

**Northland Regional Council
Property Subcommittee**

**Wednesday, 4 April 2018 at 2 pm
Committee Room, Northland Regional Council
36 Water Street, Whangārei**

NORTHLAND REGIONAL COUNCIL

Property Subcommittee Agenda

For meeting to be held in the Committee Room,
36 Water Street, Whangārei, on Wednesday 4 April 2018,
commencing at 2.00pm

MEMBERSHIP OF THE SUBCOMMITTEE

Cr Penny Smart Cr David Sinclair Cr John Bain Cr Bill Shepherd
(ex officio)

Recommendations contained in the agenda are NOT subcommittee decisions. Please refer to subcommittee minutes for resolutions.

Item		Page
1.0	APOLOGIES	-
	-	
2.0	DECLARATIONS OF CONFLICTS OF INTEREST	-
	-	
3.0	GENERAL MATTERS	-
3.1	Confirmation of March Property Subcommittee Meeting Minutes	3
3.2	Sale of 56 Gillies Street, Kawakawa	8
3.3	Port Nikau – Council Easements	10
4.0	BUSINESS WITH THE PUBLIC EXCLUDED	17
4.1	Confirmation of Confidential Extraordinary Property Subcommittee Meeting Minutes 13 March 2018	19
4.2	Purchase of CBD Properties in Order to Freehold	23
4.3	Sale of Council’s Lessor Interest Freehold a CBD Property	30
4.4	Update of Property Subcommittee Action Notes	32
4.5	Site visit: Investment Opportunity	35

TITLE: Confirmation of March Property Subcommittee Meeting Minutes

ID: A1047515

To: Property Subcommittee, 4 April 2018

From: Alicia Jurisich, Property Officer

Date: 21 March 2018

Executive summary:

The purpose of this report is to present for confirmation the open minutes of the following meetings:

- Property Subcommittee meeting held on 7 March 2018.
- Extraordinary Property Subcommittee meeting held on 13 March 2018.

Councils are required to keep minutes of proceedings in accordance with the Local Government Act 2002.

Recommendation:

1. That the open minutes of the following meetings be confirmed as a true and correct record:
 - Property Subcommittee meeting held on 7 March 2018.
 - Extraordinary Property Subcommittee meeting held on 13 March 2018.

Attachments:

- Open Property Subcommittee meeting held on 7 March 2018.
- Open Extraordinary Property Subcommittee meeting held on 13 March 2018.

Authorised by Manager:

Name: Phil Heatley

Title: Strategic Projects Manager

Date: 21 March 2018

**NORTHLAND REGIONAL COUNCIL
PROPERTY SUBCOMMITTEE**

Minutes of meeting of the Property Subcommittee
held in the Kaipara Room, Northland Regional Council, 36 Water Street, Whangārei,
on Wednesday, 7 March 2018 commencing at 8.30 am.

Present: **Full Meeting**
Cr Penny Smart (Chair)
Cr Bill Shepherd (ex officio)
Cr John Bain (By phone)

In Attendance: **Full Meeting**
Chief Executive Officer
Strategic Projects Manager
Property Officer
Cr Rick Stolwerk
Meeting Secretary

The Chair declared the meeting open and adjourned at 8.43 am.

The meeting was short of a quorum at its commencement so the Chair opened and adjourned the meeting to a date yet to be determined for the Subcommittee to meet again.

Secretarial Note: The apologies from Councillor David Sinclair was later received due to being unwell.

**NORTHLAND REGIONAL COUNCIL
EXTRAORDINARY PROPERTY SUBCOMMITTEE**

Minutes of meeting of the Property Subcommittee
held in Council Chambers, Northland Regional Council, 36 Water Street, Whangārei,
on Tuesday, 13 March 2018 commencing at 2.30 pm.

Present:

Full Meeting
Cr Penny Smart (Chair)
Cr David Sinclair
Cr Bill Shepherd (ex officio)

Part Meeting
Cr Justin Blaikie

In Attendance:

Full Meeting
Property Officer
Chief Executive Officer
Strategic Projects Manager
Cr John Bain
Cr Rick Stolwerk
Cr Mike Finlayson

The Chair declared the meeting open at 2.30 pm.

Apologies (Item 1.0)
Moved (Sinclair/Shepherd)

There were no apologies.

Carried

Declarations of Conflict of Interest (Item 2.0)

It was advised that councillors should make declarations item-by-item as the meeting progressed.

Confirmation of Property Subcommittee Minutes – 7 February 2018 (Item 3.1)

ID: A1040132

Report from Property Officer, Alicia Jurisich

Moved (Shepherd/Sinclair)

That the minutes of the open section of the Property Subcommittee meeting, held on 7 February 2018, be confirmed as a true and correct record.

Carried

Business with the Public Excluded (Item 4.0)

ID: A1030268

Report from Strategic Projects Manager, Phil Heatley

Moved (Shepherd/Bain)

1. That the public be excluded from the proceedings of this meeting to consider confidential matters.
2. That the general subject of the matters to be considered whilst the public is excluded, the reasons for passing this resolution in relation to this matter, and the specific grounds under the Local Government Official Information and Meetings Act 1987 for the passing of this resolution, are as follows:

Item No.	Item Issue	Reason\Grounds
4.1	Confirmation of Confidential Minutes of the Council Meeting – 7 February 2018	The reasons for excluding the public are as stated in the minutes of the open section of the meeting.
4.2	Purchase of a Council's Lessor Interest to freehold a CBD property	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h).
4.3	Tarewa Investment Opportunity	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h).

ID: A1045327

Extraordinary Property Subcommittee Meeting
13 March 2018

- | | | |
|-----|--|--|
| 4.4 | Update of Property Subcommittee Action Notes | The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h). |
| 4.5 | Presentation: Update on Significant Commercial Property Sale | The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h). |

Carried

Open Meeting

Moved (Bain/Sinclair)

That the committee resumes in open meeting.

Carried

CONCLUSION

The meeting concluded at 3.41 pm.

TITLE: Sale of 56 Gillies Street, Kawakawa

ID: A1047588

To: Property Subcommittee, 4 April 2018

From: Phil Heatley, Strategic Projects Manager

Date: 28 March 2018

Executive summary:

The purpose of the report is to inform the Property Subcommittee that the Chief Executive Officer has reached an agreement in principle to sell the 56 Gillies Street, Kawakawa property to Far North Holdings Limited. This is in line with the full council decision of 18 July 2017.

It is intended that sale proceeds will be reinvested in the Property Reinvestment Fund. It is also likely that the Kawakawa Hundertwasser Park Community Trust will request \$500,000 (excluding GST) from the Investment and Growth Reserve.

The Chief Executive Officer intends to take a noting paper to council once the Sale and Purchase Agreement has been agreed.

Recommendations:

1. That the report 'Sale of 56 Gillies Street, Kawakawa' by Phil Heatley, Strategic Projects Manager, and dated 28 March 2018, be received.
 2. That the Property Subcommittee note that a paper will be going to full council informing them of the sale of 56 Gillies Street, Kawakawa to Far North Holdings Limited; and
 3. That the net sale proceeds, after transaction expenses, will go into the Property Reinvestment Fund.
-

Background:

In July 2014 council made an 'in principle' commitment of up to \$500,000 to help fund an art gallery/visitor centre in Kawakawa in recognition of Hundertwasser's legacy in that town. The concept is now known as the Kawakawa Hundertwasser Park Centre. It was considered at that time that council's Investment and Growth Reserve (IGR) could be an appropriate funding source for this commitment.

In July 2016 council agreed to purchase 56 Gillies Street, Kawakawa for \$485,000 plus GST (if any). This building currently contains the Far North District Council service centre and library, a sorting area for NZ Post, and an ATM machine. It was bought at that time because the property became available and council wanted to preserve its availability to support the Kawakawa Hundertwasser Park Centre should it proceed. The purchase of this property was funded from council's Property Reinvestment Fund (PRF) with the intention that the PRF be reimbursed from the IGR should the property eventually form part of the proposed

Kawakawa Hundertwasser Park Centre development and therefore fulfil council's 'in principle' commitment (July 2014).

Property address	Legal description (area)	Rental income in place	Sale & Purchase Agreement
56 Gillies Street, Kawakawa	Lot 1 DP 125119 (982sqm)	\$40,655 pa	\$485,000

All values plus GST (if any)

As no agreement was reached on how the property would best transfer from council to the project, full council decided on 18 July, 2017 as follows:

1. That council agree to make the property at 56 Gillies Street, Kawakawa, available for purchase by Far North Holdings Limited at a price of no less than \$485,000 plus GST (if any); and
2. That council agree to allocate \$500,000 (excluding GST) from the Investment and Growth Reserve (IGR) as Impact Investment funding to the Kawakawa Hundertwasser Park Community Trust to support the construction of the Kawakawa Hundertwasser Park Centre.

The Chief Executive has now come to an agreement with Far North Holdings Limited (FNHL) to sell 56 Gillies Street, Kawakawa for \$485,000 plus GST (if any), being the original purchase price. FNHL have provided the Property Team with a draft Sale & Purchase Agreement to that effect. It is intended that:

- The property sale revenue will be reinvested in the PRF; and
- At some stage the Kawakawa Hundertwasser Park Community Trust will request the \$500,000 (excluding GST) from the IGR.

Up until this time the property has remained part of council's commercial property portfolio, currently returning over 8.4% per annum.

Authorised by:

Name: Malcolm Nicolson
 Title: Chief Executive Officer
 Date: 28 March 2018

TITLE: Port Nikau – Council Easements**ID:** A1047585**To:** Property Subcommittee, 4 April 2018**From:** Phil Heatley, Strategic Projects Manager**Date:** 28 March 2018

Executive summary:

The owners of the Port Nikau development in Port Road, Whangarei, have requested that council lift a number of easements that allow a disused and deteriorating pipeline (and associated electricity and telecommunications services) across Port Nikau land to the council owned 13.9ha property leased by Ballance Agri-Nutrients (“Ballance”).

Ballance themselves, as the beneficiary of the easements, agree in principle that they be surrendered subject to the costs of removing the infrastructure being acceptable to all parties. This is because Ballance have decommissioned the pump house, they no longer have consent to take seawater and they have no use for the pipeline or associated utilities.

There appears to be no reasonable prospect of the easements being particularly useful to a future occupier of the land as the easement termination point is isolated.

Council staff understand that Ballance and Port Nikau are open to negotiating an agreement on the removal of infrastructure and reinstatement of land if it were agreed that the easements be lifted.

Recommendations:

1. That the report ‘Port Nikau – Council Easements’ by Phil Heatley, Strategic Projects Manager, and dated 28 March, 2018 be received.
 2. That the Property Subcommittee approve the lifting of the Easements 6165858.1, 6156637.1 and 6298710.1 in Port Road, Whangarei, in whole or in part, subject to the Chief Executive being satisfied that:
 - i. The terms of the lease with Ballance have been met or Ballance has otherwise given consent; and
 - ii. There will be no unreasonable legal costs, or physical remediation costs, to council in lifting the easements; and
 - iii. Council has complied with all statutory, regulatory (and policy) obligations that relate to the lifting; and
 - iv. The agreement to lift may include any further conditions deemed to be useful, reasonable, and appropriate in his view having taken legal advice, if required.
- OR**
3. That the Property Subcommittee not approve the lifting of the Easements 6165858.1, 6156637.1 and 6298710.1 in Port Road, Whangarei, in whole or in part.

Background:

The owners of the Port Nikau development in Port Road, Whangarei, have requested that council lift easements 6165858.1, 6156637.1 and 6298710.1 that allow a pipeline from a pumping station on the harbours edge, and associated services (electricity and telecommunications), across Port Nikau land to the council owned 13.9ha property leased by Ballance.

Port Nikau are, for the time being, only concerned with Easement 6156637.1 in favour of Council shown on the aerial map below. This easement allows for the:

- i. Access to and maintenance of pipeline and water pumping station.
- ii. Right to convey water, power, telecommunications, build and maintain pumping station.

The Port Nikau titles are subject to a subdivision plan and the easement limits options for the sites for any purchaser.

This is only one section of the Easement path which eventually connects with the pump house. In time, Port Nikau will likely request the surrender/removal of the remainder of the easements (i.e. on the eastern side of Port Road being Easements 6165858.1 & 6298710.1). If the requested easement is surrendered the remainder of the easements becomes redundant and unusable as it will be physically separated from the land Ballance currently occupy. Therefore, from Council's perspective the request should be treated as a surrender of the whole of the Easements 6165858.1, 6156637.1 and 6298710.1.

The Easement for the pipeline is a "right to convey water" so theoretically the easement could be used to "convey" water other than water taken from the harbour. The power and telecommunications might also be used for another purpose. However, the easements can only be used in association with the land occupied by Ballance.

Ballance Agri-Nutrients ("Ballance")

The easements run with the 13.9ha of land that Ballance occupy. Any current or future owner, tenant or occupier has the right to use them. Therefore, Ballance's consent would be required for the legal easement to be surrendered. They would be responsible for pipe and associated infrastructure removal if the easements were lifted.

The Property Team have written to Ballance to ask their view on the lifting of the easements. Ballance would accept in principle that the easements be surrendered subject to the costs of removing the infrastructure being acceptable to all parties.

Pump house and pipeline disrepair

Ballance no longer manufacture superphosphate. Hence, they have decommissioned the pump house and no longer have consent to take seawater. Furthermore, the associated pipeline is currently unable to be used and is in a poor state of repair.

Given the pipeline's state of disrepair, Port Nikau (as land owner and Grantor under the easement) could require the council (and/or Ballance) to repair and maintain the pipeline under the terms of the easement even if it is not being used.

Council's legal advisor is satisfied there is sufficient evidence to show Ballance as the owner of the pump house and of the pipeline. Therefore, Ballance have obligations under both the lease and the terms of the previous resource consent to remove unused infrastructure; pump house removal where it sits within the coastal consenting area fall under the resource consent responsibilities, and the pump house and pipeline infrastructure under the lease. The obligations under the lease are primarily end of lease obligations, not ones currently required from Ballance.

It is the Property Teams understanding that Ballance and Port Nikau are open to negotiating an agreement on the removal of infrastructure and reinstatement of land if the easements were to be lifted.

Surrender of the easement

A cautious approach is usual when considering any surrender to easements as there is usually a possibility that they will be of some practical or financial value into the future. The easement could be removed if there were no reasonable prospect that Ballance or any future occupier could, or would want to, use a pipeline or associated infrastructure.

There are several reasons why these easements could be considered of little value to council and any future occupant of the Ballance site:

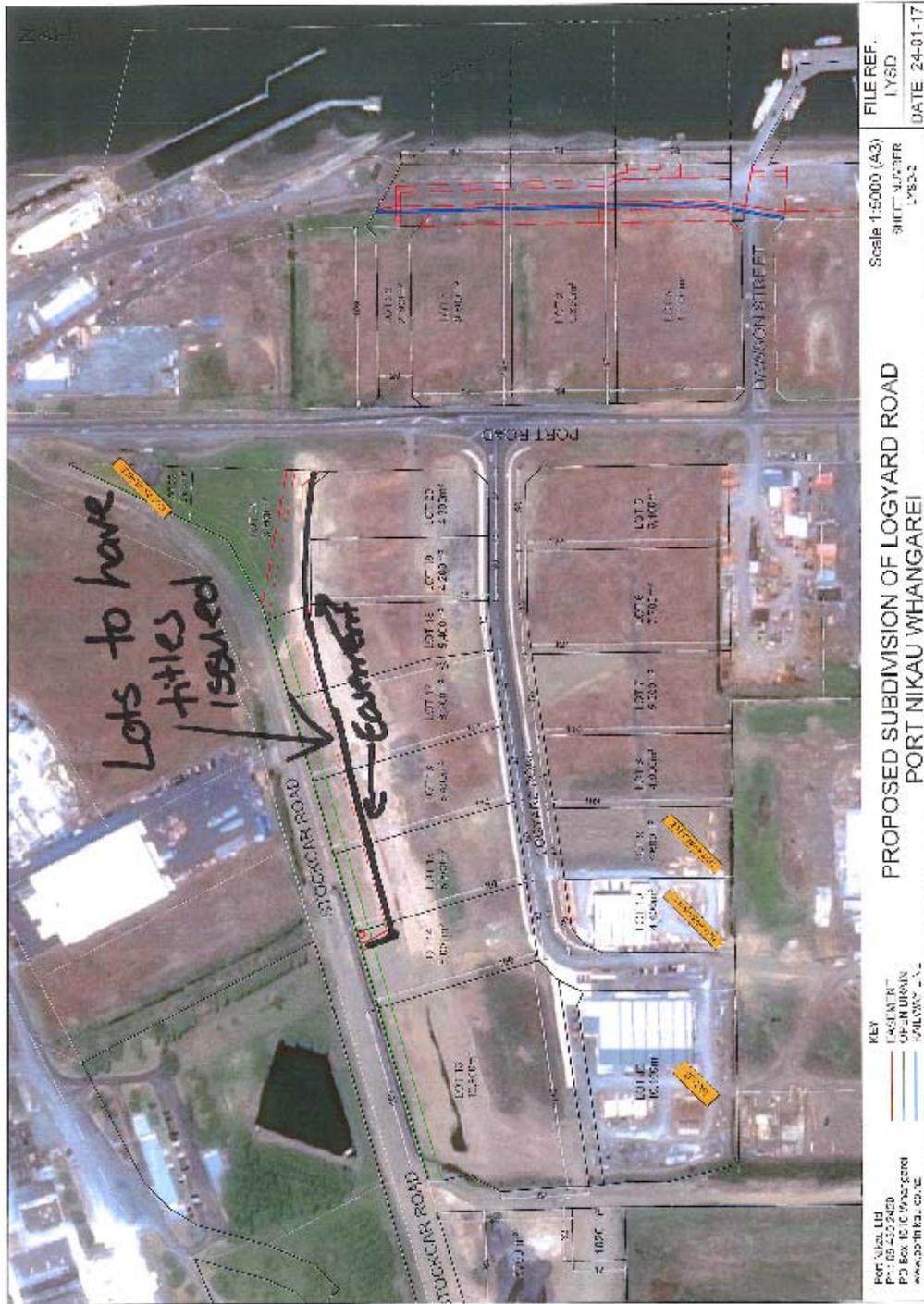
- i. Ballance has no further use of the pump house and it no longer has consent to take seawater.
- ii. If the pipeline is not being used, and there is no foreseeable likelihood of it being used or needed, then bearing the cost of repairing or reinstating the pipeline and ongoing maintenance seems unwise.
- iii. The pipeline could become an environmental and/or health and safety hazard particularly if it is left to deteriorate.
- iv. Surrender of the easement and pipeline may ultimately minimise or at least reduce any future cost or liability incurred.
- v. The pipeline could convey water but again, other sources exist and there is no water source other than salt water at the pumping station. The harbour water is of limited value, certainly to aquaculture which requires draw from clean ocean waters.
- vi. There are alternative access ways for telecommunications and power to the land.

Relocation of the easement

Alternatively, the easement could be relocated by agreement with Port Nikau. Relocation is certainly possible but would likely involve a considerable amount of work in terms of planning, surveying, consent/s and physical works. To justify this, council would need to take the view that the pipeline easement is a valuable asset and that there is a reasonable prospect of it being useful to Ballance or a future occupier of the land.

Easement pathway

The easements are shown in **RED** on the aerial photograph and map on the following page. They include the pipeline and associated utilities running from the inland property occupied by Ballance through to the harbour side pumping station.





Considerations:**Options**

No.	Option	Advantages	Disadvantages
1	Status quo: retain the easements	Easements are available for future owners or occupiers of the land.	<p>The development at Port Nikau is made more difficult. The benefits of a successful development would otherwise flow onto neighbouring council land.</p> <p>The pipeline could become an environmental and/or health & safety hazard particularly if it is left to deteriorate.</p> <p>A current opportunity for negotiated remediation of the pipeline infrastructure is missed.</p>
2	Remove all or some of the easements	<p>The development at Port Nikau benefits.</p> <p>Disintegrating infrastructure is removed under a negotiated agreement.</p>	Ballance or any future occupier could not use or install a pipeline or associated infrastructure.
3	Relocate all or some of the easements	<p>The development at Port Nikau benefits but at the significant cost of relocating easements.</p> <p>Disintegrating infrastructure is removed under a negotiated agreement.</p>	Would likely involve a considerable amount of work in terms of planning, surveying, consent/s and physical works for Port Nikau where there is no readily identifiable value to council or Ballance.

Having assessed the various options, staff recommend the lifting of the Easements 6165858.1, 6156637.1 and 6298710.1 in Port Road, Whangarei, in whole or in part.

Significance and engagement

The decision to lift easements in association with an investment property does not trigger the significance test.

Policy and legislative compliance

The receiving of this report is provided for in council's Treasury Risk Management Policy, dealing with the management of property investments, adopted at council's Audit and Risk Committee meeting in August 2014. It is considered prudent for the Chief Executive to seek the Property Subcommittees views on the lifting of easements.

Financial implications

There are minimal financial implications if the Chief Executive negotiates to have the cost of lifting the easements met by Port Nikau and also Ballance and Port Nikau reach an agreement on the removal of infrastructure and the reinstatement of the land.

Community views

The wider community/ratepayers are not significantly affected.

Māori impact statement

Council previously consulted on the managing of its property portfolio in successive Annual and Long Term Plans. There were no specific concerns raised from Māori or iwi groups in respect of proposals. The proposed lift of easements has no specific impact on Māori.

Authorised by:

Name: Malcolm Nicolson
Title: Chief Executive Officer
Date: 28 March 2018

TITLE: Business with the Public Excluded

ID: A1030268

To: Property Subcommittee, 4 April 2018

From: Alicia Jurisich, Property Officer

Date: 26 March 2018

Executive summary

The purpose of this report is to recommend that the public be excluded from the proceedings of this meeting to consider the confidential matters detailed below for the reasons given.

Recommendations

1. That the public be excluded from the proceedings of this meeting to consider confidential matters.
2. That the general subject of the matters to be considered whilst the public is excluded, the reasons for passing this resolution in relation to this matter, and the specific grounds under the Local Government Official Information and Meetings Act 1987 for the passing of this resolution, are as follows:

Item No.	Item Issue	Reason\Grounds
4.1	Confirmation of Confidential Extraordinary Property Subcommittee Meeting Minutes 13 March 2018	The reasons for excluding the public are as stated in the minutes of the open section of the meeting.
4.2	Purchase of CBD Properties in Order to Freehold	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h).
4.3	Sale of Council's Lessor Interest to Freehold a CBD Property	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h).

4.4	Update of Property Subcommittee Action Notes	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h).
4.5	Site visit: Investment Opportunity	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to carry on, without prejudice or disadvantage, commercial activities 7(2)(h).

Considerations:

1. Options

Not applicable. This is an administrative procedure.

2. Significance and Engagement

This is a procedural matter required by law. Hence when assessed against council policy is deemed to be of low significance.

3. Policy and Legislative Compliance

The report complies with the provisions to exclude the public from the whole or any part of the proceedings of any meeting as detailed in sections 47 and 48 of the Local Government Official Information Act 1987.

4. Other Considerations

Being a purely administrative matter; Community Views, Māori Impact Statement, Financial Implications, and Implementation Issues are not applicable.

Authorised by:

Name: Phil Heatley
Title: Strategic Projects Manager
Date: 27 March 2018