

Council report

13 December 2018

Options for Council's Community Housing

Information has been redacted from this report for the following reasons: Making it available is likely unreasonably to prejudice the commercial position of the person who supplied it or who is the subject of the information; to maintain legal professional privilege; to enable Council to carry on negotiations without prejudice or disadvantage. (Sections 7(2)(b)(ii), 7(2)(g) and 7(2)(i) of the Local Government Information and Meetings Act 1987)

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing



Council

13 December 2018

REPORT R9822

Options for Council's Community Housing

1. Purpose of Report

- 1.1 To agree the preferred approach for deciding the future of Council's community housing.

2. Summary

- 2.1 Council discussed its community housing during development of the Long Term Plan 2018-2028, with a view to making changes to achieve a sustainable future for the assets. In light of the change of government and indications of new policies for housing it was decided to postpone any conversation with the community until there was more certainty about central government's role.
- 2.2 As a result of subsequent discussions, Housing New Zealand (HNZ) and the Nelson Tasman Housing Trust (NTHT) have both expressed an interest in acquiring the portfolio and are currently undertaking due diligence in preparation of their proposals. Officers propose consulting the community in conjunction with the Annual Plan 2019/20 process.

3. Recommendation

That the Council

Receives the report Options for Council's Community Housing (R9822); and

Approves development of a consultation document to consult the community on amending the Long Term Plan 2018-28 to allow Council to divest its community housing; and

Notes that the consultation using the special consultative procedure will be run in conjunction with the Annual Plan 2019/20 process; and

Establishes a Community Housing Working Party comprising the Chair of Community Services, the

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

Chair of Governance and Councillor xxx to oversee work on this issue.

4. Exclusion of the Public

4.1 This report has been placed in the public excluded part of the agenda in accordance with section 48(1)(a) and section 7 of the Local Government Official Information and Meetings Act 1987. The reason for withholding information in this report under this Act is to:

- Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

5. Background

5.1 Council's community housing portfolio comprises 142 units, the majority of which were built with Government low interest loans in the 1960s to 1980s and consist of single level units constructed out of low cost materials consistent with typical practices of the time for social housing.

5.2 Tenancy has been prioritised for older persons with limited financial means in need of affordable housing (first priority is superannuitants 65 plus and second priority is beneficiaries 55 and over). However, there is no evidence of compliance with the current approach as eligibility procedures are via self-disclosure, no formal checks are required and tenancy eligibility is not retested, meaning that it is possible there are current tenants who are no longer eligible under the criteria. Waiting lists have traditionally been managed on a first come, first served basis rather than according to need.

5.3 A report prepared in 2017 for Council estimated that up to 50% of the community housing units would need renewal over the next 20 to 25 years at an estimated cost of \$20 million. In addition, maintenance costs for the units are increasing.

5.4 The current housing pool provides for 152 people (including 20 people living as couples). Demand for affordable housing options continues to grow in the face of an unaffordable Nelson housing market.

5.4.1 Council's waitlist for its community housing has hit all-time highs in the last year (up to 60, while average turnover is 12 units per year).

5.4.2 NTHT, for the properties it owns, receives five requests for help a week but only has five vacancies a year.

5.4.3 Numbers on the Ministry for Social Development's Public Housing Register (from which tenants are sourced for its social housing) shows close to a tripling in demand in both Nelson and Tasman over the last two years (from 46 to 123 for Nelson and 24 to 75 for Tasman, between September 2016 and September 2018).

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

5.5 NTHT has been the management contractor for Council's community housing since 1 November 2017. The NTHT contract [REDACTED] is well above the previous Council budget for this service, which was [REDACTED]. This has led to Council proposing to subsidise community housing from rates at a level of about \$160,000 for most years of the Long Term Plan. The rates subsidisation has led to an inequity with Council providing a service that only a very small number of eligible Nelson residents can access, in an environment of growing need. This is also not in keeping with the Revenue and Financing Policy which considers the benefit to be 100% private with individual tenants being the primary beneficiaries and rents well below market and below normal charges for community housing elsewhere.

5.6 The contract with NTHT was set for a period of two years during which Council expected to develop a proposal for the future of community housing, recognising that continuing the current arrangement was not sustainable.

6. Discussion

6.1 A number of discussions were held with Council about the future of its community housing during the development of the Long Term Plan 2018-28. There was also a workshop on 23 November 2017 to consider a detailed analysis of different options open to Council.

6.2 Ultimately it was decided not to raise this issue through the Long Term Plan consultation. The new government had given indications it would be changing policy on social housing and it was unclear what this might mean for local authorities. There seemed little value in launching a consultation on Council's community housing while there was so much uncertainty.

Government assistance

6.3 Following the Council Long Term Plan workshops in January/February 2018 the Mayor made contact with the government to explain the difficulties Nelson was facing in relation to its community housing. In response a number of officials visited Nelson led by Scott Gallacher, the then Deputy Chief Executive Housing at the Ministry of Social Development, and Greg Groufsky, the Deputy Chief Executive at Housing New Zealand. The Mayor and Chair of Community Services held a detailed discussion with the government officials about the challenges facing our community housing, the fast growing demand in Nelson and the urgent need for assistance.

6.4 A period of information exchange and discussion between officials followed, culminating in an offer from HNZ to consider acquiring Council's community housing portfolio with a view to redeveloping and expanding the asset. Scott Gallacher, now Deputy Chief Executive of Public Housing Supply at the new Ministry of Housing and Urban Development, and Monique Fowler, National Portfolio Manager, HNZ presented at a Council briefing on 11 October 2018.

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

6.5 HNZ, at the time of the briefing to Council, had undertaken a desktop review of Council's community housing to establish that it would indeed be a suitable purchase. Following the briefing it has commenced a detailed due diligence process which will include an independent peer review by a registered builder of the most recent condition assessment.

[REDACTED]
[REDACTED]
[REDACTED] It has indicated that should agreement be reached then it anticipates the transfer of ownership would take place by November 2019.

6.6 HNZ has stated in media, following announcement of the potential sale of the community housing, that there would be no changes for existing tenants and that all current terms and conditions of their tenancy agreements would simply transfer to HNZ. [REDACTED]

[REDACTED] HNZ also noted that the relevant agencies were working together to keep tenants informed and come to a solution that would have the least disruption to existing tenants.

Nelson Tasman Housing Trust

6.7 Following the offer from HNZ, the NTHT expressed an interest in purchasing all of Council's community housing stock and also presented at the Council briefing on 11 October. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Future tenants

6.10 [REDACTED]
[REDACTED] under both scenarios future tenants are unlikely to be limited to those meeting Council's existing criteria. Both are likely to take tenants from the government's Public Housing Register – HNZ is required to and NTHT will

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

only receive rent subsidy for tenants from the register. This register lists people in greatest need and age is not a criteria. In addition NTHT has indicated it wishes to include affordable housing in any redevelopment of sites, which would add tenants of all ages, not just older adults.

Maximising the potential for partnership

6.11 Council is in the fortunate position of having two very experienced local housing providers interested in acquiring its community housing. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED] It is important that Council conducts the process and all communications in a manner that, as far as possible, [REDACTED]
[REDACTED] This will also maximise the options for Council in decision making following a public consultation.

Other Partners

6.13 Other stakeholders (Abbeyfield, Habitat for Humanity and YMCA) have expressed an interest in being kept informed of the community housing work and potentially partnering in some aspect of the outcome.

6.14 Abbeyfield is a registered Community Housing Provider (CHP) [REDACTED]
[REDACTED] owns a property at 2 St Francis Way in Stoke, adjacent to Council's community housing at 6 St Francis Way. [REDACTED]
[REDACTED].

6.15 Habitat for Humanity, another CHP, is building three one bedroom units for older people at an affordable rent close to Nelson Hospital. [REDACTED]
[REDACTED]

6.16 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

7. Asset Disposal Policy

7.1 Council's Asset Disposal Policy 2015, aims to ensure disposals are undertaken in a way that maximises value for money for the Council and minimises opportunities for exploitation by individuals/organisations. Land and property disposals must be approved by Council. For an asset

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

worth more than \$50,000 the policy recommends public auction or trade-in which are obviously not appropriate in this case.

- 7.2 Section 80 of the Local Government Act 2002 requires that when Council is taking a decision that is significantly inconsistent with a policy the reasons for the inconsistency must be identified, along with any intention to amend the policy or plan to accommodate the decision. In this case the Asset Disposal Policy does not provide adequate guidance due to nature of the asset [REDACTED]. The Policy is due for review and officers will consider whether it needs amendment to address disposal of strategic assets.

8. Public Works Act

- 8.1 An assessment of whether sale of community housing assets requires an offer back under the Public Works Act 1981 was undertaken in 2015 and showed Council had no requirements under Section 40. Council officers are seeking updated legal advice on this specific issue given the nature of the proposal has changed, the time elapsed since this advice was obtained and the significance of this matter.

9. Loan Repayment

- 9.1 Council's Orchard Street Flats were partially upgraded in 2011 using a 20 year HNZ suspensory loan of \$1.17 million. The terms of the loan are such that Council would need to apply to HNZ for approval to divest the property (unless to HNZ) and if approval is not given, to repay the loan as well as interest to the full term of 20 years. There is a clause requiring Council, if selling the property, to offer it first to HNZ or a housing provider approved by HNZ, at market value.

10. Options regarding the future of community housing

- 10.1 In order to carry out consultation with the community and any subsequent negotiations with potential purchasers, Council needs to consider all the options available to it and decide a direction.
- 10.2 Council has two main options, to either divest or retain the portfolio. Within each option there are several scenarios which are set out below.
- 10.3 It is worth noting that the extremely low rent charged by Council for its community housing contributes to the problems of financial sustainability. The consultants that assessed Council's portfolio in 2017 advised that a 70% rental policy would realise an additional \$350,000 per annum or an 80% policy an additional \$517,000 per annum and noted that while this would make the portfolio more sustainable it would not address future renewal costs.
- 10.4 Council has in the past proposed raising the rent but there was such significant opposition from tenants and their advocates that no change was made. [REDACTED]

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

██
██
Divest the portfolio

10.5 Under this option Council could consider:

10.5.1 **An unconditional, unfettered sale** where Council discontinues delivery of the community housing service and disposes of the portfolio on the open market.

10.5.2 **Sale with conditions** where Council sets conditions that protect the social housing service, such as continued provision of community housing and related social services and protections for current tenants. This could include sale to HNZ or a registered CHP.

Retain Ownership

10.6 Under this option Council would maintain ownership of the portfolio and could consider:

10.6.1 **Status quo** where Council would continue to own the asset and subsidise provision of this service from rates. It could continue to outsource the management contract or could choose to bring that in house.

10.6.2 **Renew its asset** where Council commits additional rates funding to bring the portfolio up to an acceptable standard as recognised by the sector. This option would require additional funds for the redevelopment – estimated to be required for about half of the units at an expected cost of approximately \$20 million over the next 20 to 25 years.

6.3.3 **Expand its asset** where Council commits extra rates funding to provide additional community housing (and any central government funding that might be available in future). This option would also require the rates funding in the two options above (ie existing rates subsidy as well as renewal funding).

10.6.4 **Lease to provider** where a provider manages the housing portfolio under a lease and would be responsible for all operating costs including rates and day-to-day maintenance. A variation on this option would be to sell the housing asset to a provider but retain ownership of the land.

10.6.5 **Council Controlled Organisation (CCO)** where Council would sell the portfolio to a CCO with an independent board. To comply with the Local Government Act (section 6) Council would need to control at least 50% of the votes or appoint 50% of the trustees.

10.7 Advantages and disadvantages of each option are noted below. ██████████
██

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

Option 1: Private sale	
Advantages	<ul style="list-style-type: none"> • Maximises sale value • Saves \$160,000 rates subsidy per year in future years of Long Term Plan 2018-28 • Avoids rates funding for renewal or potential expansion of portfolio
Risks and Disadvantages	<ul style="list-style-type: none"> • The asset would be very unlikely to continue delivering community housing • Unlikely to be accepted by the community • Council may be required to repay in full the suspensory loan from HNZ of \$1.17 million (plus interest)
Option 2: Sale with conditions	
Advantages	<ul style="list-style-type: none"> • Council could impose conditions that require continued delivery of community housing • Likely to achieve a more sustainable social housing model which would be able to maintain and expand the stock • Good potential for expansion of the asset to meet growing demand
Risks and Disadvantages	<ul style="list-style-type: none"> • Council may be required to repay in full the suspensory loan of \$1.17 million (plus interest) unless selling to HNZ • Conditions will reduce the sale price
Option 3: Status Quo	
Advantages	<ul style="list-style-type: none"> • Certainty for Council about future of community housing portfolio if it continues to own • Saves resources associated with negotiating sale of assets
Risks and Disadvantages	<ul style="list-style-type: none"> • Continued rates subsidy of the management contract costs • Inequity of other ratepayers subsidising tenants • Does not provide additional housing in an environment of growing need • Likely that the quality of the housing would continue to decline
Option 4: Renew Asset	
Advantages	<ul style="list-style-type: none"> • Ensures continuation of community housing in Nelson for the longer term • Existing tenancies would be protected

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

Risks and Disadvantages	<ul style="list-style-type: none"> • Continued rates subsidy of the management contract costs • Inequity of other ratepayers subsidising tenants • Does not provide additional housing in an environment of growing need • Renewal costs for the portfolio of approximately \$20million over the next 20 to 25 years • May require selling some complexes to generate funding for renewals resulting in less housing available for tenants
Option 5: Expand Asset	
Advantages	<ul style="list-style-type: none"> • Some of the current sites can cater for intensification • New supply to assist with growing demand
Risks and Disadvantages	<ul style="list-style-type: none"> • Continued rates subsidy of the management contract costs • Inequity of other ratepayers subsidising tenants • Renewal costs for the portfolio of approximately \$20million over the next 20 to 25 years • Cost of building new units would significantly increase debt and displace other Council projects
Option 6: Lease to a CHP	
Advantages	<ul style="list-style-type: none"> • Council would no longer directly provide community housing although would continue to own the portfolio and/or land • A CHP would be able to access government rent subsidies
Risks and Disadvantages	<ul style="list-style-type: none"> • Under a lease scenario Council would remain responsible for substantial maintenance and renewal costs and there would be inequity of other ratepayers subsidising tenants • Under a sale of housing but not land scenario, the provider may be reluctant to invest in new units without land ownership and would not be able to leverage the land ownership for loans
Option 7: Sale to a CCO	
Advantages	<ul style="list-style-type: none"> • Council would continue to have some control of the provision of community housing.

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

	<ul style="list-style-type: none">• Community housing could be rebranded which could make it easier to change the rental policy closer to market rents
Risks and Disadvantages	<ul style="list-style-type: none">• Would attract one-off establishment costs and additional annual governance and management costs for little additional benefit• If the CCO was a profit making company may introduce tax complexities that may make it tax-ineffective• Unlikely to be able to access government rent subsidies or capital investment as still Council controlled• Expected that Council would still have to fund working capital and any operational cashflow shortfall

11. Proceeds of Sale

- 11.1 The proceeds of any sale of Community Housing assets would increase the reserves in this activity. Council could use the reserves to fund future work in the affordable housing/social housing space. This could involve exploring options to work with other partners as set out in paragraphs 6.11-6.14.
- 11.2 Decisions about what projects would get the best return for investment can be worked out at a later date, but the intention would be useful to include as part of the public consultation. Alternatively, Council could resolve to utilise the proceeds of sale to fund any other Council activity.
- 11.3 Council could decide to reduce the proceeds of the sale by selling at a discount or even gifting the land to a provider. This would maximise the ability of the provider to renew and develop the stock but would decrease reserves available for use as discussed in 11.1 and 11.2 above.

12. Councillor Working Party

- 12.1 Given the proposed timeframe for consultation in March 2019, and the work required, officers request that a councillor working party be established to oversee the work.
- 12.2 The working party would provide guidance on the proposal to prepare a consultation document prior to it being brought back to Council for approval. It would also support subsequent negotiations with parties should divestment proceed.

13. Next steps and consultation approach

- 13.1 As Council's community housing is a strategic asset, an ownership transfer would trigger a Long Term Plan amendment under (s.97(1)(b)) of the Local Government Act 2002, and Council would be required to carry out a consultation before making any changes to its ownership.

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

13.2 If approved by Council, a consultation document to amend the Long Term Plan 2018-28 would be prepared. It would make sense to consult on this in conjunction with the draft Annual Plan 2019-20, using the same scheduled hearings and deliberations meetings. If this option is pursued, the special consultative procedure must be used on both the Annual Plan and Long Term Plan amendment and requirements of sections 93D, 93E and 95A of the Local Government Act 2002 must be combined into one consultation document (s.95B of the Local Government Act 2002).

13.3

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

13.4 A draft timeline for the approval of the approach is noted below for information:

December 2018	Guidance from Council as to its preferred approach. Approval for officers to develop a proposal for consultation
February 2019	Council to adopt the consultation document
March/April 2019	Consultation period
May 2019	Hearings as part of the draft Annual Plan 2019-20
June 2019	Deliberations as part of the draft Annual Plan 2019-20

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

14. Options regarding consultation

- 14.1 Council has the option to approve preparation of a consultation document with a proposal to divest its community housing, or not. Option 1 is the recommended approach.

Option 1: Council approves the proposed approach	
Advantages	<ul style="list-style-type: none">• Would enable consultation on the proposal to divest the community housing portfolio to be carried out at the same time as consultation on the AP 2019-20• Responsive to the two expressions of interest• Demonstrates Council's commitment to establishing a sustainable future for the community housing asset
Risks and Disadvantages	<ul style="list-style-type: none">• The process and any subsequent negotiations will require a significant allocation of staff resources• The process may cause anxiety for existing tenants
Option 2: Council does not approve the proposed approach	
Advantages	<ul style="list-style-type: none">• Council would continue to have a role in the provision of community housing for older adults and control over how that activity is delivered• Stability for existing tenants
Risks and Disadvantages	<ul style="list-style-type: none">• May mean the opportunity to divest the community housing portfolio to the HNZ and/or NTHT is lost

15. Conclusion

- 15.1 Officers recommend that the Council agree to the approach of divesting Council's community housing, and approve the development of a consultation document, as part of the draft Annual Plan 2019-20, to seek feedback from the community.

Author: Nicky McDonald, Group Manager Strategy and Communications

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

Attachments

Nil

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

Important considerations for decision making

1. Fit with Purpose of Local Government

Decisions in this report allow Council to consult with the community on whether the current and future needs of the Nelson community for community housing can be more efficiently and effectively met through a different provider.

2. Consistency with Community Outcomes and Council Policy

The recommendations in this report fit with the community outcomes;

- our urban and rural environments are people friendly, well planned and sustainably managed
- our communities are healthy, safe, inclusive and resilient

3. Risk

There is a risk that the current tenants and the community would not support the recommendations from this report however this risk would be mitigated through consultation with the community on the proposal.

There is a risk of negative publicity generated if one of the parties is unsuccessful and feels the process has not been fair. Transparent process and decision making will help mitigate this. Once negotiations are concluded the release of public excluded material would assist the community to understand decision making considerations.

There is a risk that parties outside Nelson might consider they should have had an opportunity to acquire the stock. It is important that the community consultation is clear about the benefits of a provider with local experience.

[REDACTED]

Some in the community may feel the proposal does not contain sufficient detail if it does not cover sale price, preferred partner or other negotiation details. It will be important in the consultation document to explain that community views are being sought on the broad principles of the future direction of the community housing asset. Once community feedback is received Council will make decisions about what is needed to achieve that direction.

4. Financial impact

PUBLIC EXCLUDED

Item 4: Options for Council's Community Housing

If the option to divest the portfolio proceeds, officers will obtain a current valuation to form the basis of any negotiation with interested parties.

The LTP 2018-28 budget for a contribution from general rates for the community housing activity is \$1.51 million, and this would be a savings if the proposal was implemented.

5. Degree of significance and level of engagement

This matter is of high significance to tenants as this affects their homes and of low significance to the wider public. Engagement with the community is planned through a consultation document (and using the special consultative procedure) to amend the Long Term Plan 2018-28, as set out in this report.

6. Inclusion of Māori in the decision making process

No engagement with Māori has been undertaken in preparing this report.

7. Delegations

The Community Services Committee delegated its mandate for decisions relating the future of Council's community housing to Council at its meeting on 27 November 2018.