Attachment 7

KAIPARA
DISTRICT

6 Public Excluded Agenda - 25 February 2004

128 **6.1 Mangawhai EcoCare Project : Confirmation of Preferred Proponent and Agreement to Proceed - CE 4505.01**

A report from the Chief Executive is attached. The EcoCare Project was established with a primary goal of maintaining and protecting the water quality of the Mangawhai Harbour by establishing a community wastewater scheme.

Following a lengthy and intense public consultation process the Council resolved to proceed with the project and issued an invitation for expressions of interest. This resulted in the Council selecting Simon Engineering as its preferred proponent, based on a total project cost of $16 million. The selection was based on a comparison of net present values which compared as follows:

Simon Engineering	$22.9 million
Benchmark	$25.2 million
Northpower	$27.2 million
Earth Tech	$32.8 million

Simon Engineering's current offer is now $17.5 million due to inflation and the removal of all significant tags. The original contract having an acceptance period ending September 2002 it is reasonable to expect an escalation in the original offer. The Construction Cost Index for the year to September 2003 rose by 6.9% and for the two years to September 2003 has risen by 25%[1].

The major outstanding issue is the final disposal site which Simon Engineering has said it will deal with when it has a contract with Council. Council will recall the Te Ari Point disposal site was the most expensive option and some savings may arise. However, in the discussion on subsidy a contingency has been allowed.

The proposed fees and charges, before the application of subsidy remain unchanged from previous consideration at:-

Current Section		$ 1,450.00	
Future Section (after 22/10/2003)		$ 16,312.50	
Annual Charge	- Residential	$ 483.75	per property
	- Non residential	$ 483.75	per pan

Subsidy of $6.63 million is available. This is only available to current users, which has been defined as those present now and the demand for the next five years. It is suggested that final decisions on the use of subsidy not be made until the final proposal from Simon Engineering is received and the costs of the resource consent are known.

[1] September 2003 CPI Index NZ All Groups Report

At this time it is suggested that the following could be a base from which to undertake final consideration:-

Household physical connections	$	2.5	million
Additional Capacity/Areas required in next 5 years	$	1.5	million
Reduction of current start-up fees to $675	$	1.3	million
Contingency	$	1.33	million
Total	$	6.63	million

The inclusion of the debt for this project on Council's Balance Sheet will see Council breach its Treasury Policy in a significant way. However, Section 80 of the Local Government Act 2002 enables Council to do this without rewriting its Policy.

Council must clearly identify the inconsistency, the reasons for the inconsistency and any intention to remedy the matter. In this situation it is suggested that the inconsistency be allowed to remain on the grounds that it is a one off situation that is fully funded based on a robust financial model prepared by Pricewaterhouse Coopers and is sustainable over the life of the project.

1 Recommended

***That** Council confirms it wishes to proceed with the project and enters into a contract with Simon Engineering for the Design, Build, Fund and Operation of a Community Wastewater Scheme for Mangawhai subject to the following:*

(a) The Risk Profile adopted by Council is maintained.

(b) The total cost of the project does not exceed $18 million.

(c) Terms of the Term Loan Agreement do not change and do not restrict Council from prudently managing the remainder of Council's operations.

(d) The Chief Executive reports to Council, through the Steering Group, on the terms and conditions prior to final signing.

Reason for the recommendation

The proposal by Simon Engineering is acceptable to Council and maintains the financial and risk profiles already adopted by Council following the final special consultative process

2 Recommended

***That** Council reconfirms the funding regime proposal previously adopted for the Mangawhai EcoCare Project:*

NO	CLASSIFICATION	ONE OFF CHARGES		TOTAL	PAN CHARGES	
		Uniform Standard Charge	Development Charges		Residential	Non Residential
1	Current Section	$1,450.00	$0.00	$1,450.00	$483.75 per Section	$483.75 per Pan
2	Future Section Resource Consent & Title Issued Prior to 1/7/04	$1,450.00	$14,862.50	$16,312.50	$483.75 per Section	$483.75 per Pan
3	Future Section Resource Consent granted prior to 1/7/04 but title not issued.		$16,312.50	$16,312.50	$483.75 per Section	$483.75 per Pan
4	All other Future Sections		$16,312.50	$16,312.50	$483.75 per Section	$483.75 per Pan

Reason for the recommendation

The proposed regime has been legally checked and complies with all statutory requirements while being the proposal considered most appropriate by Council following its deliberations during the special consultative process.

3 Recommendation

***That** Council utilises the provisions of Section 80, Local Government Act 2002 and treat the debt of the Mangawhai EcoCare Project as an exemption to its Treasury Policy.*

Reason for the recommendation

Council has clearly identified that the debt level created by the Mangawhai EcoCare Project is inconsistent with its Treasury Policy because it pushes Council's debt levels beyond the parameters set in the Policy. It is not Council's intention to amend its Policy because the project is self funding and financially sustainable over the life of the project.

4 Recommendation

***That** Council not finalise the use of the Sanitary Works Subsidy Scheme (SWSS) funding at this time but endorse in principle its use towards:-*

(a) *Physical household connection costs.*

(b) *Provision of limited additional capacity in sewer networks and treatment plant.*

(c) *Reduction of current Start Up Fees to approximately $675*

(d) *A contingency.*

Reason for the recommendation

The use of subsidy is better determined following the signing of a contract with Simon Engineering and when final construction costs are known. There are two major contingencies, the first being the consenting costs and the second the final disposal site.

152 **6.2 Termination of Contract 405 – Pavement Marking 2003-04 -AL 4107.405**

A report from the Assets Leader is attached, which outlines the sequence of events where Roadrunner Markings Ltd have been assessed as abandoning the 2003-04 Pavement Marking Contract. Following legal and engineering advice, it is now appropriate for Council to formally advise Roadrunner Markers Ltd that they intend to terminate Contract 405 and recover extra costs, if the Contractor's default has not been remedied within 10 working days of receiving the notice.

Recommended

That *Council as the Principal to Contract 405 - Pavement Marking 2003 should now give written notice to the Roadrunner Markers Ltd of its intention to terminate Contract 405 and recover extra costs, if the Contractor's default has not been remedied within ten (10) working days of receiving the notice.*

Reason for the recommendation

The Principal to the Contract must formally terminate the Contract. Serving notice in this manner will send a strong message to the contracting industry not to lightly enter into contracts that they subsequently dishonour.

Recommended

That *Council resumes in open meeting.*

KAIPARA DISTRICT

Kaipara te Oranganui • Two Oceans Two Harbours

KAIPARA DISTRICT COUNCIL

File Number:	4505.01
Report To:	Council
Meeting Date:	25 February 2004
From:	Chief Executive
Subject:	**Mangawhai EcoCare Project : Confirmation of Preferred Proponent and Agreement to Proceed**
Date of Report:	17 February 2004
Signed By:	Jack McKerchar

Executive Summary

The EcoCare Project was established with a primary goal of maintaining and protecting the water quality of the Mangawhai Harbour by establishing a community wastewater scheme.

Following a lengthy and intense public consultation process the Council resolved to proceed with the project and issued an invitation for expressions of interest. This resulted in the Council selecting Simon Engineering as its preferred proponent, based on a total project cost of $16 million. The selection was based on a comparison of net present values which compared as follows:

Simon Engineering	$22.9 million
Benchmark	$25.2 million
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Simon Engineering's current offer is now $17.5 million due to inflation and the removal of all significant tags. The original contract having an acceptance period ending September 2002 it is reasonable to expect an escalation in the original offer. The Construction Cost Index for the year to September 2003 rose by 6.9% and for the two years to September 2003 has risen by 25%[1].

The major outstanding issue is the final disposal site which Simon Engineering has said it will deal with when it has a contract with Council. Council will recall the Te Ari Point disposal site was the most expensive option and some savings may arise. However, in the discussion on subsidy a contingency has been allowed.

The proposed fees and charges, before the application of subsidy remain unchanged from previous consideration at:-

Current Section		$ 1,450.00	
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[1] September 2003 CPI Index NZ All Groups Report

Subsidy of $6.63 million is available. This is only available to current users, which has been defined as those present now and the demand for the next five years. It is suggested that final decisions on the use of subsidy not be made until the final proposal from Simon Engineering is received and the costs of the resource consent are known. At this time it is suggested that the following could be a base from which to undertake final consideration:-

Household physical connections	$	2.5	million
Additional Capacity/Areas required in next 5 years	$	1.5	million
Reduction of current start-up fees to $675	$	1.3	million
Contingency	$	1.33	million
Total	$	6.63	million

The inclusion of the debt for this project on Council's Balance Sheet will see Council breach its Treasury Policy in a significant way. However, Section 80 of the Local Government Act 2002 enables Council to do this without rewriting its Policy. Council must clearly identify the inconsistency the reasons for the inconsistency and any intention to remedy the matter. In this situation it is suggested that the inconsistency be allowed to remain on the grounds that it is a one off situation that is fully funded based on a robust financial model prepared by Pricewaterhouse Coopers and is sustainable over the life of the project.

1 Recommendation

That Council confirms it wishes to proceed with the project and enters into a contract with Simon Engineering for the Design, Build, Fund and Operation of a Community Wastewater Scheme for Mangawhai subject to the following:

(a) The Risk Profile adopted by Council is maintained.

(b) The total cost of the project does not exceed $18 million.

(c) Terms of the Term Loan Agreement do not change and do not restrict Council from prudently managing the remainder of Council's operations.

(d) The Chief Executive reports to Council, through the Steering Group, on the terms and conditions prior to final signing.

Reason for the recommendation

The proposal by Simon Engineering is acceptable to Council and maintains the financial and risk profiles already adopted by Council following the final special consultative process.

2 Recommendation

***That** Council reconfirms the funding regime proposal previously adopted for the Mangawhai EcoCare Project:*

NO	CLASSIFICATION	ONE OFF CHARGES		TOTAL	PAN CHARGES	
		Uniform Standard Charge	Development Charges		Residential	Non Residential
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Reason for the recommendation

The proposed regime has been legally checked and complies with all statutory requirements while being the proposal considered most appropriate by Council following its deliberations during the special consultative process.

3 Recommendation

***That** Council utilises the provisions of Section 80, Local Government Act 2002 and treat the debt of the Mangawhai EcoCare Project as an exemption to its Treasury Policy.*

Reason for the recommendation

Council has clearly identified that the debt level created by the Mangawhai EcoCare Project is inconsistent with its Treasury Policy because it pushes Council's debt levels beyond the parameters set in the Policy. It is not Council's intention to amend its Policy because the project is self funding and financially sustainable over the life of the project.

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4 Recommendation

That Council not finalise the use of the Sanitary Works Subsidy Scheme (SWSS) funding at this time but endorse in principle its use towards:-

(a) *Physical household connection costs.*

(b) *Provision of limited additional capacity in sewer networks and treatment plant.*

(c) *Reduction of current Start Up Fees to approximately $675*

(d) *A contingency.*

Reason for the recommendation

The use of subsidy is better determined following the signing of a contract with Simon Engineering and when final construction costs are known. There are two major contingencies, the first being the consenting costs and the second the final disposal site.

1 Introduction

The purpose of this report is to inform Council of the current status of negotiations with the preferred proponent, Simon Engineering, and to seek approval to enter into a contract that will require Simon Engineering to design, build and operate for a period of 15 years a wastewater collection, treatment and disposal system as well as stormwater works to protect the water quality in the Mangawhai Harbour.

The report outlines the process to date and the proposal developed by Simon Engineering as well as considering the impacts of the granting of subsidy under the Government's Sanitary Works Subsidy Scheme.

The negotiations with Simon Engineering have reached a stage where Council staff and consultants are willing to recommend that Council enter into a contract with Simon Engineering. Key principles, commercial issues and documentation have all been agreed by the officials and Council confirmation is necessary to enable the project to proceed.

2 Process

The process that has been adopted by Council has been extensive, lengthy and has involved the Council at all critical decision points through the Project Steering Committee decisions, Council Workshops and formal Council decisions.

Council has managed the process through a Project Steering Committee with numerous reports and recommendations being presented to Council for information or decision.

In establishing the initial BOOT process the Council and the Project Team undertook a Risk Workshop where each broad risk category was discussed and Council formed a preferred position on who was best positioned to manage the risk and how Council would manage their risks. This formed the basis of the Risk Matrix and the scope of the Project to be included in the Project Documentation.

The Expression of Interest was then prepared and was endorsed by Council for public release. The process for evaluating the EOI responses was also endorsed by Council. On receipt of the EOI responses this process was followed including presentations from all respondents which were attended by the formal evaluation team involving council staff and the Project Team and were also witnessed by the Chief Executive, 2 Councillors and the Mayor (1 day). From this a formal recommendation was presented to Council recommending a shortlist of three bidders to proceed to the Project Brief stage. Council discussed and accepted this recommendation.

The Project Brief and associated legal documentation was then prepared to enable the final bidders to submit formal bids. Council approved the Project Brief prior to release to the bidders.

A formal evaluation process including the use of a benchmark was submitted to Council for approval before bids were received. The benchmark was also sealed with the Council's solicitors before the tenders were opened. The process also incorporated an Overview team that included council staff, councillors and members of the Community Liaison Group.

Once formal bids were received the approved evaluation process was undertaken which included reports back to Council, interim recommendations and further investigations with each of the three bidders. This resulted in a formal recommendation to Council to invite Simon Engineering to accept Preferred Proponent status to enable commercial and technical issues to be closed out. Simon Engineering subsequently accepted this invitation.

With the enactment of the Local Government Act 2002 there was a significant change in the legislative framework with Council now being expressly required to own water and wastewater assets. This had a substantial impact on the project and necessitated a review of the overall approach as this particular requirement was not in the draft legislation tabled for comment.

The review was undertaken and following discussion with the Project Steering Committee it was decided to recommend to Council that the BOOT process be amended to a DBFO structure with KDC owning the assets and borrowing the funds from the Simon Engineering consortia, provided that a competitive financing proposal was presented.

The consortia subsequently satisfied Council that competitive funding could be provided and Council determined to continue with the process under the DBFO approach. This included the preparation of potential rating and charges to fund the project. PricewaterhouseCoopers (Australia and NZ) (PwC) prepared a model that provided for two levels of Start Up Fees (Current and Future) and single level pan charges or annual rates. This produced indicative charges of:

- $ 1,450.00 Current Start Up
- $16,312.50 Future Start Up
- $ 483.75 Annual Pan Charges

Council accepted the above indicative maximum rates and charges as the basis for the development of the Statement of Proposal [SoP] to be published in accordance with the special consultative processes of the LGA 2002.

Subsequently this process resulted in a Council determining a series of amendments to the SoP that were advised to the community however the basic maximum level of charges did not change. On this basis Council again determined to proceed with negotiations with Simon Engineering to conclude the deal.

These negotiations have proceeded over the Christmas/ New Year period. Agreement has been reached with Simon Engineering that will ensure an appropriate risk position as outlined in the Project Brief has been accepted by Simon Engineering and that the financial model could be accepted based on:

- Original Proposal as modified (Recommendation to Council in August 2002)
- Plus adjustments for:
    - Change from BOOT to DBFO process;
    - Simon's removal of qualifications on above bid; and
    - Inflationary impacts since bid was submitted in June 2002.

This has included both positive and negative impacts however it has not resulted in a requirement to increase the proposed maximum charges and rates.

In fact based on a Net Present value assessment [25 years] the cost to Council has marginally decreased which represents a further saving to the Council.

3 Inflation

The Mangawhai EcoCare Project was formally tendered on 23 November 2001 with a closing date of 3 April 2002. Since that time the project has progressed through the required evaluation, management and community consultation phases. In addition the enactment the Local Government Act 2002 resulted in some delays whilst the legal and political implications of the Act were assessed as they applied to the Mangawhai EcoCare Project. The Act also resulted in the inclusion of the special consultative process with the preparation of the Statement of Proposal, advertisement and receipt of submissions and the subsequent hearing process.

As a result some 22 months has expired since the Preferred Proponent Simon Engineering submitted their original offer. This is some 12-15 months longer than envisaged.

For the year to September 2003 the New Zealand All Groups Consumer Price Index increased by 1.5%. This increase has been offset by reduced by the negative or neutral impact of prices in the following groups: transportation, apparel, food and financial services.

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However over the same period "construction prices rose by 6.9 percent, which is the largest annual increase since the June 1996 quarter."[2] This was driven by increases in construction materials, labour costs and sub contractor charges. Over the last 2 years to September 2003 the construction industry has grown by some 25%. This reflects increased demand, higher prices for labour and materials.

Given Simon Engineering's price offer was submitted in April 2002 with a validity period till September 2002 it is reasonable for Simon Engineering to escalate their original offer.

4 Consultation

The consultative process adopted by Council for this process has been extensive and includes:

- 13 Public Forums/ Workshops including a Hearing process
- 35 Mangawhai Memo articles
- 8 EcoCare Newsletters
- 20 Community Liaison Group meetings

The above has been spread across the last three years and has involved critical stakeholders including Northland Regional Council, Northland Health and Department of Conservation. The Community Liaison Group has included community representatives including MRRA, iwi, local business people and Mangawhai and Auckland based ratepayers.

The formal submissions and hearings process resulted in some 125 submissions of which 24 presented to the Hearings Sub Committee.

5 Simon Engineering Offer

5.1 Status of Negotiations

Negotiations on the major issues have now been concluded to the stage to enable financial closure and contract signing based on the existing scope of works. Simon Engineering has agreed to remove all qualifications from their bid with the exception of the limitation on:

- Resource Consent process;
- Specialist surface reinstatement for households; and
- Relocation of utility services such as communications cables and power poles.

The key principles associated with the Project Deed and the associated schedules have also been agreed with minor issues to be negotiated including confirmation of the relationship between Simon Engineering, ABN Amro and Council. A draft Term Loan Agreement has been received and reviewed by the Project team and their legal advisors.

Final documentation will be forwarded to Simon Engineering in mid February 2004 with a final "Page Turn" meeting to complete negotiations in early March 2004.

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[2] September 2003 CPI Index NZ All Groups Report

5.2 Financial Terms

The current proposal as negotiated with Simon Engineering now includes construction costs of $15.5 million plus budgeted fees of $1.9 million inclusive of the $0.8 million for Kaipara District Council consulting fees. This is outlined in the following table:

Simon Engineering was selected during the evaluation process based on the Net Present Value assessment of the three bids received and a comparison with the benchmark.

Proponent	Net Present Values Revised $ millions
Simon Engineering	22.9
Benchmark	25.2
Northpower	27.2
Earth Tech	32.8

Subsequent negotiations with Simon Engineering has resulted in some minor changes with the current Net Present Value result for the Simon Engineering offer of $21.7 million which is due to increased operating costs, lower financing costs and increased capital costs. This remains below the benchmark and also significantly below the offers of both Northpower and Earthtech and is lower than the previous Simon Engineering offer.

Therefore the move to the DBFO position has resulted in savings due to the revised financing arrangement. Primarily this is driven by the fixed price five-year financing period with Council retaining the option to refinance the debt or extend the financing arrangement with ABN Amro on completion of 5 years post Commercial Acceptance. Council has accepted this risk implicitly in their decision in April 2003 when Simon Engineering/ ABN Amro offered a choice of 5, 10 or 15 year financing period.

A comparison of Simon Engineering's original offer (as recommended to Council in August 2002) and that now provided is outlined below.

	Original offer $millions	Comments	Current offer $millions	Comments
Project cost	14.3	Included a number of tags, limitations and restrictions.	15.6	Resource Consent & provisional sums for services relocation and specialist ground reinstatement.
KDC fees	0.8	As determined by Council	0.8	As determined by Council
Project fees	0.9	Includes Financing, legal fees of proponents based on original BOOT option	1.1	Includes all financing fees, legal fees and construction interest based on DBFO.
Total capex	**$16.0**		**$17.5**	

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The critical differences between the offers include:

- Inflation and demand related increases relative to sub contract construction and material prices has increased the overall offer by 7% or $1.0 million; and
- Simon Engineering removing their qualifications on latent conditions, conversion of provisional sums to firm prices and acceptance of risk profile has increased the price by $0.3 million.

These items have increased the Guaranteed Maximum Price whilst preserving Council's ability to achieve savings if the actual prices are significantly lower. This ensures that Council has not accepted any flow back of Construction risk.

The only outstanding item is the final disposal site. Simon Engineering does not wish to do any work on this until it has a contract with Council. Council will recall that the Te Ari Point option was the most expensive and that savings were envisaged. However, as will be noted under the discussion on subsidy some contingency is being allowed.

The Project Fees as outlined above will be finalised on financial closure date but are not expected to substantially increase as they are linked to the agreed Project Cost described above and the underlying NZ interest rate at the time of financial closure.

A Net Present Value assessment has been made based on these revised cashflows over the 25 years that demonstrate a NPV of $21.7M, which is below Simon Engineering's original offer as recommended to Council in August 2002. This is primarily due to the change to the DBFO structure, which has lowered the financing cost over the 25 years. In addition, although the risk profile remains similar to that envisaged under the BOOT approach, because Council now becomes the owner of the assets, there may be more complexity and cost involved in enforcing any major defaults (i.e. Simon Engineering under a BOOT approach were placing ownership of the assets at risk. Under a DBFO, Council do not have this leverage, and must rely on an ability to effectively call on the Parent Company guarantee).

5.3 Risk Profile

The risk profile as included in the Risk Matrix within the Project Deed is attached (Appendix 1) complete with comments on the key issues as resolved within the contract negotiations. The major changes have resulted from the change from BOOT to DBFO approach with the Council now being required to be the owner of the assets. At the highest level, the inherent commercial risks associated with a DBFO are greater than with a BOOT, as Council must rely on its ability to call the Parent Guarantee if necessary. Under the previous BOOT approach Council would assume ownership of the assets as a first step, with the guarantee called to cover any losses. The assets would always have some inherent value even if performance in some areas was not being achieved.

Whilst this change has occurred the key construction risk remains with Simon Engineering and Council will not be required to commence any payments until Commercial Acceptance has been achieved which means at least 2 months of successful operation. Council will then have five years interest only period after which time the Council's risk position will have improved significantly which is expected to lower refinancing costs regardless of which refinancing option is selected.

5.4 Contractual Structure

The contract remains in a similar format as approved by Council in 2001 with a number of changes arising from the change to the DBFO approach.

The base format for the Project Deed and associated documentation has been developed in conjunction with Blake Dawson Waldron and successive Victorian governments as the number of Public Private Partnership projects has evolved. This experience is now encapsulated in the Victorian Government's Public Private Partnership guidelines.

These have been prepared based on Victorian experience and review of Britain's experience with their PFI background.

The number of projects that have been entered into with similar contract structures include the:

- $1.8B 35 year Citilink project
- $150M County Court project
- $1.0B Spencer Street Redevelopment
- $100M 25 year Aqua 2000 (Water Treatment Plant)
- $25M 15 year Enviro Altona Project
- $50M 25 year Campaspe Water Reclamation Project
- $15M 25 year Castlemaine Wastewater Project

This has demonstrated the capacity to undertake this style of project over a range of facilities and size of deal.

5.5 Implications for Long Term Council Community Plan and Development Contribution's Policy

The EcoCare project has been developed with the intention of funding all works from within the declared Mangawhai Drainage District together with any funds achieved under the Sanitary Works Subsidy Scheme (SWSS). This is consistent with Council policy and has also resulted in a consistent pan charges approach being adopted.

Bell Gully has provided a detailed assessment of the proposed funding arrangements and has advised:

> **"In our opinion, the Council's proposed rating/charge scheme (as described above) will be compliant with the LGA, the Rating Act and the RMA provided that:**
> - **It is properly implemented in accordance with the requirements of the LGA and the Rating Act; and**
> - **the Council can confirm that the amount of the proposed development contributions conform with the relevant requirements of the LGA."**

Bell Gully is currently reviewing the draft Long Term Council Community Plan (LTCCP) including the funding policy to ensure compliance with the above Acts. They have also recommended an amendment from the SOP to the way the fees are levied and collected to ensure more complete compliance with the intent of the legislation. If accepted the recommended approach will not result in any increased or additional fees or charges for any ratepayer.

This is illustrated in the following table:

NO	CLASSIFICATION	ONE OFF CHARGES		TOTAL	PAN CHARGES	
		Uniform Standard Charge	Development Charges		Residential	Non Residential
1	Current Section	$1,450.00	$0.00	$1,450.00	$483.75 per Section	$483.75 per Pan
2	Future Section Resource Consent & Title Issued Prior to 1/7/04	$1,450.00	$14,862.50	$16,312.50	$483.75 per Section	$483.75 per Pan
3	Future Section Resource Consent granted prior to 1/7/04 but title not issued.		$16,312.50	$16,312.50	$483.75 per Section	$483.75 per Pan
4	All other Future Sections		$16,312.50	$16,312.50	$483.75 per Section	$483.75 per Pan

- Category 1 will be levied on section owner,
- Category 2 & 3 above will be levied on section owner, whereas
- Category 4 will be levied on the Sub Divider at the time of Resource Consent.

A copy of Bell Gully's complete letter is attached as (Appendix 2).

6 Sanitary Works Scheme Subsidy

The Government via the Sanitary Works Scheme Subsidy (SWSS) has provided for $6.63M ($5.89M + $0.74M GST) in subsidies for the Mangawhai EcoCare project which must be applied to reduce costs of current ratepayers (defined as being those in existence now or within the next 5 years. This can be applied in many ways.

The result is pleasing but a decision on how to utilise these funds is not required before financial closure with Simon Engineering. Given issues such as final disposal it is suggested that a final decision is not dealt with until the final contract has been signed. Scheduled below are the major options identified:-:

No	Item	Indicative Capex $ million
1.	Inclusion of current household physical connection works.	$2.5
2.	Limited additional capacity/ reticulation to service additional areas not included in the original proposal (Limited to current sections only).	$1.5 plus some additional Opex.
3.	Reduction in Start Up fees for current ratepayers from $1450 (GST Included) to $168.75 (GST Included)	$1.6

3 (a)	Reduction in Start Up fees for current ratepayers from $1450 (GST Included) to $675.00 (GST Included)	$1.0
4.	Reductions in Pan Charges (Not Recommended)	
5.	Higher Treatment Standards	$1.0 plus additional Opex.
6.	Alternative Treatment Plant Site	$1.0

Options 1- 2 are the most practical current solutions and can best demonstrate a direct link to assist current ratepayers.

Option 3 & 3 (a) provide a low cost solution which can be flexible within the bands to also provide a prudent contingency for Council to control any additional costs that may arise from the resource consent process. (ie a new treatment plant site)

Option 4 is not recommended as a sole solution as it spreads the benefit over all ratepayers both current and future. It is likely there may be issues raised if Council applied 100% of the subsidy to this option.

Options 5 and 6 may need to occur through the process and therefore it may be prudent to hold some subsidy money as contingency in case these situations arise during the consent process.

In practice it is likely some combination of the above will be required. All of the above scenarios are based on all other assumptions remaining the same including growth rates and ultimate population numbers.

Assuming that some further works may be required relative to treatment plant site, final disposal site and or treatment standards the following combination is provided for Council consideration:

Item No	Item	Indicative Capex $ M
1.	Inclusion of current household physical connection works.	$2.5
2.	Limited additional capacity/ reticulation to service additional areas not included in the original proposal (Limited to current sections only).	$1.5 plus some additional Opex.
3 (a)	Reduction in Start Up fees for current ratepayers from $1450 (GST Included) to $675.00 (GST Included)	$1.0
	Contingency	$1.33
	TOTAL	**6.63**
	SWSS FUNDS	**$6.63**

7 Treasury Policy

The change from the BOOT to a DBFO has resulted in Council now assuming ownership of the assets on the date of Commercial Acceptance and requires the Council to finance the project provided that Commercial Acceptance has been achieved.

As it stands the proposed funding amount exceeds the Treasury Policy. It is not proposed to rewrite the Council Treasury Policy, as it is remains appropriate and prudent for the majority of Council works and programmes.

Council has reinforced the need for the Mangawhai EcoCare project to stand alone (in line with user pays principles) and the modelling undertaken confirms that over a 40-year period the scheme will fund itself including servicing any financial shortfalls in any given year. This is based on the assumed population growth overtime and the requirements for any further expansions. PWC (NZ) have assessed the model and provided the following guidance:

"The choice between Approach 4 and 5 does require the Council to form its view on what constitutes prudent financial management and its confidence in the assumptions underlying the modelling. Hence Approach 4 represents a likely maximum charge approach whereas Approach 5 represents the likely minimum given the assumptions.

By providing more flexibly, the Local Government Act does not provide specific case-by-case recommendations.

Where Council finances are in a position of strength, and the assumptions are considered conservative then Approach 5 could be considered, but if the Council's finances are already stretched, or the assumptions are considered more aggressive then prudent financial management would probably suggest that those projects should be closer to self-financing on a yearly basis, as per Approach 4. "

In developing the recommended charges and rates Council determined to proceed with Approach 5.

The breach of Council's Treasury Policy caused by the inclusion of the EcoCare debt in Council's Balance Sheet has been discussed with the Office of the Auditor General. Their suggestion is that Council utilise Section 80 Local government Act 2002, Identification of Inconsistent Decisions. This requires Council to clearly identify the inconsistency, the reasons for it and to clearly identify any intention to alter the policy to accommodate the inconsistency. Given that this is a one-off major project that will be self funding over its life, as identified by the Pricewaterhouse Cooper model, it is suggested that the Treasury Policy not be altered and that EcoCare be treated as an exception to that Policy. Full details of this item will be recorded in the Annual Report of the year in which it occurs.

Appendix 2

RISK MATRIX

RISK ISSUE	RISK ALLOCATED TO KDC	RISK ALLOCATED TO PROMOTER	
PLANNING			
Construction, Consents and Rulings			Accepted however Resource Consent application limited to $150,000.
• Tax		✔	
• Planning		✔	
• Consents		✔	
DESIGN AND CONSTRUCTION RISK			
Specification and capacity of Facilities		✔	Simon's reduced capacity in response to Council request in July 2002. Simon's accept risk on specification.
Design and Construction of Facilities		✔	Accepted.
Construction Cost Over Runs			Accepted with defined Force Majeure risks.
• Caused by Kaipara District Council	✔		
• Caused by Contractor		✔	
• Force Majeure		✔	
Construction Timing		✔	Accepted
Industrial Relations		✔	Accepted
Continuation of Services during Construction		✔	Accepted
Load and Volumes		✔	Accepted
COMMISSIONING, OPERATING & MAINTENANCE RISK			
Commissioning of new plants		✔	Simon's require minimum loads to commission plant.
Operations of Plants		✔	Accepted
Service Performance		✔	Accepted
Occupational Health and Safety		✔	Accepted
Illegal discharges and connections			Accepted
• Identification		✔	
• Pursuit of legal remedies/ damages	✔		
Outflow characteristics and achievement of estuary standards		✔	Accepted, the monitoring program to be developed.
COMMERCIAL TERMS			
Proponents' Bid Costs		✔	Accepted
Inflation/ Foreign Exchange and or Interest Rate Movements		✔	Accepted
Insurance		✔	Accepted some change due to DBFO structure.
Taxation		✔	Accepted
Finance Availability/ Structure		✔	Accepted some change due to DBFO structure.
Provision of Securities		✔	Accepted
Assignment/ Novation		✔	Accepted
Corporate Structure		✔	Accepted
Changes in Law		✔	Accepted with some limitation
Transfer of Facilities on Completion			Now changed due to DBFO structure. KDC will own assets if and when Commercial Acceptance is achieved.
• Asset Condition		✔	
• Residual Value		✔	
REGULATORY ISSUES			
Obtain and retain Consents		✔	Accepted
Monitor NRC rulings and meet increased Licence Standards		✔	Accepted
Monitor and address changes in regulatory regime		✔	Accepted
SITE ISSUES			
Kaipara District Council Sites			Accepted
• Environmental Report	✔	✔	
• Site Availability	✔		
• Contamination	✔	✔	
• Archaeological/ Heritage	✔	✔	
• Iwi agreement		✔	
Other Sites			Simon's have nominated KDC sites.
• Environmental Report		✔	
• Site Availability		✔	
• Contamination		✔	
• Archaeological/ Heritage		✔	
• Iwi Agreement		✔	
CUSTOMER INTERFACE ISSUES			
Community Liaison	✔	✔	Accepted
Manage customer interface including billing and accounts	✔		Accepted
Public Health		✔	Accepted
All other risks		✔	Accepted

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Bell Gully BARRISTERS AND SOLICITORS

Appendix 2

MEMORANDUM

To	Jack McKerchar	**From**	Michael Spooner / Chris Gordon
Of	Kaipara District Council		
Matter no.	01-280-2495	**Date**	19 February 2004

Mangawhai EcoCare Project - Compliance/Charging Proposal with Statutory Requirements

INTRODUCTION

The Kaipara District Council (the **Council**) intends to develop a new wastewater treatment system in the Mangawhai area (the **Project**). By Mike Ritchie's instructing email dated 24 November 2003 and our subsequent discussions with you and Mike, you asked us to provide advice on six issues in relation to the Project:

1. Whether the rating/charging scheme proposed by the Council in order to cover the costs of the Project (comprising a "start up" rate, "pan" rates and development contributions) is compliant with the Local Government Act 2002 (the **LGA**), the Local Government (Rating) Act 2002 (the **Rating Act**), the Resource Management Act 1991 (the **RMA**) and any other applicable legislative requirements.

2. Whether there is any scope under the LGA or the Rating Act for 50% of the residential pan rate to be set against vacant residential land provided that the sewage network runs past the relevant site.

3. Whether the start up rate, rather than being set against all sections in the Mangawhai drainage district (as currently proposed), could instead be set:

   - against only those sections within the drainage district that are expected to be connected to and serviced by the new waste water system before 30 June 2005 (**service expectant sections**); or

   - against all service expectant sections while, at the same time, a lower rate (50% of the full start up rate) is set against all other sections within the drainage district.

4. Whether the Council is required to issue the promoter of the Project and its subcontractors with any delegated powers to enter private property for the purposes of installing sewage pipes and pumps.

5. Whether there is any prudent way to minimise any risks associated with entry onto private property given the sensitive nature of the Project and the private sector involvement.

6. Whether easements will be required to enable the Council, the promoter or its subcontractors to carry out work on the Project.

Issues 1, 2 and 3 relate to the rating/charging scheme that the Council wishes to implement and are addressed in this memorandum. The remaining three issues relate to the physical construction of the new treatment plant. These issues are dealt with in a separate memorandum.

RATING/CHARGING SCHEME SUMMARY

Based on Mike Ritchie's instructing email of 24 November 2003 and our subsequent discussions with you and Mike, we understand that the rating/charging scheme that the Council is proposing to use to fund the Project is as follows:

1. A targeted "start up" rate of $1,450 will be assessed under the Rating Act (the **start up rate**) against all sections in existence as at 1 July 2004 within the Mangawhai drainage district as defined in the Council's 23 July 2003 Statement of Proposal (the **Drainage District**). This will be a one off "annual" rate that will be included as part of the Council's rate assessment for relevant sections for the 1 July 2004 to 30 June 2005 year.

2. An annual targeted "pan" rate of $483.75 will be assessed under the Rating Act against all sections in the Drainage District with pans/urinals. Residential sections will pay a flat rate of $483.75 per section (the **residential pan rate**). Non-residential sections will pay a rate of $483.75 per pan (the **non-residential pan rate**). These rates will first be assessed as part of the Council's rate assessment for relevant sections for the 1 July 2004 to 30 June 2005 year.

3. For Drainage District subdivisions initiated after 22 October 2003 for which resource consents are granted and titles issued prior to 1 July 2004, a development contribution of $14,862.50 will be charged (under the LGA) on the owner of each relevant new section on the authorisation of connection of that section to the Council's sewage system (provided that such authorisation is given after 1 July 2004).

4. For Drainage District subdivisions initiated after 22 October 2003 for which resource consents are granted but titles are not issued prior to 1 July 2004, a development contribution of $16,312.50 will be charged (under the LGA) on the owner of each relevant new section on the authorisation of connection of that section to the Council's sewage system.

5. For all other Drainage District subdivisions initiated after 22 October 2003, a development contribution of $16,312.50 per section will be charged (under the LGA) on the developer on the granting of the resource consent for the subdivision.

Attached as Appendix One is some examples of how this rating/charging scheme would apply to particular properties.

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CONCLUSIONS

Issue 1: Compliance of rating/charging scheme with applicable legislation

In our opinion, the Council's proposed rating/charge scheme (as described above) will be compliant with the LGA, the Rating Act and the RMA provided that:

- it is properly implemented in accordance with the requirements of the LGA and the Rating Act; and
- the Council can confirm that the amount of the proposed development contributions conform with the relevant requirements of the LGA.

Start up rate

The start up rate can be set against all sections in the Drainage District as a targeted rate (under sections 16-18 of the Rating Act) if it is appropriately provided for in the funding impact statement implemented by the Council as part of its 1 July 2004 Long Term Council Community Plan (**LTCCP**) and is otherwise set in accordance with the requirements of the Rating Act.

Pan rates

The residential pan rate and non-residential pan rate can also be set as targeted rates (under sections 16-18 of the Rating Act) if they have been appropriately provided for in the funding impact statement implemented by the Council as part of its 1 July 2004 LTCCP and are otherwise set in accordance with the requirements of the Rating Act.

Development contributions

The development contributions may be charged in the manner described above, if:

- the development contributions and the procedure by which the levying of these contributions will be carried out are provided for in a development contribution policy adopted as part of the Council's 1 July 2004 LTCCP; and
- the amount of the contributions required conform with the requirements of the LGA.

Issue 2: Application of 50% of the residential pan rate to vacant sections

It will not be possible to assess 50% of the residential pan rate on vacant residential sections within the Drainage District that the sewage network runs past. However, it would be possible to set a separate targeted rate (equal to 50% of the residential pan rate) and assess this against vacant residential sections within the Drainage District which the sewage network runs past.

Issue 3: Alternative application of the start up rate

In order for the Council to be able to:

- set the start up rate against only service expectant sections in the Drainage District; or

- set the "full" start up rate against service expectant sections in the Drainage District and, at the same time, set a separate "half" start up rate against all other sections in the Drainage District,

the Council will have to define the "service expectant sections" category of land by reference to a geographic area. This may not be workable in practice because it may not be possible to identify a relevant geographic area that does not include vacant sections that the Council wants to define as "non service expectant sections". However, if any practical difficulties associated with categorising the relevant areas of land can be overcome, then the Council will be able to carry out these alternative rating proposals if they are appropriately provided for in the Council's LTCCP funding impact statement and are set in accordance with the requirements of the Rating Act.

ANALYSIS

Start up rate

Application of start up rate to all sections in the Drainage District

Sections 16 - 18 of the Rating Act give the Council the power to set targeted rates in certain circumstances. We consider that these provisions will enable the Council to set the start up rate in the 2004/2005 rating year against all sections in the Drainage District provided that the implementation requirements of the Rating Act (and in particular, sections 16 – 18) are complied with.

Under section 16 a targeted rate may be set for one or more activities or groups of activities if those activities are identified in the Council's funding impact statement (which will be contained in the Council's LTCCP) as activities for which the targeted rate is to be set. The Project is an activity of the Council and therefore as long as the Project is appropriately identified in the Council's funding impact statement, the Council can set targeted rates for the Project.

Targeted rates may be set either for all rateable land within the Council's district or for one or more categories of rateable land provided these categories are identified and defined in accordance with section 17. Section 17 permits categories of rateable land to be used for targeted rates if they:

- are identified in the local authority's funding impact statement as being a category for setting a targeted rate; and

- are defined in terms of one or more of the matters listed in Schedule 2.

One matter that Schedule 2 says may be used to define categories of rateable land is "where the land is situated". The Drainage District is, we assume, a category of land that is defined by where the land is situated on a map of the Mangawhai area. Accordingly, we consider that the Drainage District is a category of land that can be defined in terms of the matters listed in Schedule 2 of the Rating Act.

Subsection 1 of section 18 provides that the calculation of liability for a targeted rate set under section 16 must utilise only a factor or factors that are identified in the Council's funding impact statement and that are listed in Schedule 3. However, subsection 2 states that, despite subsection 1, the liability for a targeted rate may be calculated as a fixed amount per rating unit. As the start up rate will be applied as a fixed amount per rating unit, we believe that this rate would be compliant with section 18.

Based on the analysis above, we consider that the Council can set the start up rate as a targeted rate against all sections in the Drainage District as at 1 July 2004 provided that appropriate provision is made in the LTCCP for this rate to be set. In particular, the funding impact statement contained in the Council's LTCCP will need to:

1. identify activities for which targeted rates may be set and ensure that the activities identified include the Project or developments like the Project (it may be prudent for the LTCCP to avoid an unnecessarily detailed description of the Project in order to avoid any argument that a modification to the Project results in the description being incorrect); and

2. set out categories of rateable land which include the geographic area of land known as the Drainage District.

We note that the funding impact statement that forms part of the Council's current annual plan does not comply with these requirements and that some of the relevant information is contained in the rating policy rather than the funding impact statement. Therefore, the funding impact statement will need to be revised before it is included in the 1 July 2004 LTCCP. We would be happy to provide details of the changes that we consider need to be made to the existing funding impact statement if this would be of assistance to you.

General requirements for rate setting

When implementing the start up rate (and all the other rates discussed in this memorandum), the Council will have to comply with all of the general requirements regarding the setting ,assessing and invoicing of rates that are included in the Rating Act. For example, the start up rate will need to be set by a resolution of the Council (see section 23) and for each relevant rating unit the details required to determine the category of land it belongs to for the targeted start up rate will have to have been recorded in the Council's rating information database (see sections 27 and 43). We have not set out these general requirements in detail in this memorandum as we have assumed that the Council will be familiar with them. However, we would be happy to provide you with a separate note on these general requirements if this would be of assistance to you.

Alternative applications of the start up rate

You have also asked us to consider whether the start up rate could be set:

- against only service expectant sections in the Drainage District; or

- against service expectant sections while, at the same time, a lower rate (say 50% of the full start up rate) is set against all other sections in the Drainage District.

Because these alternative proposals still involve rates that are set for the Project and that will be applied as a fixed amount per relevant rating unit, we consider that the proposals comply with the requirement of sections 16 and 18 of the Rating Act, except to the extent that those requirements relate to section 17.

For the alternative proposals to comply with the requirements of section 17 of the Rating Act, the "service expectant sections in the Drainage District" and the "other sections in the Drainage District" categories of land have to be able to be defined in terms of 1 or more of the matters listed in Schedule 2 of the Rating Act.

In addition to the "where the land is situated" definition tool referred to above, Schedule 2 also allows categories of rateable land to be defined on the basis of "the provision or availability to the land of a service provided by, or on behalf of, the local authority". However, unfortunately, we do not consider that this service provision definition tool can be used to define the "service expectant sections" category of land because these are sections that the Council expects to provide with a specific service sometime in the future and they cannot be identified (as far as we are aware) by reference to the provision or availability of a specific service at the present time.

We therefore consider that both the "service expectant sections" and "non-service expectant sections" categories of land would need to be defined by reference to where the land is situated as this is the only potentially applicable definition tool listed in Schedule 2. While this seems workable in theory, as it would be possible to identify a smaller relevant area within the Drainage District on a map and make this the "service expectant sections" category of land, this may not work in practice as any such area may include vacant sections that the Council wanted to define as "non service expectant sections".

If the Council does wish to give more thought to the alternative proposals, we would like to discuss further with you how the relevant categories of land can be defined.

Pan rates

We consider that the residential pan rate and the non-residential pan rate can be set by the Council against sections in the Drainage District as targeted rates under sections 16 - 18 of the Rating Act provided again that the detailed implementation requirements of the Rating Act (including these sections) are complied with.

The proposed pan rates are again being set for the Project and therefore they will comply with the requirement of section 16 for target rates to be set for an activity provided that the Project is identified as a rate setting activity in the Council's funding impact statement.

The proposed pan rates will apply to specific categories of land and accordingly:

- residential Drainage District land and non-residential Drainage District land will need to be identified as categories of rateable land in the Council's funding impact statement; and
- these categories of land will need to be defined in terms of matters set out in Schedule 2 of the Rating Act.

In addition to the matters referred to above, Schedule 2 also allows categories of land to be defined by reference to:

- "the use to which the land is put"; and
- "the activities that are permitted, controlled, or discretionary for the area in which the land is situated, and the rules to which the land is subject under an operative district plan or regional plan under the Resource Management Act 1991".

The categories "residential" and "non-residential" relate to both uses to which the land is put and activities that are permitted for the area in which the land is situated. As such, we believe that residential and non-residential land are categories which can be defined in terms of Schedule 2 as is (for the reasons described above) Drainage District land.

The Council wishes to apply different charges to sections within the residential or non-residential drainage district categories of land depending on the number of water closets or urinals on each such section. Therefore, section 18 requires that the liability for the rates must be calculated utilising only a factor or factors that are firstly, identified in the Council's funding impact statement as factors that must be used to calculate the liability for a targeted rate and, secondly, are listed in Schedule 3 of the Rating Act. Schedule 3 of the Rating Act provides that one factor that may be used in calculating liability for a targeted rate is the number of water closets and urinals within the rating unit. This is the basis on which the Council plan to charge the pan targeted rates and accordingly, these rates meet the requirements of Schedule 3.

Based on the analysis above, we consider that the Council can levy the residential pan rate and the non-residential pan rate against sections in the Drainage District as targeted rates provided that provision is made in the 1 July 2004 LTCCP for rates to be levied in this way. In particular the funding impact statement contained in the LTCCP will need to:

1. identify activities for which targeted rates may be set and ensure that the activities identified included the Project or developments like the Project;

2. set out categories of rateable land which include the Drainage District and residential and non residential land within the Drainage District;

3. identify factors that may be used in calculating targeted rates including the number of water closets or urinals a property has.

We note that the funding impact statement that forms part of the Council's current annual plan does not comply with these requirements and that some of the relevant information is contained in the rating policy rather than the funding impact statement. Therefore the funding impact statement will need to be revised before it is included in the 1 July 2004 LTCCP. Again, we would be happy to provide details of the changes that we consider need to be made to the existing funding impact statement if this would be of assistance to you.

We also note, for completeness, that the Council will again have to comply with the generally applicable requirements for rate setting, assessment and invoicing contained in the Rating Act when establishing the pan rates.

Application of pan rates to vacant properties

In our opinion, the Council will not be able to assess 50% of the residential pan rate on vacant residential sections within the Drainage District that the sewage network runs past.

Liability for the residential pan rate can only be triggered (in accordance with section 18 of the Rating Act) when, at the commencement of a rating year, a section has one or more water closets or urinals. A vacant section that has no water closets or urinals cannot be made liable for this specific rate.

However we consider that it would be possible to set a separate targeted rate (equal to 50% of the residential pan rate) and assess this against vacant residential sections within the Drainage District which the sewage network runs past.

Once the sewage network is in place, it seems to us that it would be possible to define "vacant residential land in the Drainage District to which the sewage network service is available but not used" as a category of land in accordance with the requirements of section 17 of the Rating Act. A fixed rate (equal to 50% of the residential pan rate) could then be assessed against this category of land. We would be happy to provide a more detailed analysis of this proposed alternative rate if this would be of assistance to you.

Development Contributions

Is funding of the Project by development contributions permitted?

Section 199(1) of the LGA states that development contributions may be required in relation to developments if the "effect" of the developments is to require new or additional assets or assets of increased capacity and as a consequence the Council incurs capital expenditure to provide appropriately for network infrastructure. "Effect" includes the cumulative effects that a development may have in combination with another development.

A subdivision (or other development) that generates a demand for (among other things) "network infrastructure" is a "development" for the purposes of the LGA. "Network infrastructure" is defined in the LGA to include wastewater collection and management. It seems reasonable to us to conclude that the cumulative effect of subdivisions in the Drainage District will require additional wastewater assets (or wastewater assets of increased capacity) and the Council will therefore have to incur capital expenditure to provide appropriately for new wastewater services. Therefore, we consider that the Council's proposal to require development contributions from subdivisions in the Drainage District in order to fund the Project is permitted under section 199(1) of the LGA.

It is also worth noting that section 199(2) makes it clear that the Council may require a developer to pay a development contribution that is to be used to pay in full or in part for capital expenditure already incurred by the Council provided that the expenditure was incurred in anticipation of the relevant development. Therefore the Council can require development contributions from subdivision section owners or subdivision developers to pay for Project cost already incurred provided that they have been incurred in anticipation of such subdivisions.

How much can be charged?

The amount of the development contributions to be paid in respect of the Project must be calculated in accordance with the procedure set out in Schedule 13 of the LGA (see section 197) and the requirements of section 203(2) must also be met. We understand that you are in the process of considering these issues and that you do not require us to advise on whether or not these requirements have been complied with.

We also note, for completeness, that the development contributions will have to be used towards the capital expenditure of the Project and cannot be used to cover maintenance costs (see section 204 of the LGA).

When can development contributions be required?

Under section 198(1) of the LGA the Council may require a development contribution when granting:

- a resource consent under the RMA;
- a building consent under the Building Act 1991; or
- an authorisation for a service connection.

Therefore we consider that the Council's proposal to require a development contribution on granting of a resource consent (in some circumstances) and on granting of a authorisation of a connection (in other circumstances) is consistent with the powers granted to the Council under section 198(1) of the LGA.

However please note that in the event that a development contribution under the LGA is required upon the granting of a resource consent, the resource consent must not include a condition requiring a financial contribution to the extent already provided for in the development contribution. Otherwise, the development contribution will be invalid under section 200 of the LGA.

Development Contributions Policy

The Council will only be able to require the proposed development contributions after 1 July 2004 on the basis set out in the rating/charging scheme summary above if, at that time, the Council has incorporated in its LTCCP a policy on development contributions that is consistent with the proposed contributions and the proposed method for charging the contributions.

The requirements in the LGA relating to development contributions policies are extensive. We have not described these requirements here, but we would be happy to provide you with a note on these requirements if this would be of assistance to you.

Michael Spooner / Chris Gordon
Senior Solicitor / Partner

Appendix One – Example applications of proposed rating/charging scheme

[illegible]	[illegible]	Residential Pan Rate [illegible]	Non-residential Pan Rate ($483.75 x No. of pans)	Development Contribution [illegible]	Development Contribution ([illegible]6,312.50)	Total 2004/2005
Residential section in existence as at 22 October 2003 with two pans	√ 2004 x 2005	√ 2004 √ 2005	x 2004 x 2005	x 2004 x 2005	x 2004 x 2005	$1,933.75 – 2004 $483.75 – 2005
Non-residential section in existence as at 22 October 2003 with two pans	√ 2004 x 2005	x 2004 x 2005	√ 2004 √ 2005	x 2004 x 2005	x 2004 x 2005	$2,417.50 – 2004 $967.50 – 2005
New residential section created between 22 October 2003 and 1 July 2004 and connected to Project on 20 December 2004 – one pan	√ 2004 x 2005	x 2004 √ 2005	x 2004 x 2005	√ 2004 x 2005	x 2004 x 2005	$16,312.50 – 2004 $483.75 – 2005
New residential proposed after 1 July 2004 with resource consent granted on 20 December 2004 – vacant property	x 2004 x 2005	x 2004 x 2005	x 2004 x 2005	x 2004 x 2005	√ 2004 x 2005	$16,312.50 – 2004 $0.00 – 2005