

Decision released from confidential session			
Recommendation from (agenda report)	Date of meeting	Recommendation to (decision-making meeting)	Date of meeting
		Council	14 December 2023
Report Title and number			
Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets - R27980			
Documents released			
Decision CL/2023/318 and Report R27980			
Decision			
<p>Resolved</p> <p>That the Council</p> <ol style="list-style-type: none"> 1. Receives the report Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets (R27980); and 2. Confirms to Kāinga Ora that the Council is still committed to a partnership with them to leverage an affordable housing development and would like to facilitate them to find another site that is not subject to coastal flooding and is within the catchment of the Infrastructure Acceleration Fund Bridge to Better project; and 3. Agrees that Report (R27980) and decision remain confidential at this time. 			

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

Council



14 December 2023

Report Title: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets
Report Author: Lisa Gibellini - Strategic Housing Adviser
Report Authoriser: Nikki Harrison - Group Manager Corporate Services
Report Number: R27980

1. Purpose of Report

- 1.1 To consider whether the Council remains committed to achieving a partnership with Kāinga Ora to achieve social and affordable housing development in the city centre.
- 1.2 To consider this noting that Kāinga Ora remain committed to a partnership development with the Council to achieve the strategic outcomes of both parties as identified within the relationship agreement, but to do this on 69 to 101 Achilles Avenue and 42 Rutherford Street they require:
- 1.1.1 Improved financial feasibility or the limitation of financial exposure if the development agreement progresses in the current stressed construction market; and
 - 1.1.2 Certainty from the Council in relation to a coastal flooding strategy for the city centre for the Achilles and Rutherford sites.
- 1.3 To consider this knowing that the Council has been awarded \$36million of Infrastructure Acceleration Funding (IAF) for the Bridge to Better project to create sufficient infrastructure capacity for up to 1000 households in the city centre, and that this funding relies upon the Council having housing partners to deliver on that.
- 1.4 This report is presented with the input and support of Kāinga Ora and the IAF.

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

2. Recommendation

That the Council

1. ***Receives the report Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets (R27980); and***
2. ***Confirms to Kāinga Ora that the Council is still committed to a partnership with them to leverage a social and affordable housing development and would like to facilitate them to find another site that is not subject to coastal flooding and is within the catchment of the Infrastructure Acceleration Fund Bridge to Better project; and***
3. ***Agrees that Report (R27980) and decision remain confidential at this time.***

3. Exclusion of the Public

3.1 This report has been placed in the confidential 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)(g) To maintain legal professional privilege
- Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities
- Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

4. Background

4.1 On 29 June 2021 the Council adopted the Long-Term Plan (LTP) 2021-31. One of the Council's key priorities in the LTP is housing affordability and intensification. Partnering with Central Government and utilising Council property is a work programme area identified to give effect to addressing that priority.

4.2 From the 30 August 2021 to 1 October 2021 Council sought public feedback on a proposal to sell 69 to 101 Achilles Avenue and/or 42 Rutherford Street to Kāinga Ora for social and affordable housing development.

4.3 On 28 October 2021, after considering public feedback on the proposal to sell 69 to 101 Achilles Avenue and/or 42 Rutherford Street to Kāinga Ora for social and affordable housing developments, the Council resolved:

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

Resolved CL/2021/230

That the Council

1. *Receives the report Deliberations on sale of 69 to 101 Achilles Avenue and/or 42 Rutherford Street to Kāinga Ora for social and affordable housing (R26213) and its attachments (A2763085 and A2767627); and*
2. *Accepts the following late feedback (A2767627) on the proposal to sell 69 to 101 Achilles Avenue and/or 42 Rutherford Street to Kāinga ora for social and affordable housing:*
 - *Rachel Boyack, MP for Nelson*
 - *Ainslie Riddoch*
3. *Approves the sale of 69 to 101 Achilles Avenue and 42 Rutherford Street to Kainga Ora subject to a negotiating brief that includes the following terms:*
 - (i) *That the sites be sold for market value to be determined by agreement with Kāinga Ora having regard to independent valuations for the site obtained by Kāinga Ora and Nelson City Council.*
 - (ii) *The design outcomes which were outlined to the community as part of the consultation document (A2704161) be adopted to inform the development design:*
 - (a) *High quality, high amenity, interactive and accessible design to street and laneway edges.*
 - (b) *Design compatibility with the adjacent public spaces and central city location.*
 - (c) *The use of appropriately scaled and well-modulated/articulated architectural design elements and an appropriate provision of space, openings and materiality (i.e windows, balconies and cladding types).*
 - (d) *Integration of vehicle, public transport and pedestrian circulation with adjoining street frontages and Wakatu Square with minimal provision of on-site carparking.*
 - (e) *Inclusion of quality, climate resilient, sustainable, design and building practices.*
 - (f) *Less than 50% of household units will be for social housing, the remainder will be a mix of affordable housing types.*

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

- (g) Demonstrates consistency with the six key moves of the Nelson City Council City Centre Programme Plan (August 2019).*
- (h) Minimise, as far as practicable, shading effects that lead to safety hazards on public streets, areas and footpaths.*
- (i) Provide appropriate cycle storage and servicing facilities.*
- (j) Within these outcomes, maximise housing yield; and*
- (iii) That Kāinga Ora works in partnership with Council officers on the design of the building, including that officers are part of the Kāinga Ora Project Steering Group contributing to decision making and Project Team responsible for progressing the project and its design.*
- (iv) That Kāinga Ora will seek to commission a local architect to be part of the design team for the development to ensure the building is a good fit with the city centre and Council priorities (exemplar intensification and affordable housing, good urban design including appropriate scale and height, sustainability features, provides for active mode).*
- (v) That Kāinga Ora will, where reasonably possible, partner with local housing providers and developers and/or iwi to deliver the project to ensure that affordable rental and affordable apartment sales are enduring and well managed.*
- (vi) That Kāinga Ora will, where reasonably possible, utilise local construction companies and local materials to undertake the build, acknowledging that this may be affected by the current market shortage of both locally.*
- (vii) That Kāinga Ora uses its placement principles to allocate its social housing tenants to the housing typology of inner-city apartment living.*
- (viii) That communication with the community is undertaken by Kāinga Ora to ensure the community is well informed of progress, including during the progression of development design and housing partnership formations.*
- (ix) That a condition is imposed to ensure that if development of at least one of the sites has not commenced construction within 3 years, both sites will be offered back to Council to purchase for the sale price, less any works that have reduced its value.*
- (x) That a condition is imposed on sale that a covenant will be registered on the title giving Council a right of first refusal to purchase, on terms acceptable to Council, should Kāinga Ora seek to sell all or any part of the sites at any time unless the sales relate to affordable unit title apartments developed by Kāinga Ora or in*

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

partnership with others (subject also to any applicable legal obligation on Kāinga Ora to first offer to iwi).

- (xi) As appropriate, a Memorandum of Understanding may be signed with the purchaser to reflect shared objectives for the development that are not included in the sale and purchase agreement.*
- (xii) Any other reasonable terms of sale necessary for the divestment*
- 4. Delegates to the Mayor, Deputy Mayor/Chair of the Urban Development Subcommittee and Chief Executive the negotiation and approval of the sale and purchase agreement and Memorandum of Understanding (if appropriate) provided the terms are substantially consistent with the negotiating brief; and*
- 5. Notes that progress on negotiations and development design will be overseen by the Kāinga Ora Governance Reference Group in accordance with the Terms of Reference; and*
- 6. Notes that tenants of 69 to 101 Achilles Avenue and 42 Rutherford Street will be advised of Councils decision, and kept up to date on progress with negotiations, including advice in relation to the effect on their tenancies by officers; and*
- 7. Confirms that the proceeds from any sale will be used to pay off debt; and*
- 8. Approves the sale of 69 to 101 Achilles Avenue and 42 Rutherford Street and identifies the matters in relation to making such a decision in accordance with section 80 of the Local Government Act, including:*
 - (a) While it is not clear, the decision to sell 69 to 101 Achilles Avenue and 42 Rutherford Street to Kāinga Ora rather than via public auction may be inconsistent with the NCC Asset Disposal Policy 2015; and*
 - (b) Council has decided to approve the sale notwithstanding the apparent inconsistency with the Policy because of the broader strategic benefit of the proposal for the community (noting the above conditions) and the enhanced relationship with Kāinga Ora, together with the objective to sell the properties for market value; and*
 - (c) That there is no intention to amend the Policy to accommodate the decision at this time*

4.4 The Kāinga Ora Governance Reference Group and its Terms of Reference was approved in resolutions 7 and 8 of report R25874 at the 1 July 2021 Council meeting:

Resolved CL/2021/119

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

7. *Delegates authority to a Kāinga Ora Governance Reference Group comprising Mayor Reese, the Chair of the Urban Development Subcommittee (Councillor Edgar), the Chair City Centre Engagement Group (Councillor Courtney) and Council's Urban Design Champion (Councillor Rainey) to provide governance oversight to officers on social and affordable housing development proposals of Council to be delivered through partnership with Kāinga Ora; and*
 8. *Approves the terms of reference for the Kāinga Ora Governance Reference Group as per Attachment 2 (A2684427) of Report R25874;*
- 4.5 On 28 July 2022 Council considered report R26867 which provided an update on the progression of the social and affordable housing development on Achilles and Rutherford Streets. That report highlighted that since November 2021 officers have been participating in fortnightly project team meetings with Kāinga Ora staff, and monthly project governance meetings with Kāinga Ora's governance group. Work completed to date by Kāinga Ora included:
- 4.5.1 Assessments of the current and future demand for public and affordable housing in Nelson city; and
 - 4.5.2 Due diligence on the sites including geotechnical investigations, flood assessments and Stafford claim considerations; and
 - 4.5.3 High level financial feasibilities for several building configurations for each site; and
 - 4.5.4 High level discussion with iwi/Māori on the project and their appetite for involvement; and
 - 4.5.5 Identification of funding challenges for the affordable housing component of the development.
- 4.6 As a result of this work, it was identified that to proceed with the proposed social and affordable housing development on 69 to 101 Achilles Avenue and 42 Rutherford Street some challenges need to be overcome.
- 4.7 Kāinga Ora operational requirements do not currently support mixed tenure (social and affordable or market housing) within a single building. In addition, while affordable housing has recently become part of Kāinga Ora's mandate, no policy, definitions, or funding have yet been made available to implement it. There is currently no mechanism for Kāinga Ora alone to deliver to the affordable housing (built accommodation) part of the proposal and it is not considered that this will become available in the short to medium term.
- 4.8 On the site at 42 Rutherford Street, it is likely a mix of tenures (social and affordable) within one building will be required due to site

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

constraints, however there is opportunity for dual entry points. This would unlikely meet Kāinga Ora operational requirements but may be a model acceptable with Community Housing Providers (CHPs). The site at Achilles Avenue is however large enough that a mixed social and affordable tenure development could be created with physical separation thereby meeting Kāinga Ora's current operational requirements.

- 4.9 Following the 28 October Council meeting, and after determining funding and operational constraints, Kāinga Ora came back to officers with a proposal that they fund and construct a 100% social housing development on the 42 Rutherford Street site. Development of 42 Rutherford Street for social housing has a clear pathway and funding and can commence via a standard Kāinga Ora development process. However, this did not meet the resolutions set out by Council for mixed tenure (social and affordable) developments.
- 4.10 The funding of the construction and ownership of mixed tenure social and affordable housing has a less clear pathway for 69 to 101 Achilles Avenue. The cost of development on the Achilles Avenue site is significant and presents challenges in achieving affordable thresholds, particularly when these are assessed within the Nelson household income context.
- 4.11 An innovative and flexible approach in partnership with iwi/Māori and/or private partners will be required to achieve Council and Kāinga Ora's affordable housing priorities for both 42 Rutherford Street and 69 to 101 Achilles Avenue.
- 4.12 Kāinga Ora advised that they can participate in a commercial partnership with another party to deliver affordable housing and may be able to fund land development for this, subject to a viable housing delivery model being in place and funding to be paid back at completion/sale.
- 4.13 Kāinga Ora have since been investigating an alternative delivery model in partnership with Council, iwi/Māori, CHPs and/or private partners to develop options to structure a commercial arrangement to deliver social and affordable housing on the Achilles site.
- 4.14 Flexibility on the definition/scale of affordable housing will be necessary to ensure commercial viability. It is likely that affordability may need to be defined by a range of price points to income ratios, different typologies, and tenures and/or offset by some market housing to make the development financially feasible and attractive to partners. The exact combination will need to be worked through with potential development partners.
- 4.15 The Council's decision of 28 October 2021 to sell 42 Rutherford Street and 69 to 101 Achilles Avenue to Kāinga Ora for a social and affordable housing development was subject to an approved negotiating brief that included numerous terms.

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

4.16 A key term of the negotiating brief is that the development would be less than 50% social housing with the remainder being a mix of affordable housing types.

4.17 This reflected the stated intention in the consultation documents that less than 50% of household units of any development would be for social housing and the remainder would be a mix of affordable housing types.

4.18 **S 7(2)(g) To maintain legal professional privilege.**



4.19 After considering 5 options in report R26867 some that could only proceed if the community was reconsulted on changing typologies and models, and some that could proceed under the current resolution's framework from 28 October 2021, Council resolved on 28 July 2022:

Resolved CL/2022/155

That the Council

1. *Receives the report Kāinga Ora Housing Development Update (R26867); and*
2. *Approves Option 3 for officers to continue to negotiate with Kāinga Ora for a conditional sale and purchase agreement to purchase both properties (42 Rutherford Street and 69 to 101 Achilles Avenue) for social and affordable housing, subject to the approved negotiating brief and a suitable development partnership(s) with iwi, Community Housing Providers (CHPs) or other commercial housing provider being established to deliver the intended ratio of social and affordable housing; and*
3. *Notes that once a development partnership is in place, and the proposed development form known, a report will be brought back to Council for consideration of any further decisions required to facilitate the development; and*
4. *Agrees that Report (R26867) and the decision be made publicly available following completion of commercial negotiations.*
5. *Agrees to write to Minister of Housing Hon Dr Megan Woods MP advocating for policy change to enable Kāinga Ora to deliver affordable housing.*

4.20 Officers continued to work with the Kāinga Ora project team to refine feasibility and attract development partners. A feasibility and pathway

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

meeting was held with the Mayor, Councillor Sanson, Pat Dougherty (then CE of NCC), Paul Commons (Deputy Chief Executive of Kāinga Ora South Island), Julia Campbell (Regional Director of Kāinga Ora Nelson, Marlborough and West Coast), Colleen McCorkindale (Project Director Greenfield and Complex Projects Kāinga Ora), Suresh Ram (Senior Lead Commercial - Infrastructure Acceleration Fund) and NCC Senior Leadership team members and officers on 6 December 2022.

- 4.21 Advice from Kāinga Ora at that meeting was that Council's resolutions were still too restrictive to enable a feasible development opportunity and attract a market partner. Advice from the Mayor to the Kāinga Ora team was that this should be tested by a soft Expressions of Interest process with selected market developers and partners.
- 4.22 In January 2023 Kāinga Ora gave internal approvals for the project team to launch a soft market approach and as a result they undertook an expressions of interest process as follows:
- 4.22.1 28 March 2023 Pre release to iwi partners
 - 4.22.2 11 April 2023 Release to general parties incl. potential funders, constructors and social housing providers
 - 4.22.3 21 April Iwi only workshop on the opportunity
 - 4.22.4 1 May 2023 EOI responses submitted
 - 4.22.5 8 May to 13 June 2023 a follow up hui was held with each respondent.

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

[REDACTED]

[REDACTED]

[REDACTED]

- 4.24 At the briefing the Council reiterated the commitment to partner on this project and this resulted in the Mayors report to the 6 July 2023 meeting proposing, and the Council resolving:

Resolved CL/2023/159

That the Council

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

2. *Supports, as a necessary step to achieve a successful response to its continued procurement of a development partner via open tender for the City Centre Housing Development (on 69-101 Achilles Ave and 42 Rutherford St), Kāinga Ora's intention to include the possibility of the development having a portion of market housing; and*

4.25

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

4.26

Kāinga Ora remain committed to a partnership development with the Council to achieve the strategic outcomes of both parties as identified within the relationship agreement, but to do this on 69 to 101 Achilles Avenue and 42 Rutherford Street they require:

- 1.1.1 Improved financial feasibility or the limitation of financial exposure if the development agreement progresses in the current stressed construction market; and
- 1.1.2 Certainty from the Council in relation to a coastal flooding strategy for the city centre for the Achilles and Rutherford sites.

4.27

These factors affect all city centre developers in Nelson, albeit Kāinga Ora as a government department may have a greater reputational, moral and financial liability risk threshold.

Infrastructure Acceleration Fund

4.28

In June 2021, the New Zealand Government announced the Infrastructure Acceleration Fund (IAF) initiative as part of the Housing Acceleration Fund announced in March 2021.

4.29

The IAF is designed to allocate funding to new or upgraded infrastructure (such as transport, three waters and flood management infrastructure) to (1) unlock housing developments in the short-to-medium term, and (2) enable a meaningful contribution to housing outcomes in areas of need.

4.30

The Council was successful in being awarded \$36million in IAF funding for Bridge Street Linear Active Transport Corridor (now called Bridge to Better) and associated 3 waters and flood mitigation infrastructure works

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

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

4.31 On 22 September 2022 Council resolved:

Resolved CL/2022/230

That the Council

1. *Receives the report Infrastructure Acceleration Fund and Housing Outcomes Agreements for
 - Bridge Street Linear Active Transport Corridor and
 - Rutherford/Achilles Social and Affordable Housing Development (R27069) and its attachments (336940202-2645 and 336940202-2646); and*
2. *Notes the IAF Funding Agreement is subject to an LTP amendment and this matter will be brought to the new Council (if required by a future assessment against Councils Significance and Engagement Policy); and*
3. *Notes that the revised estimates of the Bridge Street Linear Active Transport Corridor of August 2022 indicate the project requires additional funding (estimated at \$6 Million uninflated); and*
4. *Notes that in accordance with revised inflation figures the project budget shortfall could be within the range of \$9 Million to \$12 Million depending on future inflation percentages adopted by Council; and*
5. *Approves the signing of the Housing Outcomes Agreement Attachment 1 (336940202-2646) with Housing NZ Build Limited (the developer) and Kāinga Ora – Homes and Communities (the IAF funder) acting on behalf of the Crown for the Rutherford/Achilles social and affordable housing development; and*
6. *Approves the signing of the IAF Funding Agreement Attachment 2 (336940202-2645) with Kāinga Ora – Homes and Communities, acting on behalf of the Crown Infrastructure Acceleration Fund (IAF) for the Bridge Street Linear Active Transport Corridor; and*
7. *Delegates to the Mayor and Chief Executive the signing of the Housing Outcomes Agreement Attachment 1 (336940202-2646) and the IAF Funding Agreement Attachment 2 (336940202-2645) including any minor amendments required as part of finalising the agreements with Kāinga Ora-Homes and Communities, acting on behalf of the Crown Infrastructure Acceleration Fund (IAF); and*
8. *Agrees that Report (R27069), Attachments (336940202-2645 and 336940202-2646) and the decision be made publicly available following completion of negotiations and announcement of approval by the Minister of Housing Dr Megan Woods.*

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

- 4.32 The IAF funding agreement was subsequently signed by Minister of Housing Dr Megan Woods on 13 October 2022. The funding was subject to Kāinga Ora the developer entering into a Housing Outcomes Agreement with the Council and the Crown to develop up to 175 units of social and affordable housing on 42 Rutherford Street and 69 to 101 Achilles Avenue. The Council is also required to gain signatories of additional developers for Housing Outcomes Agreement to meet the requirements of the IAF.
- 4.33 The Council subsequently approved funding of \$3million via the Annual Plan 2023/24 and officers have since completed procurement of a design team, commenced engagement, and concept design for the Bridge to Better Project. To secure the IAF funding the Council will need to bring forward and refine existing budgets to progress the work and will likely need to allocate further funding of approximately \$11 million to complete the work. These funding decisions will need to be considered in the Long Term Plan 2024–2034 process.

5. Options

- 5.1 The Council has the following three options to consider:
- 5.1.1 Confirm to Kāinga Ora that the Council is still committed to partnering with them to leverage social and affordable housing on 42 Rutherford Street and 69 to 101 Achilles Avenue and commit to providing certainty in relation to a strategy on coastal flooding in the city centre; and
 - 5.1.2 Confirm to Kāinga Ora that the Council is still committed to a partnership with them to leverage a social and/or affordable housing development and would like to facilitate them to find another site that is not subject to coastal flooding and is within the catchment of the Infrastructure Acceleration Fund Bridge to Better project; and
 - 5.1.3 Advise Kāinga Ora that Council no longer wishes to pursue a partnership to leverage social and affordable housing with them in the city centre.
- 5.2 The advantages, disadvantages and risks of each option are discussed in the table below. Officers' recommendation for reducing risk, limiting existing liability and ensuring the housing development meets the needs of the Council's objectives for the city centre and provides housing for those most in need is for option 2 (pending the identification of a suitable site). This recommendation is also supported by Kāinga Ora.

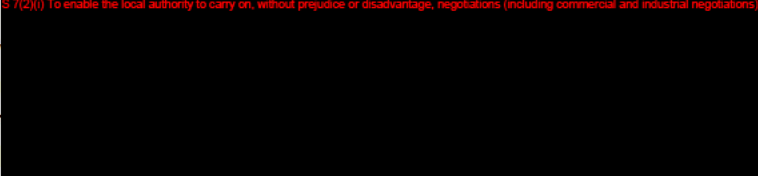
CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

Option 1: Confirm to Kāinga Ora that the Council is still committed to partnering with them to leverage social and affordable housing on 42 Rutherford Street and 69 to 101 Achilles Avenue and commit to providing certainty in relation to a strategy on coastal flooding in the city centre	
Advantages	<ul style="list-style-type: none"> • Enables the Council to continue to leverage up to an additional 175 homes across two properties that are surplus to requirements, for the community during a housing crisis. • Supports the Council to receive \$36 million in grant funding from the Crown for significant infrastructure upgrade works in the city centre that will provide capacity for an additional 1000 homes in the city centre. • Enables Kāinga Ora to continue to work with Council and other partners to come up with a financially feasible development model. • Provides a commitment from the Council to advancing a strategy as to how coastal flooding will be dealt with in the city centre, providing Kāinga Ora and all developers in the city centre with the confidence to invest. This may enable the commitment under the IAF to enter into further housing outcomes agreements with other developers to be met. • While the Council is developing a coastal flooding strategy, market construction conditions may improve which will improve the financial feasibility of construction on those sites meaning it is more likely that a development partner can be obtained for a proposal that meets Council current set of resolutions. • A Coastal Flooding Adaptation Strategy may result in being able to lower minimum ground levels and provide better urban design outcomes for the city centre while limiting liability. • Meets the requirements of the IAF contract for both Council and the development partners to “use all reasonable endeavours” to bring the development to fruition reducing the risk that the change in government may seek to pull back on funding and developments that are not yet underway or making progress.
Risks and Disadvantages	<ul style="list-style-type: none"> • Will result in a delay in realising social and affordable housing in a time where there is a housing crisis in Nelson. • The Council may be unable to deliver a coastal flooding strategy for the city centre in sufficient

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

	<p>time for Kāinga Ora or other developer’s needs resulting in a loss of appetite to invest and partner. This could lead to reputational damage for Council at a time where there is a strong focus on revitalising the city centre.</p> <ul style="list-style-type: none"> <p><small>s 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</small></p>  Public perception may be that the Council is unable to deliver this housing in partnership with Kāinga Ora however this can be somewhat mitigated by joint public communications.
<p>Option 2: Confirm to Kāinga Ora that the Council is still committed to a partnership with them to leverage a social and affordable housing development and would like to facilitate them to find another site that is not subject to coastal flooding and is within the catchment of the Infrastructure Acceleration Fund Bridge to Better project</p>	
<p>Advantages</p>	<ul style="list-style-type: none"> Enables the relationship with Kāinga Ora to be maintained and strengthened, as well as the significant time investment made by officers of both organisations in trying to realise this housing. May result in the identification of a site better suited to the purpose of social and/or affordable housing. May enable social and/or affordable housing to be delivered in Nelson during a time of housing crisis. May enable delivery of housing faster than waiting for Council to provide a coastal flooding strategy for the city centre. Provides an opportunity to change the resolutions or aspirations for the type and form of housing development on a different site, for instance Kāinga Ora would like to deliver an 100% affordable housing development, as they already have a significant pipeline of social housing across the Nelson Tasman region and now see a greater need for affordable housing. Ensures that the commitment to the delivery of housing to support the IAF investment is maintained by showing Council is using “all reasonable endeavours” to bring the housing to fruition. Enables other uses of gateway sites 42 Rutherford Street and 69 to 101 Achilles Avenue to be identified once Council has provided certainty in relation to coastal flooding.

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

Risks and Disadvantages	<ul style="list-style-type: none"> • Another site may not be able to be identified. • Another site may still have construction and supply financial feasibility issues. • <small>S 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</small> <div style="background-color: black; width: 100%; height: 40px; margin-top: 5px;"></div> • If another site is owned by the Council it may require a public feedback process or Public Works Act offer back requirements before entering into any agreement with Kāinga Ora for a housing development on it. • May result in time delays to housing outcomes being achieved as well as a lower yield, this could be mitigated by other Housing Outcomes Agreements being entered into with other developers. • If another site is unable to be found within the catchment of Bridge to Better the Council may risk its IAF funding and reputational damage with the community at a time where there is a strong focus on revitalisation of the city centre.
Option 3: Advise Kāinga Ora that Council no longer wishes to pursue a partnership to leverage social and affordable housing with them in the city centre.	
Advantages	<ul style="list-style-type: none"> • None
Risks and Disadvantages	<ul style="list-style-type: none"> • No social and/or affordable housing is leveraged in a time where Nelson is in a housing crisis. • Could result in reputational damage with the community at a time where there is a strong focus on revitalisation of the city centre and historical failed Council projects have been highted in the media. • <small>S 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</small> <div style="background-color: black; width: 100%; height: 40px; margin-top: 5px;"></div> • Might not result in finding any other party to purchase Rutherford and Achilles and may de-value those sites. • Any commercial or residential development that is consented on those sites prior to there being a coastal flooding strategy will be required to have ground levels constructed 2.2m above ground level (to follow the latest MfE guidance and coastal flood mapping) which will result in a poor urban design

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

	outcome for the city centre and set a poor precedent of acceptable building solutions.
--	--

6. Conclusion

6.1 This is a difficult decision point for Council to progress the aspiration to leverage social and/or affordable housing in Nelson in partnership with Kāinga Ora. It highlights the significant work of both partners to date, and the complexity of delivering residential development in the city centre given coastal flooding issues and the current market feasibility of apartment construction. Nonetheless Kāinga Ora remain committed to partnering with the Council to deliver social and/or affordable housing for the community.

7. Next Steps

7.1 The next steps are dependent on the Council's decision in relation to the options. If option 1 is preferred, then the next steps are to prioritise work on a Coastal Flooding Strategy for the city centre. If option 2 is preferred the next steps would be for officers to work with Kāinga Ora to assist them to undertake due diligence on other site options, evaluate any Public Works Act and public consultation requirements.

7.2 Either options will also potentially require officers to negotiate with the IAF on the funding agreement with the Crown in relation to timelines and yield.

Attachments

Nil

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

Important considerations for decision making
Fit with Purpose of Local Government <p>The recommendations in this report support the purpose of local government whereby the recommended decision enables Council to play a role in promoting the social, economic, environmental, and cultural wellbeing of the community through partnering with other to achieve social and affordable housing.</p>
Consistency with Community Outcomes and Council Policy <p>The recommendations in this report fit with the community outcomes;</p> <ul style="list-style-type: none">• Our urban and rural environments are people friendly, well planned and sustainably managed• Our communities are healthy, safe and resilient
Risk <p>Risks with each of the options are evaluated in full in the options table. There is reputational, and IAF funding risks with all options that need to be considered.</p>
Financial impact <p>If the option to divest the site(s) to Kāinga Ora for social and affordable housing development proceeds, negotiation of a sale price based on the market valuation can proceed. It is anticipated that the proceeds of any sale would be used to reduce debt.</p> <p>If the option to facilitate Kāinga Ora to find another site to enable the social and/or affordable housing to be delivered is preferred then this could require further financial investment from Council, particularly if a site was to be purchased and on sold to Kāinga Ora. If Public Works Act assessment and a further public feedback process is required this will also have financial resourcing implications.</p>
Degree of significance and level of engagement <p>This matter is of low significance because option 1 fits within the scope of the original consultation undertaken in September 2021, and option 2 would be evaluated for significance via further reports to Council requiring any decision should an identified alternative site be found.</p>
Climate Impact <p>This report highlights significant coastal flooding issues due to climate change for the city centre, and the complexity of building design enabling</p>

CONFIDENTIAL

Item 3: Kāinga Ora Social and Affordable Housing Development Achilles and Rutherford Streets

urban design that activates the city centre in responding to coastal flooding.

Climate change impact will also need to be considered in any development design to be developed by Kāinga Ora on any site which is part of their standard design and procurement process.

Inclusion of Māori in the decision making process

Pre-engagement with Iwi was undertaken prior to the public feedback process and additionally at the NCC Iwi Managers Forum in preparing the previous deliberations report. Additional high level engagement with iwi/Māori has been undertaken by Kāinga Ora as part of their feasibility investigations. Kāinga Ora have also noted that the process of the EoI has helped to strengthen Kāinga Ora-Council-Iwi relationships and develop a common understanding on the need for collaboration in solving the housing crisis.

Legal context

This decision does not rely on any particular legislative power.

Delegations

This is a matter for full Council.