

## 1. LEASE OF FORMER PAGES ROAD WORKS OPERATIONS DEPOT TO RECOVERED MATERIALS FOUNDATION

<b>Officer responsible</b> Property Manager	<b>Author</b> Property Asset Officer, Grant Ancell
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The purpose of this report is to seek approval to lease the former Works Operations Depot at Pages Road to the Recovered Materials Foundation.

### INTRODUCTION

In July 2000, a report was presented to the Projects and Property Committee recommending that the Council lease an area within the Pages Road Treatment Works site to the Recovered Materials Foundation (RMF).

At its meeting on 27 July 2000, the Council resolved:

*“That a lease of the ex Works Operations depot and associated enclosed yards together with public access off Pages Road and rights to 119 car parks be offered to the Recovered Materials Foundation for a term of five years on terms and conditions acceptable to the Legal Services Manager and the Property Manager, and be bought back to the Projects and Property Committee for its consideration.”*

### SITE DETAILS

This site is located immediately behind the residential properties in Shortland Street and beside the waste treatment facilities. Access is predominantly from Pages Road. Improvements consist of two high stud portal-framed warehouses/garage structures both in excellent condition together with mezzanine floor office accommodation. Both buildings have sealed yards enclosed with high mesh fencing. Surrounding these building are sealed yards and driveways that provide secondary access to the balance of the buildings on the site. A site plan is attached.

This site forms part of the land presently comprised in CT 10F/487 being part lot 3 DP 21264, and was originally acquired by the Drainage Board from Messrs A C & F A Iggo in August 1947 and was taken by Proclamation 445239 for the purpose of a sewage treatment works. The transfer from Messrs Iggo to the Drainage Board does not state the purpose for which the land was acquired and clearly it was required for general drainage purposes, directly or indirectly related to the sewage treatment works which were constructed on the adjoining land during the 1950s and 1960s.

The Legal Services Manager sought the opinion of Denis Sheard of Buddle Findlay as to the legal authority to lease the land. There was concern that a change of use may indicate that the land was surplus and may have to be offered back to its original owner. That opinion was in part:

*“That the land is not surplus to its general treatment works purpose merely by the fact that it has been used as a works depot nor by a proposal to lease the property by RMF. The land is clearly not surplus to the Council’s requirement, and no inference may be drawn from the lease that it is so surplus. Nothing in the Public Works Act requires Council to leave land not immediately required for a particular public work vacant and unused. Indeed fiduciary duty principles would argue for best utilisation of assets in the interim.”*

*“Section 45 of the Public Works Act allows the land to be leased for an unspecified period”.*

The land is zoned partly Open Space 3 and partly Conservation 1B under the proposed District Plan. The zoning under the Transitional District Plan does not require consideration since the proposed plan is in all relevant respects beyond alteration and is therefore the predominant planning document. The proposed land to be leased to RMF is located in the Conservation 1B zone. This zone does not preclude the use of the existing buildings. The RMF has undergone a publicly notified resource consent process and has obtained approval to carry out its intended business.

#### **VALUATIONS**

The valuer has assessed the net rental at a total of \$54,603 per annum, including the buildings, enclosed yards and car parks.

#### **NEGOTIATIONS**

Negotiations have been successfully concluded with the RMF on the following terms, subject to ratification by the Council:

<b>Term:</b>	Five years (5), - expiring 30 September 2005.
<b>Commencement date:</b>	1 October 2000.
<b>Rental:</b>	\$50,000 per annum plus outgoings, plus GST
<b>Rental Commencement:</b>	1 January 2001
<b>Rental Review:</b>	2.5 years – 1 April 2003
<b>Outgoings:</b>	RMF will be responsible for the normal tenant maintenance/outgoings costs, in accordance with the standard Auckland Law Society Lease.
<b>Lease form:</b>	Standard Auckland Law Society Deed of Lease.
<b>Property to be leased:</b>	As shown hatched on plan attached

In arriving at the negotiated rental figure the attention is drawn to the fact that the RMF did not employ the services of its own valuer, which under normal negotiating conditions would probably have resulted in a reduction of our figure to meet theirs. Given the nature of the premises, in particular the location, and taking into account the current market conditions in respect of supply and demand for such premises, the Council's valuer believes that the offer of \$50,000 on a net basis is reasonable, and should be accepted. Simes Valuation have also confirmed that in such leasing arrangements it is quite common to offer a rent free holiday in the order of 1 to 3 months. This should be perceived as a reasonable concession on the part of the land owner, for the benefit of securing a five year lease.

- Recommendation:**
1. That pursuant to Section 45 of the Public Works Act a lease be offered to the Recovered Materials Foundation for a term of five years commencing on 1 October 2000 at an annual rental of \$50,000 plus GST plus outgoings and in accordance with the terms and conditions detailed in the report.
  2. That the Property Manager be authorised to conclude and administer the lease.

(Note: Councillors Howell and O'Rourke retired from consideration of this clause, and took no part in the discussion or voting thereon.)