ITEM 4

REVIEW OF ACQUISITION OF 6(A) ZONED LANDS AT SANDON POINT
Report of General Manager (DF) 3/12/08 05.02.04.075

PRECIS
Legal advice into Council’s compulsion to purchase 6(a) zoned lands at Sandon Point owned by Stockland Development Pty Ltd has been received. This advice indicates that Council is under no compulsion to purchase these lands. Stockland Development Pty Ltd has been advised of this. It is proposed that purchase of these lands be removed from Council’s capital budget for the current year and that this change be incorporated into the next revision of the Section 94A Plan.

RECOMMENDATION
1 Note the legal advice that Council is under no compulsion to purchase the 6(a) zoned lands, being Lots 3 and 4 DP 588060, Lot 238 DP 1048602 and Lot 2003 DP 1047336, at Sandon Point.
2 The proposed acquisition of Lots 3 and 4 DP 588060, Lot 238 DP 1048602 and Lot 2003 DP 1047366 at Sandon Point, valued at $4.08m be removed from Council’s capital budget.
3 The purchase of Lots 3 and 4 DP 588060, Lot 238 DP 1048602 and Lot 2003 DP 1047366 at Sandon Point be removed at the next revision of the Section 94A Plan.

BACKGROUND
As part of the ongoing Sandon Point development, Council had for some time been negotiating the acquisition of two waterfront parcels of land at Sandon Point. These parcels had been negotiated at the following values:

<table>
<thead>
<tr>
<th>Description</th>
<th>Parcel Size</th>
<th>Negotiated Value as per Draft VPA</th>
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<tbody>
<tr>
<td>Lots 3 and 4 DP 588060, and Lot 238 DP 1048602</td>
<td>4.32 ha</td>
<td>$2.15m</td>
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<tr>
<td>Lot 2003 DP 1047366</td>
<td>2190 sq. m</td>
<td>$1.9m</td>
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This purchase was contemplated in a draft VPA which was endorsed by Council in principle, for advertisement in July/August 2007, but was not proceeded with.

A report was submitted to Council on 24 June 2008 recommending the purchase of these parcels of land. These negotiations were informed by valuations which were based on principles contained in the Land Acquisition (Just Terms Compensation Act 1991). Council resolved to explore the legal compulsion on Council to acquire these lands. As a result, Professor John Whitehouse of Minter Ellison Lawyers was commissioned to provide advice on this matter.

The advice from Professor Whitehouse indicates that Council is not under any legal obligation to purchase the lands. Professor Whitehouse advised that:

“…… it is our view such lands should be dedicated free of cost to Council as a condition of an appropriate consent or major project/concept plan approval.”

The conclusions have been conveyed formally to Stockland Development Pty Ltd. Consequently, it is proposed that the monies be removed from the current capital budget and this adjustment also be made to Council’s Section 94A Plan at the next revision.

PROPOSAL
It is appropriate that Council formally withdraw from the purchase process of the 6(a) zoned parcels of land, and remove funding for the acquisition from its capital budget and Section 94A Plan.
CONCLUSION

These two coastal parcels of land would be best in public ownership. Council is under no compulsion to acquire them. Given the advanced state of negotiations on purchase of these lands, it is appropriate that Council formally withdraw from the purchase process and remove funding for the acquisition from its capital budget and Section 94A Plan.

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<tr>
<th>Name</th>
<th>Position Title</th>
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<tr>
<td>David Farmer</td>
<td>General Manager</td>
<td>3/12/08</td>
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This report provides Administrators with all the relevant information and is correct at the time of writing. This information has been relied upon in preparing the report and its recommendations. Signed by:

ATTACHMENTS

There are no attachments for this report.