

Property Subcommittee
Wednesday 5 December 2018 at 2.00pm

AGENDA

Property Subcommittee Agenda

Meeting to be held in the Committee Room
on Wednesday 5 December 2018, commencing at 2.00pm

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

MEMBERSHIP OF THE PROPERTY SUBCOMMITTEE

Chair, Councillor Penny Smart
Councillor John Bain Councillor Bill Shepherd (Ex-Officio) Councillor David Sinclair

Item	Page
1.0 APOLOGIES	
Councillor Stolwerk	
2.0 DECLARATIONS OF CONFLICTS OF INTEREST	
3.0 CONFIRMATION OF MINUTES	
3.1 Confirmation of Minutes - 3 October 2018	3
4.0 REPORTS	
4.1 Port Nikau - Buffer Zone Easement	7
5.0 BUSINESS WITH THE PUBLIC EXCLUDED	10
5.1 Confirmation of Confidential Minutes - 3 October 2018	
5.2 Harvesting of the 1991 Mount Tiger Forestry Block	
5.3 Leasing Out a Dargaville Property	
5.4 Waipapa Investment Opportunity	
5.5 Receipt of Action Sheet	

TITLE: Confirmation of Minutes - 3 October 2018

ID: A1132388

From: Nicole Inger, Property Officer

Recommendation

That the minutes of the Property Subcommittee meeting held on 3 October 2018 be confirmed as a true and correct record.

Attachments

Attachment 1: 2018-10-03 - Property Subcommittee Minutes 3 October 2018 [↓](#)

Authorised by Group Manager

Name: Phil Heatley

Title: Strategic Projects Manager

Date: 27 November 2018

Property Subcommittee Minutes

Meeting held in the Committee Room
on Wednesday 3 October 2018, commencing at 2.00pm

Present:

Chair, Councillor Penny Smart
Councillor John Bain
Councillor Bill Shepherd (Ex-Officio)
Councillor David Sinclair
Councillor Rick Stolwerk

In Attendance:

Full Meeting
Strategic Projects Manager
Property Officer

Part Meeting
Ian Jenkins – Forestry Consultant

The Chair declared the meeting open at 2.05pm.

Apologies (Item 1.0)

Moved (Shepherd/Sinclair)

That the apologies from Chief Executive Malcolm Nicolson for non-attendance be received.

Carried

Declarations of Conflicts of Interest (Item 2.0)

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

1. Confirmation of Minutes - 5 September 2018 (Item 3.1)

ID: A1111445

Report from Alicia Jurisich, Property Officer

Moved (Bain/Sinclair)

Recommendation

That the minutes of the Property Subcommittee meeting held on 5 September 2018 be confirmed as a true and correct record.

Carried

2. Mount Tiger Forest Quarterly Report July - September 2018 (Item 5.1)

ID: A1111658

Report from Nicole Inger, Property Officer

Moved (Sinclair/Bain)

Recommendation

That the report 'Mount Tiger Forest Quarterly Report July - September 2018' by Nicole Inger, Property Officer and dated 24 September 2018, be received.

Carried

Business with Public Excluded (Item 6.0)

Moved (Sinclair/Bain)

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	Reasons/Grounds
6.1	Confirmation of Confidential Minutes - 5 September 2018	The public conduct of the proceedings would be likely to result in disclosure of information, as stated in the open section of the meeting -.
6.2	Presentation - Developer Group Proposal for New Facility	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h).
6.3	Heads of Agreement regarding Kaipara Property	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h) and the withholding of which is necessary to enable council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) s7(2)(i).
6.4	Request to Sell a Hihiaua Precinct Property	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h) and the withholding of which is necessary to enable council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) s7(2)(i).
6.5	Request to Purchase Whangarei CBD Properties	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable

		council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h) and the withholding of which is necessary to enable council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) s7(2)(i).
6.6	Receipt of Action Sheet	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h).

Carried

Secretarial Note:

The subcommittee decided that the Property Subcommittee Meeting will not be held on 14 November 2018. Next meeting will be at 2pm on 5 December 2018 in the Committee Room.

Conclusion

The meeting concluded at 4.05pm.

TITLE: Port Nikau - Buffer Zone Easement

ID: A1132572

From: Phil Heatley, Strategic Projects Manager

Executive summary

The owners of the Port Nikau development in Port Road, Whangarei, have requested that council lift an easement that unintentionally extends the Ballance Agri-Nutrients Buffer Zone across Port Nikau titles created in a recent subdivision. Legal counsel advises that there is no disadvantage to Council in the proposed surrender.

This paper is to inform the Property Subcommittee that the Chief Executive intends surrendering the easement as it relates to the affected titles.

Recommendation

That the report 'Port Nikau - Buffer Zone Easement' by Phil Heatley, Strategic Projects Manager and dated 26 November 2018, be received.

Background

In October 2018, council received a request from Port Nikau's lawyer for the surrender of the Ballance Agri-Nutrients (Ballance) Buffer Zone in respect of land at Port Nikau that was never intended to be within the Buffer Zone area. The Council, along with Ballance, is shown in the easement document as having the benefit of the Buffer Zone covenants (the Grantee).

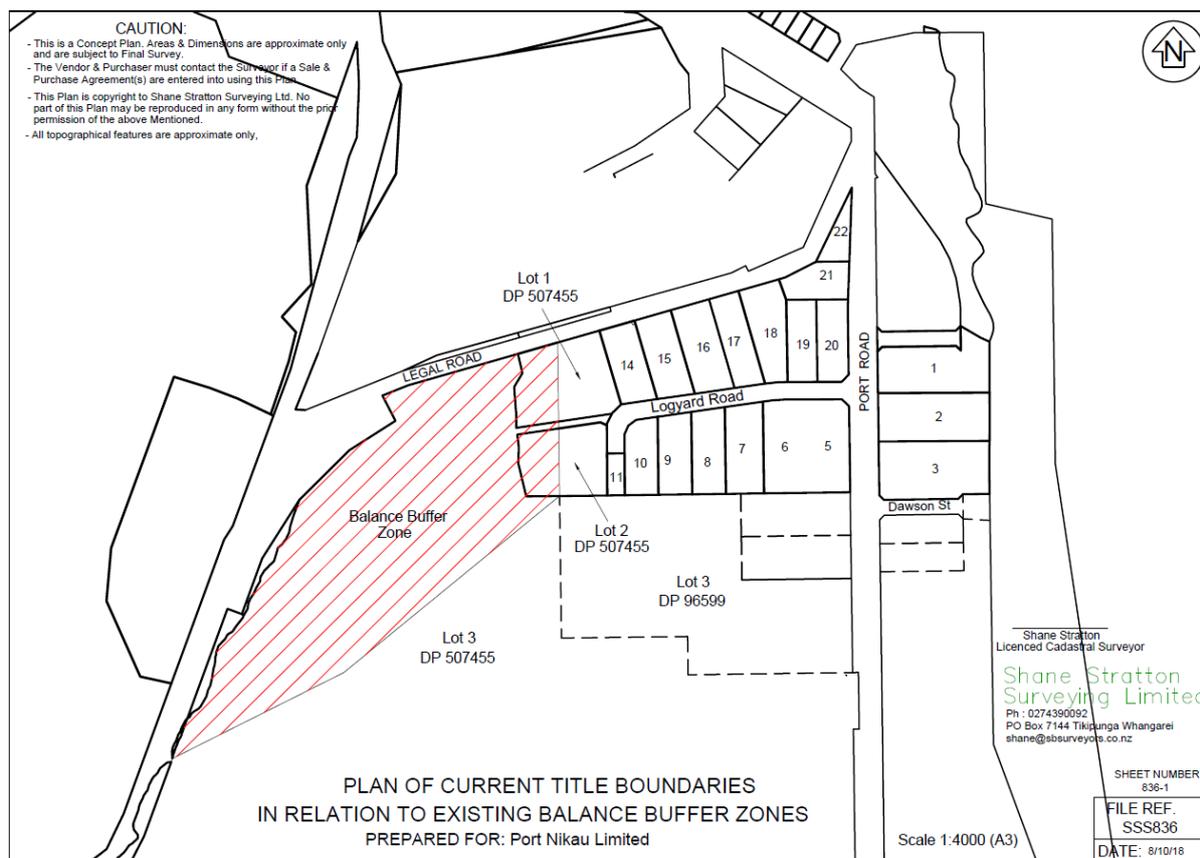
Recently, a boundary adjustment was undertaken by two respective Port Nikau Joint Venture entities resulting in the titles shown as Lot 1 DP 507455 (CT 770934) and Lot 2 DP 507455 (CT 770935) in the plan below. This led to the easement instrument coming down on the lots along Logyard Road. Effectively, this extended the Ballance Buffer Zone area from its original boundaries.

Then, with subsequent subdivision creating smaller parcels, the easement has come down on to the individual titles for these lots as a result of it being registered on the head title. However, the Buffer Zone does not apply to the land in question.

Therefore, the Port Nikau request is for the surrender of the easement on the following subdivision titles that the Buffer Zone does not effect:

Lot 5 DP 529749 (CT 859238)	Lot 22 DP 529749 (CT 859243)
Lot 6 DP 529749 (CT 859239)	Lot 7 DP 525812 (CT 842583)
Lot 19 DP 529749 (CT 859240)	Lot 8 DP 513966 (CT 796151)
Lot 20 DP 529749 (CT 859241)	Lot 9 DP 513966 (CT 796152)
Lot 21 DP 529749 (CT 859242)	Lot 10 DP 513966 (CT 796153)

Plan of Port Nikau Title Boundaries



The Easement Instrument is to remain registered in favour of Ballance and council in respect of the following servient tenements:

Lot 1 DP 507455 (CT 770934)

Lot 3 DP 507455 (CT 770936)

Lot 2 DP 507455 (CT 770935)

The Easement Instrument will remain registered on the following titles, even though they are not in the original buffer zone area, as they have been already sold to third parties and owners are not requesting removal of the easement from these lots:

Lots 14 – 16 DP 513966 (CTs 796154 – 796156)

Lots 17 – 18 DP 525812 (CTs 842581 & 842582)

The Easement Instrument is not registered on the title for Lot 11 DP 487202 and Lot 3 DP 96599. Hence, they are not to be included in the current partial surrender.

Council's lawyer advises as follows:

- i. I have reviewed the easement documents and there is no disadvantage to the Council in the proposed partial surrender of the Ballance Buffer Zone. On that basis, the surrender can be agreed.
- ii. The Buffer Zone does not apply to the lots over which removal is now requested.

- iii. The surrender and removal of the Buffer Zone in respect of these specific lots will not affect the application and enforceability of the Buffer Zone easement to its existing area as shown in the plan overlay.*

The Buffer Zone is not being altered or changed so, legally, Ballance consent is not required. However, as a matter of process Land Information New Zealand are seeking Ballance consent, which is being given.

Port Nikau is to pay all council's reasonable costs for the easement surrender process, including legal advice to date.

Therefore, it is the intention of the Chief Executive so sign the Authority & Instruction Form which authorises the surrender and removal of the easement from the titles of the affected lots. Should owners of other affected properties approach council with a comparable request the Chief Executive will treat them equitably having taken legal advice.

Attachments

Nil

Authorised by Group Manager

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

TITLE: Business with the Public Excluded

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	Reasons/Grounds
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5.3	Leasing Out a Dargaville Property	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h) and the withholding of which is necessary to enable council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) s7(2)(i).
5.4	Waipapa Investment Opportunity	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(2)(h) and the withholding of which is necessary to enable council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) s7(2)(i).
5.5	Receipt of Action Sheet	The public conduct of the proceedings would be likely to result in disclosure of information, the withholding of which is necessary to enable council to carry out, without prejudice or disadvantage, commercial activities s7(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.