

## 2. HORNBY LAND – SOCIAL HOUSING DEVELOPMENT OPTIONS

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The purpose of this report is to provide an update on options to further develop some Council land at Hornby, currently held for social housing purposes.

### BACKGROUND

The Council owns a block of land (approximately 1.8 hectares) at Hornby, fronting onto the Main South Road at Goulding Avenue, and just across the road from the Hornby Mall. The land is zoned Living 2.

Approximately five years ago the Council put together a concept to develop the land with social housing in an environment with significant public access (walkways etc). The original intention was to seek registrations of interest (ROI) from developers keen to develop this site; this would have led to a request for proposals (RFP) process.

As a precursor to the above, in 2002, the Council opened a block of 23 elderly persons' housing units on part of this land.

It should be noted that the original concept for extensive development of the total block for housing was the subject of a significant public consultation process prior to an application through the City Plan process to reclassify the land from Open Space to L2.

### CURRENT SITUATION

The Council has recently completed an Asset Management Plan for its Housing Portfolio which limits scope for significant (additional) Council funded development over the next few years. Accordingly, there would have to be a preference for shared funding or partnership arrangements for any development of this land.

We have taken the opportunity of seeking a legal opinion on the Council's capacity to develop the site by itself or with others, along with some risk analysis of various options.

In summary, Buddle Findlay have advised as follows:

- (a) *We could not see any legal reason why the Council should not undertake the proposed development as it is broadly in line with one of the stated purposes of Local Government under the LGA 2002 and does not contravene any other statutory provision that we are aware of.*
- (b) *We do not see any particular objections to any of the four options you raise but set out our view on the advantages and drawbacks of each below.*
- (c) *The financial element of risk can easily be minimised in relation to each of the four options. However, the Council should also consider the risks to its desired outcomes if it surrenders too much control to other parties like Central Government or Housing New Zealand Corporation (HNZC).*
- (d) *We make a number of suggestions in relation to each of the options you have outlined. Other than this we cannot suggest any variations to the proposal that would enhance the overall outcome at this stage.*

### OPTIONS

The following options have been considered:

#### Option 1

In this option the Council would make the land and the development concept available for subdivision by either itself or others, Council retaining ownership of the land. The Council would then lease sections to low income earning families, (meeting strict criteria) at a discounted (social) rate, with the ability of lessees to purchase the freehold. We have approached Kiwibank with a view to them providing a mortgage for houses against the security of land leases. Kiwibank have indicated an interest to further consider our proposal.

Buddle Findlay have questioned why we would limit it to one bank but have also confirmed that such an action would not contravene the Commerce Act.

Buddle Findlay have advised that under this option purchasers could have the opportunity to purchase either the land and improvements or improvements only. A fee simple subdivision would be undertaken with the individual sections being leased on a Glasgow type lease arrangement. Such an arrangement would bridge the gap between equity and borrowing and the full market value of the land and buildings. However, this arrangement does have its disadvantages, namely a corresponding reduction in capital growth to the lessee and problems in setting rental values. Buddle Findlay also advised that it is possible for any borrowing in relation to a section to be secured against a registered leasehold interest, but that banks may treat such a proposal with some caution, as it is slightly unusual. A further difficulty is likely to be the process of setting a "social" rent for the land. Careful thought would also need to be given to the transferability of the leasehold estate.

Buddle Findlay have suggested that the same objective could be achieved by simply renting both the land and the improvements to qualifying families with provision in the lease for the tenant to purchase the land and improvements under an option type arrangement. This alternative of course predisposes that the Council would undertake the development of the land itself (at significant cost). The purchase price could be set below market value (say cost) for qualifying purchasers. Under this scenario the Council could protect itself by:

- (a) Reserving a right of first refusal if a property was subsequently sold; and/or
- (b) Proposing a requirement to share any capital gain on sale (as in existing Council "own your own" arrangements).

A Caveat or Memorandum of Encumbrance on the title of any properties sold would protect the Council's interest. This variation has the advantage of comparative simplicity which should make it easier to administer and more attractive to participants and their financiers. It also avoids the difficulty of setting and maintaining land rent at "social" levels.

Buddle Findlay suggest that this variation is more attractive than the Glasgow lease scenario.

## **Option 2**

Option 2 runs along the lines of Option 1, but with perhaps a third partner such as HNZA being involved in the lease or purchase of the property and the provision of State owned social housing. Exploratory discussions with HNZA have confirmed their interest in such an option.

Buddle Findlay have commented that this seems a sensible option to explore with a further variation to the model whereby the Council contributes the land and HNZA carries out the construction of the development. On the completion of the developments, units equivalent to the value of the land could remain in Council ownership and rented with the Council as landlord. The rest of the units could be transferred to HNZA in satisfaction of their construction costs for them to manage.

Under this Option, Buddle Findlay have advised that a leasing arrangement to HNZA would seem to have little to offer. Under either of these scenarios the Council may wish to impose conditions on any transfer of the land to HNZA to ensure that the land is always used for social housing purposes.

## **Option 3**

Option 3 follows on from Options 1 and 2 but with some property being freehold for private purchase.

Buddle Findlay have commented that an attraction of this option is that it would dilute the social housing aspect of the development. We would concur with this. The other attraction of this option would be a lessening of risk for the Council as it would enable the realisation of some of the land investment immediately. In doing this the Council would lose control over the development of the sections sold for private development, though some things would be capable of control via a land covenant type arrangement – such as the type and standard of dwelling constructed on the land etc.

## **Option 4**

Option 4 is where the Government, through Local Government New Zealand, have recently advised that they would be willing to fund the construction of social housing on Council owned land, (probably with certain provisos, such as caveats to ensure the initial purpose of social housing remains in perpetuity, and that social rents are charged). This has not been confirmed by the Government, and recent talk in local government circles indicates that the Government is only likely to fund a portion of construction costs for new development.

Buddle Findlay see no reason in principle why the Council should not pursue Option 4 in respect of all or part of the proposed development. A lump sum grant to the Council to construct the housing on the land would give a greater degree of control to the Council (subject to any provisos that Government may have) but would mean increased responsibility for the Council to ensure that the goals are achieved. This option could also be seen as decreasing the Council's flexibility to deal with the development as it sees fit in years to come.

## **Option 5**

This is the "do nothing" option. It is the option that the Property Manager would recommend if some form of partnership/Government funding cannot be achieved in the short term. As previously advised, the Housing Asset Management Plan allows for some relatively minor new development over the next 10 years.

## **RISKS TO THE COUNCIL**

In summary, Buddle Findlay have advised as follows:

- It will be possible to minimise the financial risk to the Council in relation to each of the options outlined. One method by which the Council could minimise its risk would be to retain the benefit of the reversionary interest in the land and, if appropriate, a security interest in the land and/or improvements thereon.
- From a financial point of view the least risky option would be a combination of Option 2 and the scenario discussed above where the Council contributes the land and HNZA would develop and manage the development. The Council could retain a reversionary interest in the entire development and/or retain ownership of the proportion of units on the development which are equivalent in value to the value of the underlying land.
- The Council may be less comfortable with a private developer carrying out the work as it will not have state backing. All the same, if the Council retains a reversionary interest in the property and has no financial exposure to the developer its risks in relation to the development can be reduced. The private developer would effectively be improving the Council's land so if it became insolvent the Council could re-enter the improved land and should theoretically be in a better position.
- As well as the financial dimension to risk, risk can also be considered in relation to the Council's desired outcome. The Council would like an attractive and affordable social housing development which enhances the neighbourhood and the lives of its residents. By surrendering control of the development, the Council also to a certain extent, surrenders controls over the outcome.

## **SUMMARY**

The Council has a number of options with regard to its land in Hornby.

Having gone through a public consultative process with a concept development for affordable housing, there is an expectation in the community for something to happen. Quite clearly there is a shortage of affordable rental properties currently and this is projected into the foreseeable future. HNZA research confirms this.

Accordingly, the "do nothing" option seems inappropriate. However, the timing for the Council to proactively develop this land is flexible and needs to be integrated with the capacity of the Housing Development Fund, if it is the Council's wish to have some reasonable involvement/say in the development. The opportunity to sell some of the land, interspersed amongst affordable housing is some attraction in terms of funding some of the development costs and in creating a more balanced community.

Housing New Zealand Corporation and Kiwibank have indicated an interest in joining the Council in some form of partnership yet to be explored. From discussions to date, it is unlikely given their current capital programme that they would have any significant capacity to build and own and so a lease type arrangement with a private developer/builder may be the more likely scenario.

The Government has indicated a desire for councils to remain in social housing but need to confirm some incentives for that to happen and for councils to expand their involvement. Discussion to date with Local Government New Zealand has indicated that the Government is likely to assist local authorities with the funding of new social housing initiatives, but this is yet to be contested/confirmed.

The Council's waiting list for existing housing fluctuates between 400 and 600 persons, depending on frequency of purging. We understand that HNZN also has a significant waiting list.

The best option is likely to be a combination of the options shown above, given the existing concept plan and area available, so accordingly the Council should be flexible in terms of its thinking.

**Recommendation:** That the Council advertise for Registrations of Interest to be involved in the development of the 1.8 hectare site bounding Goulding Avenue and the Main South Road with a view to seeking partnerships with both the private sector and HNZN for the development of a housing estate, generally in accordance with the existing concept plan developed through a community consultation process with affordable rental and rent to buy homes being available, integrated with private ownership.