I hereby give notice that an extraordinary meeting of the Finance and Performance Committee will be held on:

**Date:** Wednesday, 12 December 2018  
**Time:** 2.00pm  
**Meeting Room:** Reception Lounge  
**Venue:** Auckland Town Hall  
301-305 Queen Street  
Auckland

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**Komiti ā Pūtea, ā Mahi Hoki / Finance and Performance Committee**

**OPEN ADDENDUM AGENDA**

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**MEMBERSHIP**

**Chairperson**  
Cr Ross Clow  
Cr Desley Simpson, JP

**Deputy Chairperson**  
Cr Josephine Bartley  
Cr Dr Cathy Casey

**Members**  
Deputy Mayor Cr Bill Cashmore  
Cr Fa’anana Efeso Collins  
Cr Linda Cooper, JP  
Cr Chris Darby  
Cr Alf Filipaina  
Cr Hon Christine Fletcher, QSO  
Mayor Hon Phil Goff, CNZM, JP  
Cr Richard Hills  
IMSB Chair David Taipari

Cr Penny Hulse  
Cr Mike Lee  
Cr Daniel Newman, JP  
Cr Greg Sayers  
Cr Sharon Stewart, QSM  
IMSB Chair David Taipari  
Cr Sir John Walker, KNZM, CBE  
Cr Wayne Walker  
Cr John Watson  
Cr Paul Young  
IMSB Member Terrence Hohneck

(Quorum 11 members)

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**Sandra Gordon**  
Senior Governance Advisor

10 December 2018

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**Note:** The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
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Te take mō te pūrongo / Purpose of the report
1. To seek approval to develop consultation options for public consultation alongside the Annual Budget 2019/2020, if in February 2019 council decide to consult on a land transfer transaction with Panuku Development Auckland Limited (Panuku).

Whakarāpopototangata matua / Executive summary
2. A report to the Finance and Performance Committee in November 2018 provided advice on issues relating to the ownership of waterfront assets and the potential for tax law changes to potentially limit council’s flexibility for waterfront land ownership options in the future.
3. Since the November meeting staff have engaged with both Panuku Development Auckland (Panuku) and Ports of Auckland Limited (POAL) to understand how they would view any potential land asset transfer to Council.
4. Panuku would like further opportunity to discuss the matter with council before final decisions on any public consultation are made. They would be concerned to lose control of the marina assets where they favour retention of the status quo. They see more merit in considering the transfer of non-marina assets noting alignment with the broader transform and unlock programmes which do not require Panuku to own council assets to give effect to their development objectives.
5. POAL have shared their views on how a different land ownership arrangement with council could work, noting the need to balance council’s increased control of land with the commercial objectives of POAL as a stand-alone commercial entity. While transferring POAL land assets is possible, the lease arrangement and balance sheet impacts on POAL means that POAL would need council to recapitalise the port company and so effectively purchase any land transferred at market value. Structured in this way, no significant tax liability is likely to arise and hence the timing imperative to consider these options is no longer present.
6. Staff are aware of the complexity involved in implementing any transfer of waterfront land holdings in the current financial year. There are significant time, cost and risk implications owing to the audit, statutory decision making and contractual processes that would need to be completed. The recommendations in this report allow for a fuller discussion between Panuku and the council before any final decision on public consultation is made.
7. The report does not recommend any further work be undertaken to consider Annual Budget 2019/2020 consultation options for POAL assets. The Memorandum of Understanding (MOU) in place between council and POAL provides for annual discussions to be held directly between the governance groups of the two entities, with the next discussion expected to occur early next year. This provides an opportunity for any further discussion on land ownership alongside other strategic issues as they relate to the future use of POAL land.

Ngā tūtohunga / Recommendation/s
That the Finance and Performance Committee:

a) approve the preparation of consultation material to publicly consult on whether the legal ownership of some or all of the land held by Panuku Development Auckland Limited should be transferred to Auckland Council.

b) agree that the consultation material be brought back to the Finance and Performance Committee in February with the Annual Budget consultation document, for a final decision on whether to publicly consult on any proposal.
Horopaki / Context

8. A report to the Finance and Performance Committee in November 2018 provided advice on issues relating to the ownership of waterfront land and related assets. This included the potential for changes in tax law which will take effect on 1 July 2019 to limit council's flexibility for future waterfront land ownership options. The November report included a full report on tax implications from council's external tax advisors.

9. The report noted that any proposal to transfer ownership or control of a strategic asset from a council-controlled organisation to council requires public consultation under Auckland Council's Significance and Engagement Policy.

10. It would also require an amendment to the Long-term Plan 2018-2028 (LTP). As council is preparing to consult on its Annual Budget 2019/2020, the Local Government Act 2002 states that council should combine any LTP amendment into the same consultation document. The consultation material must include an audit opinion, and there is a very tight timeframe to complete the audit work required.

Tātaritanga me ngā tohutohu / Analysis and advice

Panuku Development Auckland

11. Panuku is the sole entity within the council group responsible for urban redevelopment leveraging council-owned property. Panuku manages redevelopment and property transactions on behalf of Auckland Council.

12. Panuku's operating model is not premised on owning the land which it is redeveloping on behalf of Auckland Council. A large part of Panuku's operations are in the transform and unlock locations, where the assets are legally owned by council.

13. Similarly, Panuku does not need to own land to fund its operations as it receives operating and capital funding from council. As part of the adoption of the LTP, council approved a three-year reinvestment package to fund Panuku's work programme in the transform and unlock locations.

14. Panuku's ownership of the waterfront land reflects the legacy arrangements of the Auckland Waterfront Development Agency (Waterfront Auckland). Waterfront Auckland was established in 2010 and had a specific objective to redevelop and revitalise the Auckland waterfront to give effect to council's vision for the area.

15. The intention was that once the redevelopment was completed, any Waterfront Auckland assets would be vested in Auckland Council. This is the typical operating model for urban redevelopment agencies. When a specific development project is finished, they may take on other development projects or they may cease to exist. Globally, property-led urban redevelopment agencies generally have a limited life span of between five and 20 years.

16. Most of the planned waterfront redevelopment is completed or will be completed within the next 10-15 years. Of the remaining developments, there are significant components of public space, such as the Headland Park, and council ownership would be more appropriate for these public spaces. The change to tax law means there is a case to bring forward this transaction to safeguard long-term public ownership.

17. It is noted that Westhaven Marina was originally purchased by Auckland City Council so that the marina would remain in public ownership. Ownership by either Auckland Council or Panuku would give effect to this original intention.

Options for consultation

18. The recently-appointed Panuku board chair has raised several issues relating to Panuku's waterfront assets that require further consideration by council and Panuku staff.
19. In collaboration with Panuku, there are three broad options which staff will develop and assess over the next two months. These are:
   • maintaining the status quo
   • transferring the legal ownership of all waterfront land and related assets back to Auckland Council
   • transferring the legal ownership of waterfront property which is being transformed, with Panuku retaining the legal ownership of land and assets related to marine operations (Westhaven Marina and the associated properties, including some properties on the western edge of Wynyard Point, Silo Park Marina, Viaduct Marina, the eastern viaduct, and Te Wero Island and the Te Wero bridge).

20. This work would not commit the Finance and Performance Committee to proceed with consultation on any proposal but will preserve the committee’s option to make a final decision in February 2019. This would also allow the required time for the Auditor-General to provide an audit opinion on the LTP amendment content.

Ports of Auckland
21. POAL have shared their views on how a different land ownership arrangement with council could work, noting the need to balance council’s increased control of land with the commercial objectives of POAL as a stand-alone commercial entity. While transferring POAL land assets is possible, the lease arrangement and balance sheet impacts on POAL means that POAL would need council to recapitalise the port company and so effectively purchase any land transferred at market value. Structured in this way, no significant tax liability is likely to arise and hence the timing imperative to consider these options is no longer present.

22. In any scenario where a transfer of land ownership to council and associated establishment of a significant lease or concession arrangement between council and POAL was to be contemplated, the impacts on the balance sheets of both POAL and the overall council group would need to be carefully managed.

23. Staff note that the Memorandum of Understanding (MOU) in place between council and POAL provides for annual discussions to be held directly between the governance group of the two entities, with the next discussion expected to occur early next year. This provides an opportunity for any further discussion on the matter of land ownership and associated commercial structures alongside other strategic issues as they relate to the future use of POAL land.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera / Council group impacts and views
24. The previous sections of the report set out the views of POAL and Panuku on the issue of land ownership. Staff will continue to work with Panuku to advance the development of consultation options and the specific implications of those options for Panuku.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views
25. If the committee decides to consult on the transfer of ownership of waterfront land to Auckland, staff will seek the views of all local boards.

Tauākī whakaaweawe Māori / Māori impact statement
26. Auckland’s waterfront land is significant to mana whenua. If the committee decides to consult on the proposal, staff will engage with mana whenua. There is the potential to maximise engagement with mana whenua through combining public consultation on the Auckland Water Strategy discussion document, the Annual Budget 2019/2020 and a proposal for the transfer of waterfront land.
27. Staff are working on the basis that any proposed transfer of land within the council group would need to have no impact on the group balance sheet, and no impact on rates. Staff will progress the development of options with Panuku on this basis.

28. Progressing consultation options for the Panuku assets as recommended by this report would require some external costs to be incurred between now and when options are bought back in February. The largest cost will be the cost of the audit review, with total external costs estimated at between $200,000 to $300,000 over that period.

29. Because of the tight timeframes for the statutory requirements, any delay in making a decision means that staff would not be able to complete the necessary work in time. In addition to the time required to completed audit reviews and statutory consultation, further time is required to complete legal due diligence and seek a binding tax ruling from the Inland Revenue Department.

30. If the committee agrees to the recommendations, staff will report back in February 2019 with consultation material on the transfer of Panuku’s waterfront land for a final decision on whether to consult.

There are no attachments for this report.

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<td>Phil Wilson - Governance Director</td>
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<td>Matthew Walker - Group Chief Financial Officer</td>
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