. Te Hikuwai Slip

The Parks and Recreation Manager introduced the Team Leader of Urban Landscapes and noted that discussions with Waikato Regional Council were continuing regarding for funding the remedial works. They responded to questions from Elected Members concerning the remedial options available, cost, funding options, and the expected completion date.

Action: Staff undertook to circulate information to Elected Members regarding Council's legal obligation around slips.

Procedural Motion:

Resolved: (Mayor King/Cr Macpherson)

That the report is referred to the 6 September 2018 Council meeting or an earlier meeting of a relevant Committee.

The meeting adjourned 1.15pm to 2.03pm.

11. River Plan - Path between VOTR and Embassy Park

The report was taken as read. Staff responded to questions from Elected Members concerning the review of projects within the cultural precinct of the River Plan, funding, and prioritisation of River Plan projects.

Resolved: (Mayor King/Cr Tooman)

That the Council:

- a) receives the report; and
- b) approves option 2 of this report namely:
 - i) defers further investment into the development of a path between VOTR and Embassy Park at this stage;
 - ii) requests staff arrange a briefing to prioritise the River Plan Master Plan projects; and
 - iii) allocates \$25,000 of the River Plan – VOTR to Embassy Park budget to developing staging options for the River Plan Master Plan.

Cr Bunting rejoined the meeting (2.09pm) during the discussion of the above item. He was present when the matter was voted on.

12. Waikato Museum and Excite Trust Memorandum of Understanding

The report was taken as read. Staff responded to questions from Elected Members concerning exhibitions that had increased visitor numbers over the previous three years.

Resolved: (Cr Macpherson/Southgate)

That the Council approves the 2018 Memorandum of Understanding between Waikato Museum and the Excite Trust.

7. Rubbish and Recycling Services Business Case

Cr Bunting (Chair, Waste Taskforce) introduced the report and thanked staff for their work. Staff responded to questions from Elected Members concerning the desktop study findings, bespoke services, the reporting process, and the flexibility and resilience of the contract.

Resolved: (Crs Bunting/Macpherson)

That the Council approves the Rubbish and Recycling Service Changes Business Case.

14. Resolution to Exclude the Public

Resolved: (Mayor King/Deputy Mayor Gallagher)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation Council Public Excluded Minutes - 2 August 2018) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Contract 16234 - Rubbish, Recycling and Disposal Services) Official Information and Meetings Act 1987	
C3. Purchase of Land and Buildings - Central City Park)	
C4. Board Chair Appointment - Waikato Regional Airport Limited		
C5. Update from the CEO Review Committee		

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to protect the privacy of natural persons	Section 7 (2) (a)
	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
	to enable Council to carry out negotiations	Section 7 (2) (i)
	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
Item C3.	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C4.	to protect the privacy of natural persons	Section 7 (2) (a)
	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C5.	to protect the privacy of natural persons	Section 7 (2) (a)

The meeting went into a public excluded session at 3.02pm.

The meeting was declared closed at 6.45pm.

Appendix One

Update to Item C2: Contract 16234 - Rubbish, Recycling and Disposal Services

During the public excluded session of the 16 August 2018 Council meeting, the Council resolved to release the following resolution to the public once the contract was signed by both parties which was done on 12 September 2018.

That the Council:

- a) approves the award of Contract 16234 for Rubbish, Recycling and Disposal Services to EnviroWaste Services Limited for an Approved Contract Sum of ninety-six million, seven hundred and one thousand dollars (\$96,701,000.00) plus GST with the term of the contract being from 31 August 2018 until 30 June 2030;
- b) notes that the contract will be awarded 31 August 2018 with the kerbside collection services commencing on 1 July 2020 for a term of 10 Years until 30 June 2030;
- c) delegates the Chief Executive to finalise and execute the contract including leases of the Refuse Transfer Station and Hamilton Organic Centre with EnviroWaste Services Limited; and
- d) approves making the resolution public once the contract is signed by both parties.

Appendix Two

Update to Item C3: Purchase of Land and Buildings - Central City Park

During the public excluded session of the 16 August 2018 Council meeting, the Council resolved to release the following reports and minutes to the public once the sale and purchase agreement has been finalised which was on 3 October 2018.

Council Report

Committee: Council
Author: Nicolas Wells
Position: Strategic Property Unit Manager
Date: 02 August 2018
Authoriser: Jen Baird
Position: General Manager City Growth Manager
Report Name: Purchase of Land and Buildings - Central City Park

Report Status

This report is taken as a publicly excluded item to enable Council to carry out negotiations.

Purpose

1. To seek the Council's approval to purchase commercial property (land and buildings) at 242–254 Victoria Street, Hamilton, described in the schedule below.

Staff Recommendation

2. That the Council:
 - a) approves the purchase of the land and buildings described in the schedule for \$3,750,000 plus GST (if any);
 - b) notes that funding for the purchase of the land and buildings described in the schedule is provided in year one on the 2018-2028 10 Year Plan (CE 17004 – \$7M for Central City Park - River Plan property purchases);
 - c) approves staff engage with property-owners within the Central City Park area, on a *without prejudice* basis, to determine their interest in selling their property to the Council; and
 - d) delegates the Chief Executive to give effect to this resolution.

SCHEDULE

First All that land described as an Estate in Fee Simple comprising Lot 1 Deposited Plan 19882 contained in Computer Freehold Register Identifier SA888/45 of 301 square metres more or less and physically located at **254 Victoria Street**, Hamilton (shown bordered in red on Attachment 1).

Second All that land described as an Estate in Fee Simple comprising Lot 9 Deposited Plan 19882 contained in Computer Freehold Register Identifier SA656/134 of 465 square metres more or less and physically located at **246 Victoria Street**, Hamilton (shown bordered in red on Attachment 1).

Third All that land described as an Estate in Fee Simple comprising Deposited Plan 21270 and Lot 1 Deposited Plan South Auckland 4128 contained in Computer Freehold Register Identifier SA1266/85 of 772 square metres more or less and physically located at **250 and 242 Victoria Street**, Hamilton (shown bordered in red on Attachment 1).

Appendix Two

Executive Summary

3. The property (comprising the three lots described in the schedule) is located on the southern boundary of the new Victoria on the River Plaza (VOTR) and within the Central City Park – River Plan area. The property is shown bordered in red on Attachment 1.
4. The owner (Livewire Trust) has made a direct and unsolicited offer to sell the property to the Council.
5. The property is strategically important because it:
 - immediately borders the VOTR Plaza allowing the potential for positive activation or expansion of the space, connection to pedestrian and cycle paths, links to the upper esplanade boardwalk and access to laneways
 - provides flexibility in the layout, design and construction of the items above
 - is the only full-depth site within the Central City Park – River Plan Precinct
 - is key to the development of the Central City Park – River Plan Precinct and the southern edge of the VOTR Plaza.
6. There are a number of issues associated with the property, specifically:
 - Existing tenants, contractual arrangements, duration of tenancies, rights of renewal;
 - Quantifying the scope, cost, sequencing and timeline for redevelopment
 - 254 Victoria Street is a heritage listed building (B ranking) in the District Plan.
7. There is \$7M funding allocated in the 2018-2028 10 Year Plan to purchase property within the Central City Park – River Plan Precinct. The property will cost \$3.75M to buy. Operating revenues and costs are not included in the 10YP but will be cash positive. No funding is allocated in the 10YP for developing the property.
8. Staff consider that there are three viable options (see paragraph 26). Staff recommend Option 1 – that the Council purchases the property (see paragraph 27).
9. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

Background

10. On 31 May 2018 the Council resolved:

That the Council remove all funding for the Central City Park – River Plan except for \$7 million in capital expenditure in year 1 of the 2018-28 10 Year Plan (18/19) for the purchase of property.

Discussion

254 Victoria Street

11. The property comprises a heritage structure built in 1916 situated on a 301m² commercial zoned site. The building is a two-level structure with an approximate total floor area of 360m² and occupies the entire site. The building is a single commercial tenancy with four carparks to the rear. There is an easement over the VOTR site which provides access to the rear of the building.

Appendix Two

12. The building is leased to MFG Limited who have sublet to TFM Hamilton Limited (trading as Mexico Restaurant). [REDACTED]
[REDACTED]
[REDACTED] The rent is CPI adjusted annually with market reviews on renewal. The lease details are summarised in Attachment 3.
13. The building is a listed heritage structure in the District Plan. The Council has elevated the importance of the city's heritage through the Hamilton Heritage Plan, adopted by the Council in 2016, which formally recognises the contribution heritage makes to Hamilton's identity, sense of place, and belonging. The Plan sets out how the Council will lead by example, and follow best practice to ensure the conservation and protection of heritage buildings. The heritage details are summarised in Attachment 4.
14. The building has been earthquake strengthened to above 34% NBS and is not earthquake prone.
15. The most appropriate future use of the building would be to redevelop and restore heritage features, in conjunction with adjoining property, to enhance the VOTR and Central City Park. The scope, timeline and cost of any future development have not been quantified.

246 Victoria Street

16. The property comprises a single level concrete block structure built in 1982 situated on a 465m² commercial zoned site. The building has an approximate total floor area of 186m² and occupies approximately 40% of the site. Approximately 30% of the site is formed with sealed carparks while the remaining 30% is unformed and slopes steeply down to the lower river esplanade.
17. An easement in favour of WEL Energy encompasses, in part, an estimated area of 44m² situated at the rear of the carpark. A transformer is positioned within the easement area. Buildings, fences and other structures cannot be positioned on this part of the site.
18. The building is a single commercial tenancy with three carparks to the rear. There is an easement over the VOTR site which provides access to the front north side of the building. The building is currently vacant. The building is not earthquake prone.
19. The most appropriate future use of the building would be either redevelopment to activate the VOTR and Central City Park (café or similar), or demolition to create open space. The upper level VOTR boardwalk has always been intended to connect to the site. The scope, timeline and cost of any future development have not been quantified.

242-250 Victoria Street

20. The property comprises a single level building on a 772m² commercial zoned site. The building has an approximate total floor area of 280m² and occupies approximately 33% of the site. Approximately 40% of the site is formed with sealed driveway and carparks while the remainder is unformed and slopes steeply down to the lower river esplanade.
21. An easement (with reciprocal rights) in favour of neighbours adjoining the southern boundary allows vehicle and pedestrian access to those properties.
22. The building is a single commercial tenancy with four carparks to the rear and is leased to Dough Bros NZ Limited. [REDACTED]
[REDACTED]
[REDACTED] The rent is subject to biennial market review. The lease details are summarised in Attachment 3.
23. The building has been earthquake strengthened to above 34% NBS and is not earthquake prone.

Appendix Two

24. The most appropriate future use of the building would be either redevelopment, in conjunction with adjoining property, or demolition to create the Central City Park. The scope, timeline and cost of any future development has not been quantified.

Options

25. Staff have assessed that there are three reasonable and viable options for the Council to consider. This assessment reflects the level of significance (see paragraph 39) and costs, risks and strategic benefits associated with the purchase of the property. The options are:
- **Option 1:** Purchase the property
 - **Option 2:** Do not purchase the property
 - **Option 3:** Negotiate with the owner to purchase the rear of both properties only
26. Staff recommend Option 1 because:
- It secures a key strategic site, which will prevent potential inappropriate development
 - It allows the Council to fully control development of the site to support and enhance the completed VOTR Plaza, and the proposed Central City Park
 - It provides the Council with options for the development of key access links – specifically the upper level esplanade boardwalk of the VOTR.

Financial Considerations

27. The current owner has offered to sell the property to the Council for \$3.75M plus GST (if any) with settlement 20 working days after signing of the Agreement for Sale and Purchase. There are no other conditions of sale.
28. The Council has allocated \$7M in year one of the approved 2018-28 10YP for the purchase of properties for the Central City Park – River Plan project. The proposed purchase would use \$3.75M of that budget – leaving \$3.25M for subsequent purchases.
29. Interest on debt funding and an allowance for depreciation is included in the 10YP budgets.
30. Operating revenues and costs are not included in the 10YP under the assumption that any property purchased would be cost-neutral; in this case it is cash positive.
31. The two leased tenancies have a weighted average lease term (WALT) of 3.6 years. Current annual contract rental income of [REDACTED] plus GST is in line with market levels and has been set relatively recently.
32. Vacant space at the rear of the site could potentially be developed to open onto the adjoining VOTR and leased. Capital expenditure would be required to complete this work.
33. A registered valuer has assessed the estimated current market value of the property at \$2.4M plus GST (if any).
34. The purchase price is much greater than the estimated current market valuation. The purchase price is the minimum amount the owner is prepared to accept (the original asking price was \$3.9M). Staff consider that the purchase price premium is justified given the strategic significance of the property to both the VOTR and Central City Park – detailed in paragraph 26 above. The purchase price premium is less than that recently paid for similar sales on Victoria Street.

Appendix Two

Legal and Policy Considerations

35. Staff confirm that recommendation in this report complies with the Council's legal and policy requirements. The purchase of the property is anticipated in the 2018-28 10YP and supports policy objectives in the River Plan, Heritage Plan and District Plan.

Risks

36. Option 1: Purchase the property
- High purchase price results in significant premium (56%) to secure the property.
 - High purchase cost results in a lower return on investment (3.4%).
 - No funding is allocated for the development of the property.
 - Unquantified timeline, scope or development plan for the site.
 - Unquantified financial risk due to inability to accurately determine the total cost of the potential redevelopment of the site.
 - Leases contain multiple renewals potentially "locking up" the occupied buildings until 2032 and 2035.
37. Option 2: Not purchasing the property
- The property might be utilised or developed in a way that does not support the use of the adjoining VOTR plaza.
 - Lost opportunity to develop the Central City Park.
38. Option 3: Purchasing only the rear sections of the property
- The front buildings might be developed in a way that does not support the use or development of the adjoining land.
 - No funding allocated for the development of the property.
 - Unquantified timeline, scope or development plan for the site.
 - Unquantified financial risk due to inability to accurately determine the total cost of the potential redevelopment of the site.

Significance & Engagement Policy

39. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed the that matters in this report have a low level of significance.
40. Community views and preferences are already known to the Council through public engagement as part of the River Plan and the 10YP. Given the low level of significance and engagement determined, no further engagement is required.

Attachments

Attachment 1 - 242-254 Victoria Street - Aerial Photograph

Attachment 2 - 242-254 Victoria Street - Certificates of Title

Attachment 3 - 242-254 Victoria Street - [REDACTED]

Appendix Two

Attachment 4 - 254 Victoria Street - H91 - Built Heritage Inventory Record Form .

Appendix Two - Minutes

C5. Purchase of Land and Buildings - Central City Park

The Strategic Property Manager spoke to the report and responded to questions from Elected Members concerning the cost and future uses of the land and buildings.

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the Council:

- a) approves the purchase of the land and buildings described in the schedule for \$3,750,000 plus GST (if any);
- b) notes that funding for the purchase of the land and buildings described in the schedule is provided in year one on the 2018-2028 10 Year Plan (CE 17004 – \$7M for Central City Park - River Plan property purchases);
- c) approves staff engage with property-owners within the Central City Park area, on a *without prejudice* basis, to determine their interest in selling their property to the Council; and
- d) delegates the Chief Executive to give effect to this resolution.

SCHEDULE

First All that land described as an Estate in Fee Simple comprising Lot 1 Deposited Plan 19882 contained in Computer Freehold Register Identifier SA888/45 of 301 square metres more or less and physically located at **254 Victoria Street**, Hamilton (shown bordered in red on Attachment 1).

Second All that land described as an Estate in Fee Simple comprising Lot 9 Deposited Plan 19882 contained in Computer Freehold Register Identifier SA656/134 of 465 square metres more or less and physically located at **246 Victoria Street**, Hamilton (shown bordered in red on Attachment 1).

Third All that land described as an Estate in Fee Simple comprising Deposited Plan 21270 and Lot 1 Deposited Plan South Auckland 4128 contained in Computer Freehold Register Identifier SA1266/85 of 772 square metres more or less and physically located at **250 and 242 Victoria Street**, Hamilton (shown bordered in red on Attachment 1).

Crs O'Leary, Southgate and Tooman Dissenting.

Council Report

Committee: Council
Author: Nicolas Wells
Position: Strategic Property Unit Manager
Date: 16 August 2018
Authoriser: Jen Baird
Position: General Manager City Growth
Report Name: Purchase of Land and Buildings - Central City Park

Report Status

This report is taken as a publicly excluded item to enable Council to carry out negotiations.

Purpose

1. To seek Council's approval to purchase commercial property (land and buildings) at 260 and 266 Victoria Street, Hamilton, described in the schedule below.

Staff Recommendation

2. That the Council:
 - a) approves the purchase of the land and buildings described in the schedule for \$2,740,000 plus GST (if any) subject to legal approval of the final form and content of the Agreement for Sale and Purchase
 - b) notes that funding for the purchase of the land and buildings described in the schedule is provided in year one of the 2018-2028 10 Year Plan (CE 17004 - \$7M for Central City Park – River Plan property purchases)
 - c) delegates the Chief Executive to give effect to this resolution.

SCHEDULE

First All that land described as an estate in fee simple comprising Lot 2 Deposited Plan 19882 contained in Certificate of Title SA891/75 South Auckland Land Registry of 241 square metres more or less and physically located at **260 Victoria Street**, Hamilton (shown in blue on Attachment 1).

Second All that land described as an estate in fee simple comprising Lot 3 Deposited Plan 19882 contained in Certificate of Title SA900/181 South Auckland Land Registry of 241 square metres more or less and physically located at **266 Victoria Street**, Hamilton (shown in yellow on Attachment 1).

Executive Summary

3. The property (comprising the two lots described in the schedule) is located on the southern side of the entrance to the new Victoria on the River Plaza (VOTR) and within the Central City Park – River Plan area. The property is shown in blue and yellow on Attachments 1 and 2.
4. The owner (260 Victoria Limited and 266 Victoria Limited) has made a direct offer to sell the property to the Council. The seller's details are shown on Attachments 4 and 5.

Appendix Two

5. The offer to sell the property requires the Council to demolish both buildings within ten years of the date of purchase – noting that the façade of 260 Victoria Street is protected by the District Plan and would remain. If the buildings are not demolished within ten years the owner has the right to purchase the property back.
6. The offer to sell the property also contains a requirement for the Council to offer the property back to the owner if the Council wants to sell the property within the ten year period.
7. The property is at the entrance to the new VOTR Plaza. The property is strategically important because it provides the opportunity to:
 - Further develop and enhance the VOTR Plaza and Central City Park.
 - The potential to demolish the buildings and incorporate the land into the VOTR increases the open Victoria Street frontage by 84% (17.59 metres).
 - The property is entirely bordered by Council-owned property.
8. There are a number of issues associated with the property, specifically:
 - Existing tenants, contractual arrangements, duration of tenancies, rights of renewal
 - Quantifying project scope, cost, sequencing and timeline for redevelopment
 - 260 Victoria Street is a heritage listed building (B ranking) in the District Plan
 - 260 Victoria Street is an earthquake prone building (below 33% NBS)
9. There is \$7M funding allocated in the 2018-2028 10YP to purchase property within the Central City Park – River Plan Precinct (\$3.25M is available). The property will cost \$2.74M to buy. Operating revenues and costs are not included in the 10YP but will be cash positive. No funding is allocated in the 10YP for developing the property.
10. Staff consider that there are two viable options (see paragraph 28). Staff recommend option 1 – that the Council purchases the property (see paragraph 29).
11. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

Background

12. On 31 May 2018 the Council resolved:

That the Council remove all funding for the Central City Park – River Plan except for \$7 million in capital expenditure in year 1 of the 2018-2028 10 Year Plan (18/19) for the purchase of property.
13. On 2 August 2018 the Council:

Approves the purchase of the land and buildings described in the schedule [242 -254 Victoria Street] for \$3,750,000 plus GST (if any).

Discussion

Conditions of Sale

14. The owner has offered to sell the property to the Council for \$2,740,000 plus GST (if any) subject to the following conditions:
 - Both buildings are to be sold together (no opportunity to purchase them separately)
 - a first right to purchase the buildings back at market valuation if:

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- The buildings have not been demolished (excluding the facade of 260 Victoria Street) within ten years, or,
 - At any stage the Council receives an offer to buy the property and wishes to accept that offer.
15. The sale anticipates the demolition of both buildings on the property – noting that the façade of 260 Victoria Street will remain.

260 Victoria Street

16. The property comprises a heritage structure built in 1915 situated on a 241m² commercial zoned site. Currently the building is partitioned to provide two ground floor retail tenancies and living accommodation on the first floor. The building has a total floor area of approximately 360m². There are no carparks attached to the property, although there is an easement over the VOTR site which provides access to the rear of the building.
17. The building is currently generating net annual revenue of [REDACTED]. The ground floor is divided into two tenancies – one is leased to a restaurant [REDACTED] and the other to a contemporary art gallery. The first floor has five residential occupants with informal arrangements in place for the tenants – which can be terminated on one month's notice. The tenancy schedule is provided as Attachment 6.
18. The building is a listed heritage structure in the District Plan. The Council has elevated the importance of the city's heritage through the Hamilton Heritage Plan, adopted by the Council in 2016, which formally recognises the contribution heritage makes to the Hamilton's identity, sense of place, and belonging. The plan sets out how the Council will lead by example and follow best practice to ensure the conservation and protection of heritage buildings. The heritage character is detailed in Attachment 3.
19. The seller's requirement to demolish the building within ten years of date of purchase will require careful consideration of the preservation of the façade in order to comply with the District Plan and the Hamilton Heritage Plan. Demolition of the building will require a resource consent.
20. The building has been assessed as earthquake prone, and as a listed heritage structure is likely to be classified as a "Priority Building". This will require the owner to strengthen the structure to 34% NBS within 12.5 years of notification (by approximately 2030).
21. The most appropriate interim use of the building would be to maximise utilisation and revenue until the building is demolished in conjunction with 266 Victoria Street. This would occur between 2026 and 2028 to allow leases to expire and compliance with the conditions of sale.
22. The scope, timeline and cost of any future redevelopment have not been quantified.
23. The owner is offering to sell the building to the Council for \$790,000 plus GST (if any). The estimated market value assessed by a registered valuer is \$650,000 (plus GST if any).

266 Victoria Street

24. The property comprises a two-level building with a basement, situated on a 241m² commercial zoned site. Currently the building provides one basement tenancy, three ground floor tenancies and two tenancies on the first floor. The building has a lettable floor area of approximately 624m². There are no carparks attached to the property, although there is an easement over the VOTR site which provides access to the side and rear of the building.
25. The building is currently generating a net annual revenue of [REDACTED]. The longest current lease term expires on 31 August 2026. The owner does not have the right to terminate leases early.

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If the building is to be demolished prior to the expiry of the last lease the owner will be required to buy out or provide alternative premises for the tenants. The tenancy schedule is provided as Attachment 7.

26. The most appropriate interim use of the building would be to maximise utilisation and revenue until the building is demolished in conjunction with 260 Victoria Street. This would occur between 2026 and 2028 to allow leases to expire and compliance with the conditions of sale.
27. The scope, timeline and cost of any future redevelopment have not been quantified.
28. The owner is offering to sell the building to the Council for \$1,950,000 plus GST (if any). The estimated market value assessed by a registered valuer is \$1,250,000 (plus GST if any).

Options

29. Staff have assessed that there are two reasonable and viable options for the Council to consider. This assessment reflects the level of significance (see paragraph 42) and costs, risks and strategic benefits associated with the purchase of the property.
 - Option 1: Purchase both 260 and 266 Victoria Street
 - Option 2: Do not purchase the property at this time.
30. Staff recommend Option 1 because:
 - It secures a key strategic site, which will prevent potential inappropriate development
 - It allows the Council to fully control development of the site to support and enhance the completed VOTR Plaza, and the proposed Central City Park
 - Funding is available.

Financial Considerations

31. The owner has offered to sell the property to the Council for \$2,740,000 plus GST (if any).
32. The Council has allocated \$7M in year one of the approved 2018-2028 10YP for the purchase of properties for the Central City Park – River Plan project. \$3.75M of that budget has been spent – leaving \$3.25M available for this purchase.
33. Interest on debt funding and an allowance for depreciation is included in 10YP budgets.
34. Operating revenues and costs are not included in the 10YP under the assumption that any property purchased would be cost-neutral; in this case it is cash positive.
35. The eight leased tenancies have a weighted average lease term (WALT) of 0.79 years (9.5 months). Current annual contract rental income of [REDACTED] plus GST is in line with market levels and has been set relatively recently.
36. Capital expenditure will be required to complete any redevelopment work.
37. A registered valuer has assessed the estimated current market value of the property at \$1,900,000 plus GST (if any). The valuation does not reflect the premium paid by the Council to secure the neighbouring property at 242 -254 Victoria Street.
38. The purchase price is higher than the estimated current market valuation. The purchase price is the minimum the seller is prepared to accept. Staff consider the purchase price premium (30%) is justified given the strategic significance of the property to both the VOTR and the Central City Park – detailed in paragraph 29 above.
39. The valuer notes that market evidence in relation to the amount of premium that would be expected to be paid by an adjoining owner is difficult to quantify and will vary significantly

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depending on the motivation of the parties. An adjoining owner premium of up to 30% is typical.

Legal and Policy Considerations

40. Staff confirm that the recommendation in this report complies with the Council's legal and policy requirements. The purchase of the property is anticipated in the 2018-2028 10YP and supports policy objectives in the River Plan, Heritage Plan and District Plan.

Risks

41. Option 1: Purchase both 260 and 266 Victoria Street
 - High purchase price results in a premium (30%) to secure the property.
 - High purchase price results in a lower return on investment (5.5%).
 - No funding is allocated for redevelopment of the property.
 - Unquantified timeline, scope or redevelopment plan for the site.
 - Unquantified financial risk due to inability to accurately determine the total cost of the potential redevelopment of the site.
 - Unquantified costs associated with earthquake strengthening works.
 - Demolition requirement compliance with District Plan and Hamilton Heritage Plan.
 - Unquantified costs associated with heritage requirements.
 - Leases contain renewals potentially "locking up" the occupied buildings until 2026.
 - Lost opportunity to deploy funds on alternative purchases with potential additional financial benefit (for example The Terrace Apartments and the upper esplanade boardwalk).
42. Option 2: Do not purchase the property at this time
 - The property might be utilised or developed in a way that does not support the use of the adjoining VOTR plaza.
 - Lost opportunity to increase the open Victoria Street frontage to the VOTR plaza by a further 17.9 metres (84% increase in the open frontage).
 - Lost opportunity to develop the Central City Park.
 - Price to buy the property will increase over time.

Significance & Engagement Policy

43. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matters in this report have a low level of significance.
44. Community views and preferences are already known to the Council through public engagement as part of the River Plan and the 10YP. Given the low level of significance and engagement determined, no further engagement is required.

Attachments

Attachment 1 - 260 - 266 Victoria Street - Aerial Photograph

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Attachment 2 - 260-274 Victoria Street - VOTR Aerial Photograph

Attachment 3 - 260 Victoria Street - H74 - Built Heritage Inventory Record Form

Attachment 4 - 260 Victoria Street - Certificate of Title

Attachment 5 - 266 Victoria Street - Certificate of Title

Attachment 6 - 260 Victoria Street - [REDACTED] - August 2018

Attachment 7 - 266 Victoria Street - [REDACTED] - August 2018 .

Appendix Two - Minutes

C3. Purchase of Land and Buildings - Central City Park

Strategic Property Unit Manager noted the owner had recently advised that the properties could be purchased separately however the staff recommendation remained the same. He responded to questions from Elected Members concerning the cost, valuations, the terms of the purchase including the buyback provision, the release of information to the public and the future use of the buildings and land.

Resolved: (Mayor King/Cr Taylor)

That the Council:

- a) approves the purchase of the land and buildings described in the schedule for \$2,740,000 plus GST (if any) subject to a satisfactory building report and legal approval of the final form and content of the Agreement for Sale and Purchase;
- b) notes that that funding for the purchase of the land and buildings described in the schedule is provided in year one of the 2018-2028 10 Year Plan (CE 17004 - \$7M for Central City Park – River Plan property purchases); and
- c) delegates the Chief Executive to give effect to this resolution.

SCHEDULE

First All that land described as an estate in fee simple comprising Lot 2 Deposited Plan 19882 contained in Certificate of Title SA891/75 South Auckland Land Registry of 241 square metres more or less and physically located at **260 Victoria Street**, Hamilton (shown in blue on Attachment 1).

Second All that land described as an estate in fee simple comprising Lot 3 Deposited Plan 19882 contained in Certificate of Title SA900/181 South Auckland Land Registry of 241 square metres more or less and physically located at **266 Victoria Street**, Hamilton (shown in yellow on Attachment 1).

Those for the Motion: Mayor King, Deputy Mayor Gallagher, Councillors Macpherson, Bunting, Taylor and Hamilton.

Those against the Motion: Councillors Pascoe, Tooman, O'Leary, Casson, Henry and Southgate.

The Motion was declared equal.

Mayor King exercised his casting vote as Chair and the Motion was declared carried.