

RODNEY DISTRICT COUNCIL

SUPPLEMENTARY AGENDA

14 December 2006

ITEM NO: 13A

REPORT



TO Council
ON 14 December 2006
FROM Ray Ginnever – Executive Officer Governance & Special Projects
APPROVED BY Murray Noone – Director Transportation
SIGNATURE

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line.

SUBJECT PENLINK UPDATE REPORT – DECEMBER 2006
FILE REF RF/53/2

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input checked="" type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? Yes - related to objectives of the Council's Transport Strategy, which sits under Vision Rodney.
(iii)	Implications in terms of Long Term Plan/Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Yes - This involves the completion of a special consultative procedure and a scientific sample survey of the affected community.

SUMMARY:

The Council is scheduled to receive a number of independent reports on the Penlink project in early December 2006, including:

- the Penlink Tolling Strategy Consultation Report;
- the Penlink Tolling Strategy Independent Hearings Panel Report; and
- the Penlink Survey of Affected Communities.

These reports are key inputs to the Penlink business case and the funding arrangements under discussion with the Council's public funding partners, Land Transport New Zealand and the Auckland Regional Transport Authority. This item includes the above reports, comments thereon and a progress report on the funding arrangements, draft business case and the Order-in-Council application for Penlink.

RECOMMENDATIONS:

(a) That the Council receive the following reports:

- (i) the Penlink Tolling Strategy Consultation Report;**
- (ii) the Penlink Tolling Strategy Independent Hearings Panel Report; and**
- (iii) the Penlink Survey of Affected Communities Report.**

(b) That the Council adopt the conclusions of this report, namely that:

- (i) There is a clear and consistent high level of support for Penlink to be built as a toll road, across both the wider Rodney community and the affected community.**
- (ii) There is a high level of awareness of the Penlink project across both the wider Rodney community and the affected community.**
- (iii) The consultation process on the tolling strategy and the approach to a concession arrangement have met the requirements of the Land Transport Management Act 2003 and the Local Government Act 2002.**
- (iv) The Survey of Affected Communities report satisfies the requirements of the Land Transport Management Act 2003 Section 48(1)(iv) that there is "a high degree of support from affected communities" for the Penlink toll road.**
- (v) The review of specific risks of the project needs to be covered thoroughly in the business case for Penlink.**
- (vi) The results of the consultation and the emergence of new information regarding toll collection costs require that further study be completed before a final tolling strategy, with a balance between efficiency, simplicity, and equity, is determined.**
- (vii) The Council needs to continue to work closely with its funding partners to complete a satisfactory funding package prior to filing an Order-in-Council application with the Minister of Transport in the first quarter of 2007.**
- (viii) The draft business case, informed by the results of the consultation process, the affected communities survey and a recommended toll strategy based on updated information on toll collection costs; be brought to the Council for deliberation early in 2007.**

1.0 Background

1.1 In its Long Term Plan, the Council adopted a way forward program for the Penlink project, including the following actions:

- consult the community on tolling options;
- seek Land Transport New Zealand funding share;
- set the final funding package, including what was required from the private sector, development contributions and rates, if any
- obtain an Order-in-Council to establish a road tolling system and approval in principle from the Minister of Transport for a concession arrangement between the Council and any private sector partner.

- 1.2 The Council has organised the necessary processes to complete the first step above and additional work towards achieving an Order-in-Council for authority to toll Penlink, and for approval in principle for a concession arrangement as required under the fourth step. The completed reports are attached as **Appendices 1 – 3** and comments on the findings are found below.
- 1.3 These reports provide critical information to staff to assist in the preparation of the Penlink business case and funding package; principally:
- feedback on a tolling strategy;
 - the basis for forming a concession arrangement with a private investor; and
 - a measure of the degree of support from affected communities, as required under the Land Transport Management Act (LTMA) to obtain Land Transport New Zealand (LTNZ) funding and Ministerial approval to establish a toll road.
- 1.4 As Penlink represents the first proposed public private partnership toll road under the LTMA in New Zealand, and also the first such project to be developed by a local authority, the development of the business case and funding package has been a learning process both for Council staff and for the staff of our major funding partners, the Auckland Regional Transport Authority (ARTA) and LTNZ. Policies on funding local authority toll roads under concession arrangements are not yet finalised and the Penlink proposal represents a test case for all concerned. This requires an extended effort by Council staff to educate its funding partners on the draft business case and proposed concession arrangement structure, once that work is complete. This has led to the necessity of delaying the filing of an application for LTNZ funding and the Order-in-Council until the first quarter of 2007.
- 1.5 The Ministry of Transport liaison officer for the Penlink Order-in-Council application process has also subsequently advised Council staff that it will now be necessary to have the LTNZ funding commitment secured as part and parcel of the Order-in-Council application. This represents a change from the previous approach and further enforces the case for delaying filing until the first quarter 2007.
- 1.6 The Penlink Draft Tolling Strategy was released for consultation on 17 October 2006 and remained open for submissions until 16 November 2006. This was followed by hearings conducted by an independent hearings panel (21 and 23 November) to hear submitters who wished to speak to their submissions. Over 1400 submissions were received and 22 speakers spoke to their submissions.
- 1.6.1 Opus Consultants provided their report "Penlink Tolling Strategy – Consultation Report" summarising the results of the consultation (**Appendix 1**) on 6 December 2006. An opinion was provided in their report (page 37) that *"the consultation process followed was robust and met the requirements of the Land Transport Management Act 2003"*.
- 1.6.2 The Opus Report provides the following conclusions:
- a) The overall message taken from responses was that Rodney District Council should "just get on with it".
 - b) Written and oral responses to the specific questions asked can be summarised as:
 - Question 1 Option 4 (three collection points and a capped toll) was the most popular option because it was considered to be fair, manage congestion and gave back to those who use the whole route. Option 1 (Weiti River Bridge only) was the second most popular option because it is considered the simplest option.
 - Question 2 Just over half of respondents were not prepared to pay a higher toll to reduce the tolling period.
 - Question 3 The majority of respondents supported lower tolls in off-peak periods, but just over half were opposed to a higher toll during peak periods.
 - Question 4 Just over half of respondents supported partial tolls to use part of the Penlink route.

- Question 5 The majority of respondents supported higher tolls for heavy commercial vehicles.
- Question 6 Of approximately 300 respondents whose responses related to the question, over three-quarters would support some type of concession arrangement in order to progress the project. However, the feedback cautioned the Council on the risk of such a venture, particularly in ensuring that risk and liability was not placed on the Council and ratepayers.
- Question 7 The vast majority of respondents indicated that they understood that Land Transport New Zealand funding approval was required.
- Question 8 The vast majority of respondents indicated that they understood that external funding and tolls were necessary.

The final question was *“is there anything else relating to the Penlink Tolling Strategy that you want the Council to consider?”* This was an open ended question and as such attracted a variety of comments that were not necessarily focussed on the Tolling Strategy and concession arrangement. The key subject areas were tolling, funding, risk, consultation and the need for Penlink. Comments and issues raised under this question can be summarised as:

- The Council should ‘just get on with it’.
- The Council needs to keep its promise of ‘at no cost to ratepayers’.
- Tolling needs to be simple, quick, efficient and cost effective.
- More information about tolling as a concept is required.
- More information about funding for Penlink is required.
- More information as to the risks of Penlink and who is responsible for the risks is required.
- Government tax should be used to pay for Penlink.
- Penlink should not be tolled.
- A number of roading improvements were suggested for Penlink and the area.

Overall, Opus considers that the consultation process was robust and satisfied the consultation requirements under the Land Transport Management Act 2003.

1.7 The Hearings Panel provided its report “Penlink Tolling Strategy – Hearings Panel Report – **(Appendix 2)** on 8 December 2006, giving its views on the results of the consultation and comments on the oral submissions at the hearings held on 21 and 23 November.

1.7.1 The Hearings Panel Report provides the following conclusions:

- The key issues that need to be considered when assessing the number and location of toll collection points are equity and fairness, efficiency (including transaction costs), operational considerations (particularly with respect to the motorway ramps) and revenue potential.
- The Panel sees no compelling reason why any group should be exempt from paying tolls.
- The number of transactions should be kept to a minimum. From an administration cost perspective the desirable option is to have one collection point and that is Site C. The Panel believes that, had people understood the financial and operational costs of multiple tolling points, the results of the survey may have been different. The Panel considers that having one collection point at Site C is consistent with comments made by submitters to keep the collection strategy simple.
- There is not a compelling case to commit to lower off-peak tolls until greater information is available on maintenance and administration costs. The benefits of offering lower off-peak rates may not outweigh operating costs. The Panel accepts the view of submitters that the proposed toll rates are inexpensive in relation to the benefits received from lower travelling time and vehicle running costs.
- A higher toll for heavy commercial vehicles is appropriate as transport operators will see the benefits of using Penlink compared to alternative routes. However, care must be taken to not set the rate at a level that discourages use.
- There is no compelling reason why public transport vehicles should be exempt from tolls. However, the Panel acknowledges that there may be public policy reasons for exempting scheduled bus services as well as emergency vehicles.

- The term “concession” was not well understood by the community and the consultation document did not clearly outline the details of the proposed concession arrangement. In particular the ‘risk’ such an arrangement could have on the Council and ratepayers is not clear. The Panel is of a view that the Council needs to clarify its intentions in relation to concession arrangements, with specific reference to risk allocation. This should be conveyed to the public in any further communication on the issue.
- The Panel believes that the Council should adopt a flexible request for proposals from the private sector, rather than identifying specific inputs or tolling methods to be applied so that concessionaires are encouraged to adopt innovative processes.

1.8 The Survey of Affected Communities was commissioned in mid-October 2006 and involved face-to-face interviews with 500 households and 100 businesses in the affected area, conducted over four weeks up to mid-November 2006 under the direction of Nexus Planning and Consulting Ltd.

1.8.1 The Nexus report on the Survey of Affected Communities was received on 9 December 2006 (**Appendix 3**) and provides the following conclusions:

- The results show that support for the Penlink toll road is very high amongst those who live/study/work (85 to 88%) and amongst the workplace survey respondents. Strong support for the Penlink toll road is lower in the workplace survey (85 v 88%) than the household survey. Combined support (strongly and somewhat) is high in both the household and workplace surveys.
- The main reason for support was to have better traffic flow/better access. Other main reasons included:
 - reduce travel time
 - the need for alternative routes/choice of route
 - encourage more people/industry/jobs/tourism development/ safety.

The main reason for opposition (11%) was objection to tolls as they have already been paid. Other main reasons included:

- waste of money/too expensive/improve public transport/improve short term solution/improve existing road reduce travel time
- concerns about bringing increased population and traffic
- harmful to sociological and environmental culture.

Awareness of the Weiti Crossing/Penlink toll road proposal is very high in both the household survey (96%) and the workplace survey (88%).

2.0 Issues

2.1 The three reports cover a number of issues in their findings and these are discussed below.

2.2 There is a consistent high level of support for the Penlink project across the community and a further message for the Council to “get on with it”. Support from earlier consultations and surveys have been confirmed by significantly increased levels of support found during these processes.

2.3 The cost of tolling transactions has emerged as an issue in the determination of the most appropriate tolling strategy. The most current policy of the national Toll Systems Project is to charge a transaction fee each time a vehicle passes under a gantry. This is due to the fact that the technology currently scheduled for first use in the Toll Systems Project is number plate recognition using cameras, rather than transponders. This is a more costly option as the number plate needs to be recognised each time a vehicle passes a gantry and a transaction generated. This policy was not known at the time the consultation documentation was circulated. It reinforces the need to adopt a principle-based benchmarking value for money and public sector comparator approach in the assessment of public vs private sector asset and service delivery options, as described in the concession approach section of the tolling strategy.

2.4 In light of the above and given the view of the Hearings Panel that the Council needs to find a balance between equity, simplicity and efficiency in the determination of the final tolling

strategy, further study of costs is required before a final strategy can be recommended for adoption.

- 2.5 Issues were raised about the distribution of tolling strategy information. This conclusion was drawn after the close of consultation and is likely based on incomplete information. The distribution of information was undertaken on a number of fronts and exceptional efforts were made during the submission period to get information out to residents who claimed that information brochures were not received. This included delivery to nursing home residents on the Hibiscus Coast who did not have individual letterbox addresses, delivery of over 1300 additional brochures and uptake of over 250 full briefing documents on the tolling strategy. New Zealand Post confirmed brochure delivery to 28,566 letter boxes in Rodney. The Council mailed an additional 6,069 brochures to ratepayers living outside Rodney. Thirty-one key stakeholders received copies of the brochure and the full briefing document. Officers in the contact sessions at the consultation displays report very few comments made about access to information. The distribution of submissions across the Hibiscus Coast area is indicative of a thorough distribution of information, as is the high number of submissions received.

A related issue was the availability of further information on the discussion of risks found in the more comprehensive Consultation Briefing Document. As stated above, over 250 of these were distributed to individuals, with a further 31 sent to key stakeholders, as well as being available at Council offices, service centres and libraries. Many submitters who sought information at the tolling strategy displays from the attending officers had copies of the document for reference. There was also comment that the Briefing Document was difficult to find on the Council's website. This may be the case now that consultation has closed, but during the submission period the Document was directly accessible via a highlighted link on the home (front) page of the Council website, as well as linked from several other places on the site, including the public notices section, the consultation section and the roading page, so it was relatively easy to find.

- 2.5.1 All of the available information sources were advertised in local papers and the Council Call Centre staff, who had a detailed question and answer customer response protocol, answered dozens of calls and requests for information or clarification.
- 2.6 Comment is made in the reports that the analysis of specific risk issues for Penlink was not canvassed in the tolling strategy consultation (as discussed below). Feedback in the consultation was sought on an approach to evaluating value for money and effectiveness of service and asset delivery through either the public sector or the private sector in a concession agreement. Specific issue risk analysis remains a necessary element of the decision-making process for the Council and is a focus in the preparation of the draft business case due for reporting to Council shortly.
- 2.6.1 For the proposed approach to a concession arrangement, the consultation documentation needed to reflect an approach that would meet the requirements of both the Land Transport Management Act and the Local Government Act 2002 and respect the fact that the two substantive inputs for the business case, the tolling strategy and the degree of Land Transport New Zealand funding, were unknown.

The Local Government Act 2002 (Part 6, Sections 76 thru 79) requires the Council to consider options and to bring an open mind to its decision-making processes.

Land Transport New Zealand funding decisions, made under the Land Transport Management Act, require the Council (as an approved organisation for funding) to consider value for money and benchmarking processes in any application for funding.

These requirements precluded any pre-determined statement of position by the Council with respect to specific risk issues in the consultation information. The consultation material asked for public comment on the proposed approach to a concession agreement within the above framework. The consultation material also did not ask for comment on a specific concession model or agreement, as none existed or could be modeled until the business case was completed.

Notably, in the one area where the consultation material did indicate (indirectly) a preferred option for the toll strategy ("as recommended by Council's toll advisors") there was criticism of the consultative process. However, it was agreed by the consultation material preparation team and peer reviewers that not disclosing the view of the advisors would have been

misleading. It was also clearly stated in the material as the view of the advisors, and not that of Council.

- 2.6.2 Over three-quarters of the three hundred plus respondents to the question on the Council's approach to a concession arrangement supported some type of concession arrangement in order to progress the Penlink project. A number of comments were received regarding the risks and workings of a concession agreement and these are summarized in Appendix 9 of the Consultation Report. The number of comments indicates that the community has an awareness of the risk issues and that the Council needs to respond to these issues effectively in its decisions. Both the Consultation Report and the Hearings Panel report comment on the level of clarity surrounding the risk issues and indicate that they require clear communication from the Council as the decision-making processes for Penlink progress.

Under the Land Transport Management Act (s56-59), a public road controlling authority (Council) must obtain the Minister's prior written "approval in principle" for any proposed concession arrangement and satisfy the Minister that certain conditions have been met, mainly:

- protection of public access to the associated new road;
- the allocation of risk between the parties;
- the responsibilities of the parties;
- the rights of the parties.

With the tolling strategy and the degree of Land Transport New Zealand funding yet to be determined, the consultation approach adopted was to propose the principles under which the Council would evaluate any concession proposal. This approach and wording was reviewed with Ministry of Transport personnel and was acceptable to them as a methodology for obtaining "approval in principle".

- 2.6.3 The survey of affected community's interviews very clearly stated:

"Without tolling the road will not be built, as Council cannot afford to service the required borrowings from rates"; and

"Rodney District Council is proposing to build this road, to be paid for by the users by way of a toll".

- 2.6.4 Of the three reports received this week, the first two, the Opus Report and the Panel Report, relate to the findings of the completed special consultative procedure conducted on the Penlink Draft Tolling Strategy. This consultative process relies on distribution of information to the community on the tolling strategy, question and answer resources during the submission period and a submission process (with hearings provisions) for those members of the community interested enough to make a submission and speak to their submission, if desired.

The third, the Nexus report, presents the results of a scientifically sampled survey of residents, workers and students throughout the "affected community" to gather their views on the effects of the project and to measure the degree of support within the affected community. This process relies on direct interviews from a statistically reliable sample of the community (500 households and 100 businesses targeted for surveyed). The "affected community" is defined under the Land Transport Management Act as those who live, work or study in the area to be affected by the proposed project. The Nexus report followed the standard and practices established for the ALPURT B2 survey, with input from Council staff, advisors and Transit New Zealand officers.

3.0 Options

- 3.1 Accept the reports as received and acknowledge the recommendations and staff comments as valid inputs for consideration by the Council in its deliberations on the final tolling strategy and business case for Penlink.
- 3.2 Reject the reports and the validity of the processes followed during the consultation and the survey of affected communities.

4.0 Conclusions

- 4.1 There is a clear and consistent high level of support for Penlink to be built as a toll road across both the wider Rodney community and the affected community.
- 4.2 There is a high level of awareness of the Penlink project across both the wider Rodney community and the affected community.
- 4.3 The consultation process on the tolling strategy and the approach to a concession arrangement have met the requirements of the Land Transport Management Act 2003 and the Local Government Act 2002.
- 4.4 The Survey of Affected Communities report satisfies the requirements of the Land Transport Management Act 2003 Section 48(1)(iv) that there is “a high degree of support from affected communities” for the Penlink toll road.
- 4.5 The review of specific risks of the project needs to be covered thoroughly in the business case for Penlink.
- 4.6 The results of the consultation and the emergence of new information regarding toll collection costs require that further study be completed before a final tolling strategy, with a balance between efficiency, simplicity and equity, is determined.
- 4.7 The Council needs to continue to work closely with its funding partners to complete a satisfactory funding package prior to filing an Order-in-Council application with the Minister of Transport in the first quarter of 2007.
- 4.8 The draft business case, informed by the results of the consultation process, the affected community’s survey and a recommended toll strategy based on updated information on toll collection costs will be brought to the Council for deliberation early in 2007.

APPENDIX 1

APPENDIX 2

APPENDIX 3