

36. CENTRAL CITY PROPERTIES

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| General Manager responsible: | General Manager, Corporate Services, |
| Officer responsible: | Property Consultancy Team Leader, |
| Author: | David Rowland, Property Consultant, DDI 941 8861 |

PURPOSE OF REPORT

1. The purpose of this report is to:
 - (a) advise the Council of the current position with regard to the Conditional Options Agreement between the Council, SOL Development Corporation and David Henderson;
 - (b) recommend that steps be taken to terminate the agreement.
2. Authority is also sought to offer the Sydenham Square site to the market by way of a Request for Proposal given the high level of market interest in this site.
3. The report also provides an update to the Council on some other properties located within the Central City and recommends that following the adoption and approval of the Central City Plan staff report back to Council with amended timeframes for development.

EXECUTIVE SUMMARY

4. The Council is currently party to a Conditional Options Agreement with SOL Development Corporation and David Henderson.
5. Because Mr Henderson has been adjudged bankrupt, the Council is entitled to consider taking the appropriate steps to terminate the agreement.
6. If this decision is made and the agreement successfully terminated the Council is free to deal with the properties that are included in the agreement.
7. Given the level of unsolicited interest that has been shown by the development community in the Sydenham Square site and to also positively support the Sydenham community as part of this report it is recommended that the site be offered by way of a Request for Proposal process.
8. Council also holds a number of other properties in the central city that had previously been identified for development as part of the Central City South Master Plan. Staff are in the process of obtaining engineering assessments for these properties following the earthquake and will report further to Council in the August and December 2011 facilities reports. Timeframes for development of these properties should be considered by Council following adoption and approval of the Central City Plan.

FINANCIAL IMPLICATIONS

9. There will be costs associated with an RFP process for Sydenham Square however these will be met from within the Property Consultancy budget.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

10. Yes.

LEGAL CONSIDERATIONS

11. On 1 August 2008 the Council entered into a Conditional Options Agreement with SOL Development Corporation Ltd. The obligations of the company were guaranteed by David Henderson who has since been adjudged bankrupt.

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12. SOL Development Corporation has a share capital of 100 ordinary shares of \$1.00, held by FTG Trustee Services Ltd. Mr Henderson is the sole shareholder of that company. He is the only director of SOL Development Corporation and Ms K.L. Buxton is the only director of FTG Trustee Services Ltd. Her address on the Companies Office Register is the same as Mr Henderson's.
13. The Conditional Options Agreement gave SOL Development Corporation the opportunity to purchase properties owned by the Council. These had been bought from other Henderson companies on the same date as the Conditional Options Agreement was completed.
14. At its meeting on 28 May 2009 the Council resolved to grant SOL Development Corporation an option to purchase part of one of those properties, the Para (North) Site. The option lapsed in December 2010 because SOL Development Corporation couldn't settle the purchase or carry out a development of the property.
15. Since then David Henderson has been adjudged bankrupt. Any rights to property that he had have been extinguished and vested in the Official Assignee. This included Mr Henderson's shares in FTG Trustee Services Ltd. As a bankrupt, he is prohibited from being a company director under the Companies Act 1993 and cannot deal with, sell or dispose of any of the assets of FTG Trustee Services Ltd, including that company's shares in SOL Development Corporation Ltd.
16. The Conditional Options Agreement provides that the Council is not bound to grant an option to purchase to SOL Development Corporation Ltd unless the Council is satisfied that the company has the ability, in the Council's sole judgement, to carry out and complete a development on any of the properties covered by the agreement.
17. Further, the Council may decide, in its sole judgement, not to grant SOL Development Corporation the opportunity to exercise the option to purchase if the Council believes that neither the company nor Mr Henderson has the ability to complete its obligations.
18. If the Council exercises its judgement and decides not to grant SOL Development Corporation Ltd an option to purchase all or a part of the properties then the Council may terminate the Conditional Options Agreement with immediate effect or on a date that the Council considers appropriate.
19. Given Mr Henderson's current circumstances and the obvious effect that this will have on the financial viability of SOL Development Corporation Ltd, it is open to the Council to decide that neither of them has the ability to complete their obligations under the Conditional Options Agreement and that written notice of the termination of the Conditional Options Agreement should be given.
20. Because of the opportunities opening up for redevelopment of the central city it is recommended that the Council makes this decision.

Have you considered the legal implications of the issue under consideration?

21. Yes.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

22. Not applicable.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

23. Not applicable.

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ALIGNMENT WITH STRATEGIES

24. Not applicable.

Do the recommendations align with the Council's strategies?

25. Not applicable.

CONSULTATION FULFILMENT

26. If the Council decides to terminate the Conditional Options Agreement Mr Henderson will be advised of that before written notice is given.

27. Any party with an interest in the properties covered by the Conditional Options Agreement will have the opportunity to respond to the ROI.

STAFF RECOMMENDATION

It is recommended that Council:

- (a) Authorises the General Manager Corporate Services to take immediate and all appropriate steps to terminate the Conditional Options Agreement between the Council and SOL Development Corporation Ltd in accordance with the provisions of that agreement.
- (b) Authorises the General Manager Corporate Services to seek development proposals for the Sydenham Square site that are consistent and align with the Council's planning intent for the locality and that the preferred option be reported to the Council for determination at the earliest possible time.
- (c) Agrees that staff report back to Council with amended timeframes for development for other central city properties following the adoption of the Central City Plan.

BACK GROUND

Central City Properties

28. The Council has various land holdings within the Central City (Red Zone) that have been impacted by the February and June earthquakes. The extent is varied and comment on the current situation for each property is as follows however excluded are properties such as the Central Library, Lichfield Street Bus Exchange, Lichfield & Manchester Street car parking buildings plus Centennial Pool. The status and proposed repair and rebuild plans for these facilities will be reported to Council in August and December 2011.

Para Site:

29. A separate report considering a short-term use of this site has been prepared and is due to be considered by Council on the 28th July 2011. That report recommends that a Licence to Occupy be granted to EPIC Christchurch Ltd for a term of 3 years at nil consideration. This will enable EPIC sufficient time to establish the innovation campus concept then obtain a long term development site. Details of the EPIC concept are contained within the report due to be considered.
30. Any buildings that are erected on the Para site will be able to be relocated and the a short term nature of the licence will still enable the Council to plan and obtain longer term future proposals for the site generally that will be in accordance with the intent of the new Central City Plan.

Penny Cycles Site:

31. Portion of this property has sustained considerable structural damage and is beyond repair. CERA has issued the Council demolition notices over the southern portion of the site and it is anticipated the buildings will be demolished in the near future. The remaining Tuam/Manchester Street corner portion is subject to further structural investigation as part of the Council Insurance claim process, the buildings have replacement insurance cover.

Sydenham Square:

32. There has been positive enquiry from the development market concerning the likely opportunity of redeveloping this site. Two unsolicited concepts have been proffered and a possible 2 others showing interest in the Sydenham Square site. One is via a joint venture to develop the site for residential accommodation in such a manner that the building can be converted for alternate uses in the future, retail/offices. Initially the target market is for contractors and staff associated with the rebuild. The other is a development group who have a concept to develop the site as a destination focussing on a combination of eateries, restaurants, offices and a mix of residential accommodation.
33. Council has a standing policy of not dealing unilaterally with any one party without testing the general market. Given the level of interest that has been shown in this site, a short RFP period would be appropriate (no more than 3 weeks), then Council could select a proposal that will commence construction of a facility in short time and proceed with the proposal that achieves the best outcomes for the Council.
34. It is considered that an RFP process is the most appropriate method to seek proposals for this site, that process complies with Council policy and enables open dialog within applicants to be undertaken.

36 Welles Street

35. The rear portion of this property has sustained considerable damage and has partially collapsed however other parts appear in reasonable order. Dialog has commenced with our Insurance Company and we await an updated structural report. Then an agreed outcome relative to the future of the whole site can be finalised.

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163 Tuam Street (Former Council Offices)

36. This large structure has suffered damaged and visually looks considerably worse than what may be the case. Most of the external glassing was lost at the time of the February quake and it has been necessary to undertake all structural reporting and insurance processes again. The structure sustained considerably more damage following both the February and June quakes and although it is reported the structure is sound it does need considerable invasive inspections before any final conclusions can be made, it is anticipated that an updated report and scope of works should be available in around 8 weeks.
37. As the Red Zone Cordon remains in place this has had an impact on earlier tenant occupation and the tenant have relinquished their lease.

175 Tuam Street (Annex Building)

38. This site is yellow stickered and structural investigations and reporting has been commissioned to ensure all matters are compliant before we re-let the building. The reports are awaited. There are synergies relating to the level 2 stair way from 163 Tuam commented on above as the interconnecting access bridges are supported by a structure "attached" to the Annex. There are services/air conditioning units to also factor into the removal as well.