

5. BLENHEIM ROAD DEVIATION

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Corporate Plan Output: Rooding Network Planning	

At a special meeting of the Council on 29 November 2000 it was resolved, subject to the conditions contained in the public excluded section of this report, to proceed with the proposed Blenheim Road deviation provided the cost, including land acquisition and roading, less recoveries did not exceed \$9,993,000.

The purpose of this report is to:

- (1) Confirm that the financial objectives have been achieved; and
- (2) To report on the alternative alignment adopted by the Sub-committee, provided for and in accordance with recommendation 6 of the 29 November 2000 Council resolution and as depicted on the attached plan (appendix 1); and
- (3) To recommend to the Council the adoption of the special conditions relating to the respective agreements with the property owners affected.

1. BACKGROUND

1.1 State of Existing Bridge

The existing Blenheim Road rail over-bridge is of inadequate width to safely cater for needs of all road users (including cyclists and pedestrians). The bridge approaches ('crib-walls') are in poor condition and require remedial work to prevent spalling and slumping of the roadway work – certainly within the next 2-3 years. The bridge itself would need strengthening work to withstand a significant earthquake event. Preliminary investigations by City Design have however concluded that strengthening of the bridge is unlikely to prove a cost-effective solution (because the proposed immediate maintenance of the approaches is unlikely to guarantee their survival in the same event).

The proposed most cost-effective ("Do-minimum") solution is therefore:

- Within next 2 years: Repair crib-walls on approaches and provide clip-on cycle/pedestrian width extensions. Do NOT strengthen bridge at this stage. The immediate cost of this option would therefore be approximately \$480,000.
- Reconstruct a new bridge, including approaches following collapse of the existing bridge during a significant earthquake event (bearing in mind that that the bridge does not carry essential utility services.) The cost of this replacement at current value is estimated to be approximately \$2.3m(plus), with a 65% chance of this expenditure being required in the next 50 years.

2. Legal Issues

2.1 Public Works Act

Compulsory Acquisition

It was reported to the Council that it was not possible to acquire the land compulsorily under the public Works Act without first designating the land.

2.2 Resource Consent

- (i) For the deviation to proceed it will be necessary for the Council to obtain a resource consent. Given the Council's involvement it will be necessary to appoint a Commissioner to determine whether the application should be notified although that seems likely. Without any objections and appeals the resource consent could take a minimum of three to four months. This will not prevent Ngai Tahu Property Group Limited from commencing their development of the adjacent site.
- (ii) The agreement reached with the respective parties are not conditional upon resource consents being obtained this being accepted and acknowledged by the Sub-committee as a Council responsibility. In respect of this issue the Council's solicitor, Mr Sheard of Buddle Findlay, has reported as follows:

“You have asked for my comments in respect of the prospects of obtaining the above consents.

Resource Consents

1. *The proposed road deviation has been assessed as a non-complying activity under the Riccarton section of the transitional plan and a discretionary activity under the proposed plan. When assessing the risk of obtaining a resource consent consideration needs to be given to:*
 - (a) *The cost of obtaining a consent. Cost is invariably influenced by the need for notification and the ability to obtain the consent of affected parties. Costs can also mount if the consent is the subject of an appeal.*
 - (b) *The time to obtain a consent. This can be influenced by the need for consultation with affected parties and submitters and also the potential for delay due to appeal.*
 - (c) *The likely outcome. There can be no certainty in respect of outcome since in the final analysis a decision may turn upon the evidence of witnesses and a commissioner’s or court’s assessment of the value of that evidence when weighed against evidence produced in opposition.*
2. *The first matter influencing time and cost turns on a decision whether the application would need notification. Since Council is the applicant, if it wishes to pursue a non-notified application, then a commissioner will need to be appointed to make that decision. It seems unlikely that the requirements of Section 94(2) can be satisfied so that notification will be required.*
3. *As to the merits of the application, the relevant matters to be considered are set out in Section 104 RMA. Some effects will be generated from construction of the road but it is difficult to imagine that those effects will extend beyond the boundaries of the proposed road or cannot adequately be mitigated by suitable conditions. The effects from the road when constructed are likely to fall within the typical range of complaints including: increased traffic, changed traffic patterns, dust, fumes, noise, light and glare. In this regard:*
 - (a) *If consents are obtained from Ngai Tahu, McLean Institute, Mrs Ayton and the owner of the BP station, the effects on these properties will not be considered.*
 - (b) *Since the major part of the land through which the new road passes is vacant land neighbour complaint will be minimised.*
 - (c) *The major risk of complaint will be from properties on the periphery of the road, particularly the western end of Moorhouse Avenue, the block bounded by Lowe and Tyne Street, and properties at the corner of Blenheim Road and Mandeville Street. With the exception of the properties bounded by Lowe Street and Tyne Street, it is difficult to imagine any effects which will be dramatically different to those which previously existed.*
4. *There appear to be no relevant objectives, policies, rules or other provisions in either the transitional plan or the proposed plan which would otherwise preclude the issue of these consents. On my assessment therefore Council’s application for resource consent should be approved. The only concern then relates to timing and the necessity for dealing with any appeals.*

5. *As I understand it construction of the road is unlikely to commence prior to 30 June 2001. I imagine there is still some work yet to do to finalise design of the proposed road, with some aspects perhaps influenced by any conditions of consent to be given by TranzRail. It is only when final design has been completed that a resource consent application could realistically be lodged. Thereafter the timeframe depends upon the quality of the application lodged, the statutory timeframes, the number of submissions received (if any) and the ability to set the matter down for a hearing. In a perfect world it should be possible for all of these steps to occur prior to 30 June 2001, but I suspect there may be some slippage as a consequence of fine tuning the roading design. I see no reason why the consent stage should not be able to be completed by 31 December 2001 at the very latest.*

6. *The ability to commence construction following grant of the consent depends upon whether there is an appeal. In an earlier report the assessment was made that if the matter went to appeal a further two-year delay could be expected. In my experience however even well resourced appellants to RMA matters are now becoming more receptive to negotiated settlements. Often enough however the imperative to settle does not arise until a hearing date is on the horizon and real costs are being incurred. Assessed pragmatically therefore I think the potential for delay is better expressed as being not less than one year but not more than two years, with the potential to resolve issues by agreement well within that shorter timeframe. Needless to say if the matter can be resolved short of a hearing there will be a corresponding reduction in costs incurred in obtaining the consent.*

TranzRail

The rail corridor is leased to TranzRail by the Crown. TranzRail views the rail corridor as being its domain and it will view the proposals for a new road over the rail line in the same way that any other transport operator would view the activities of a competitor. At the end of the day I think the consent will be given but Council can expect a hard bargain to be driven. Council would be expected to comply with TranzRail's technical construction specifications and an indemnity on very broad terms is likely to be sought in respect of any losses suffered as a result of any accident during the period of construction or following construction. I think it likely that TranzRail's consent will be given within timeframes shorter than those necessary to obtain a resource consent."

3. Other Alignment Options

The Sub-committee has previously considered a wide range of alternative alignment options, ranging through those that essentially were potential developments of the "Do-minimum" (retaining the existing bridge), those that traversed the former Saleyards site (rather than the former-Workshops sites), to those that traversed the southern-Saleyards site but had alternative alignments north of the railway west or east of Lowe Street. Land and construction cost estimates for some 11 options in all were developed and considered by the Sub-committee along with other relative advantages and disadvantages including net property cost.

- 3.1** In considering the various options the Sub-committee noted the following in respect of each option:

Status Quo with Minimal Maintenance

- (i) This offered the cheapest solution if the existing roading pattern was to be retained with its inherent traffic problems.
- (ii) The existing bridge was a risk in a major earthquake which the Council could ultimately be called to replace.
- (iii) It offered no solutions to the continuing problem of car parking for Hagley Park. In effect it virtually removed the possibility of it being provided by virtue of the cost of acquiring additional land.
- (iv) It did not encourage the redevelopment of the former saleyards site for residential purposes because of access, noise and traffic (including pedestrian safety) problems.
- (v) With the development of the major retail outlet the road could be expected to attract higher volumes of traffic increasing the above adverse effects.

Option 1 – Preferred Deviation – Through The McLean Institute Land

With respect to the preferred option the Sub-committee noted the following should the Council resolve to proceed:

- (i) In terms of roading construction costs, this was the cheapest and most cost effective design of the alternative deviations considered.
- (ii) It was satisfactory from a traffic design point of view.
- (iii) It minimised the impact on neighbouring properties.
- (vi) Resulted in the Council only needing to deal with two property owners as opposed to up to 12 on other alternative alignments.
- (v) Achieved the objectives of securing car parking for Hagley Park without direct property purchase which has been a problem for the Council for many years.
- (vi) Reinforced the residential boundary of the saleyard site.
- (vii) Provided for continued traffic movement along Deans Avenue between Moorhouse Avenue and Riccarton Road at a greatly reduced level which could enhance and promote the prospect of further residential redevelopment within the area.
- (viii) The reduction of traffic on Deans Avenue would create a safer environment for the users of Hagley Park, particularly children.
- (ix) It noted that this was the only opportunity available to the Council to proceed with a deviation on this preferred alignment given the imminent development of the retail outlet.
- (x) The preferred alignment maximised the area available for commercial redevelopment on the southern site to be purchased from and sold back to Ngai Tahu.
- (xi) It minimised the cost of the bridge over the railway by reducing the span width compared to other alignments considered.
- (xii) The alignment increased the visibility of the existing businesses in Lowe Street which could lead to redevelopment within the area.
- (xiii) It released areas of Blenheim Road when stopped for subsequent sale to adjoining owners including potentially Placemakers which it is believed is considering redeveloping the site as well as enabling the saleyard site which is currently separated by the road to be amalgamated to provide additional opportunities for residential development.
- (xiv) The deviation created a more direct and convenient route to the proposed retail development which it perceived would be a destination point.

3.2 Second Preference Alignment Option

As a consequence of agreement not being reached with The McLean Institute and in accordance with clause 6 of the Council's 29 November 2000 resolution the Sub-committee has recommended, subject to the successful conclusion of negotiations with the owner of number 4-8 Moorhouse Avenue, that the alternative alignment as depicted on the attached plan (appendix 1) be adopted. In respect of this the Sub-committee noted:

- (i) It was a cheaper option (not in theory but in practice) than option 1.
- (ii) The alignment was still satisfactory from a traffic point of view.
- (iii) It minimised the impact on The McLean Institute building although a small exchange of land was still required.
- (iv) The considerations referred to in 3.1 above still apply and were appropriate to the second preference alignment.

4. LAND ACQUISITION

As a consequence of the new alignment there are now four property owners directly affected, these being, Ngai Tahu Property Development Limited, The McLean Institute, the BP service station and the owner of no. 4-8 Moorhouse Avenue. Full details of the potential acquisition costs of the respective properties are included in the public excluded section of this report. With respect to each transaction the following should be noted:

4.1 Ngai Tahu Property Developments Limited (NTPDL)

As the Council is aware, the NTPDC is holding Resource Consent to proceed with an alternative development depending upon whether the deviation proceeds. Their preferred development which has a planned opening date of 1 October 2001 provides for access from Blenheim Road without the deviation. To achieve this date the Company requires a decision from the Council by 14 December 2000 if it is not to incur substantial losses through development and construction delays.

The Company has however indicated a willingness to accommodate the deviation but is understandably concerned at how long the process could take given the wish of the Council to publicly consult over the funding process and to obtain a Resource Consent to proceed with the deviation. The Company is prepared to facilitate the deviation subject to: the Council purchasing the southern site comprising 4.6380 ha with the Ngai Tahu Property Group entering into an unconditional contract to purchase back approximately 3.7067 ha. The full details and conditions of the transaction are outlined in the public excluded section of this report.

4.2 The McLean Institute Property

If the deviation is to proceed it would be necessary for the Council to acquire a severance from the southern boundary to the property the loss of which can be offset and replaced with surplus land to be acquired by the Council to the west of the site. The proposed exchange is depicted on the plan attached to the Public Excluded section of the report (appendix 2).

4.3 4-8 Moorhouse Avenue

The new alignment will require the purchase of the above property which contains an office block and caryard. While it will be necessary to remove the office building, only a severance is required from the caryard frontage which can be compensated for through the provision of additional land lying to the west of the property.

4.4. BP Station Site

A small severance is required from this property.

5. OVERALL PROJECT COSTS

It is estimated that the net present value of option 2 of the deviation, including land costs / road construction together with land recoveries, and contingencies to be \$9.953M which is within the financial "envelope" previously accepted by the Council.

Full details of the project costs are included in the public excluded section of this report.

6. FUNDING

The Director of Finance has commented in respect of this issue as follows and also in the public excluded report:

"Variation from the Annual Plan and Long Term Financial Strategy

This project has not been included in the Council's Financial Plan or long term forecasts nor has it been foreshadowed in the City Plan to date. As the cost involved is significant it is doubtful whether such a commitment should be made without some form of public consultation. While there is no strict legal requirement I believe that it is in the spirit of the legislation that as a minimum suitable advertisements should be placed and public submissions called for on the proposal before a final commitment is made."

7. CONSULTATION

In accordance with the previous Council resolution it is intended to carry out further consultation to augment the consultation already undertaken for the current year's annual plan giving full details of the now fully developed proposal and increased capital expenditure, by 15 January 2001. The consultation will be with regard to the source of funds, rather than whether or not the project proceeds (as the resolution below, if adopted, commits the Council to the project).

Recommendation: That the Council consider the recommendations included in the public excluded section of this report.