

Expedited process and timeline for decision making around the Central Library

Introduction

This document presents further officer advice, post Councillor and public feedback with respect to the timeline and process aspects of the Central Library project.

Please note that this information should be considered in addition to the report put forward for the 27th May Council agenda. It also outlines the reasoning for a set of updated officer recommendations contained in that report.

This document

- Provides detail on an expedited decision making process, including consideration of community views and other legal requirements under the Local Government Act.
- Outlines an approach to funding, including an allocation of CAPEX funding in the 2020-21 Annual Plan, to undertake further structural and building services design work in, parallel with the decision making process, to enable the speeding up of overall project timelines.

Background to this document

Following discussion with Councillors regarding the paper “Wellington Central Library building and service update and building remediation options”, put forward as part of the Council meeting agenda on the 27th May, officers have undertaken further work to devise a revised process to expedite decision making around the options for accommodating the Central Library, with a goal of reducing the overall timeframes for the project. In devising the proposed process, officers have worked closely with specialist legal advisors. They are of the opinion that the proposed process is robust and defensible, and meets the requirements of the Act. They also support the officers view that an LTP amendment would not add any further benefit, over what is now being recommended given that robust and detailed costings are not yet available for such amendment. Given that the Special Consultative process will be undertaken early on the options and a Council decision made on its preferred option, the 2021 -2031 LTP will primarily focus on ensuring funding is provided in the 2022 financial year and beyond to deliver the agreed project. In generating this revised process, officers have kept in mind the following considerations:

- A desire from councillors and the community to expedite a decision on the Central Library building, (including the accommodation of central library services), and undertake the required construction work as soon as is possible.
- The legal requirements set out in the Local Government Act 2002 as to the process that must be undertaken when making a major decision such as this.
- The demands and phasing requirements of the design, procurement and construction elements of the project, regardless of what building option is chosen.

Discussion of considerations in preparing this revised process

Council's legal requirement for decision making under the Local Government Act

The Local Government Act 2002 clearly lays out requirements for making major decisions such as a solution to accommodate central library services. While this document doesn't form a full briefing on these requirements, it outlines the key requirements.

The decision to be made here is a significant one in the minds of the community. A preliminary assessment of the decisions being faced against WCC's Significance and Engagement Policy, finds that the policy is triggered on a number of criteria.

The Local Government Act 2002, and surrounding case law establishes clear requirements for how a major decision such as the strengthening or rebuild of the central library must be undertaken. The key elements of these requirements are as follows:

- *Consideration of all practicable options:* all reasonable options for the accommodation of central library services must be considered.
- *Take in community views:* Thorough community engagement and consultation must occur, and Council must take into account these views when making a decision. Officers are recommending this occurs through an early Special Consultative Procedure
- *Budget allocation:* Allocation of the substantive capital budget (over a number of years), must be made via the Long Term Plan process, or an amendment thereof.

Each of these requirements have their own specific detail, and WCC has been undertaking these processes successfully for a number of years. In addition, there is a large amount of sector best practice, legal opinion, case law and surrounding precedents that have established clearly what good adherence to the principles and processes in the Act means.

There have been several cases of Councils being found wanting in applying these processes and a number have found their way into the courts (through judicial review), resulting in the challenging of, and in some cases, overturning the original council decisions.

The decision Council faces around the central library building is an important one with long term implications, and it will be of high community interest, regardless of what option is finally decided. It is the view of officers and their specialist legal advisors that a close adherence to the Act in making this decision is vitally important, and there is significant risk of legal challenge if this is not the case.

Resuming central library services as soon as is possible

Advancing design work

Regardless of the option eventually chosen to house Central Library services, there is considerable work that needs to be undertaken before construction can commence.

In order to better understand the benefits/risks and detailed costs of any of the building remediation, service upgrade and refurbishment schemes, it is necessary to have (as a minimum) developed design for each work package.

Currently, we have concept structural designs for three potential remediation schemes and a condition assessment for the building services, however we have no concept design or even scope for any potential refurbishment of the building.

This includes high level design and costings, as well as detailed design with regard to structural, architectural and building services elements. The design process is a major contributor to the represents the 'critical path' for this project, in that it is time intensive and without it, the next phases of the project cannot commence.

The proposed process brings forward several streams of work, relating to the design that can be applied across several construction scenarios for the current library building. This design work will mean that once a decision is made on the building solution, the project will be sufficiently advanced as to reduce the overall project timeframe by between six to nine months from what was set out in the officers report to Council.

It must be noted that this work, applied to the current library building, does not presuppose any particular outcomes from the public engagement or decision making process. If an accommodation solution is chosen that does not involve the current building, most of this design work will not be applicable. However, in the opinion of officers, advancing the design work at this time represents a marginal cost risk with respect to the entire project and the potential upside will speed up overall project timeframes if the current building is retained in some form.

As such, one of the updated officer recommendations is that \$2m CAPEX be included in the 2020-21 Annual Plan to advance this work, to be undertaken in parallel with the Special Consultative Procedure and decision making process.

Bringing forward community consultation and the final decision on a building solution

Officers have refined their thinking around the phasing of community engagement and consultation. We propose that community consultation, under Section 83 of the Local Government Act 2002 is brought forward and this include the proposed community engagement phase of the project.

The Special Consultative Procedure has explicit procedural requirements around the statement of proposal and summary of information, clear timeframes and the expectation of formal hearings. The engagement process outlined in the main paper, will be incorporated into one process.

The effect of bringing forward this phase of the project means that a final decision on the building solution can be made sooner (in late 2020) while still being legally compliant with the Act.

Making a decision sooner on the specific building solution means that further design, procurement and construction work can be advanced sooner.

Under this scenario, the CAPEX budget required to complete the construction of the building will still need to be assigned, and this is appropriate as part of the long term plan process. Assigning this budget as part of this process (as opposed to some other mechanism such as an LTP amendment) has no effect on overall project timeframes.

Accordingly, officers recommend that Council requests the preparation of a Statement of Proposal for Council adoption, followed by public consultation using the special consultative procedure (S83 LGA). The purpose is to outline the reasonably practicable options, their advantages and disadvantages of each, high level indicative costs and the Council's preferred option(s). An officer amendment has been included to reflect this.

The option of an LTP amendment

Officers have considered closely whether an LTP amendment will speed up the overall project more than this proposed process. When considering this option, what must be kept in mind is that the LTP in this scenario is primarily concerned with assigning CAPEX budget. It does not act, as it usually does, as the vehicle for a deciding between building options or considering the views of the community, as these activities will be undertaken in 2020, ahead of the LTP. As such, amending the current LTP has no effect on the overall speed of the project, and will most likely cause confusion in the public mind. An LTP amendment is also time and cost intensive, and will divert officer resources away from other key pieces of work, including the preparation of the 2021-2031 Long Term Plan.

Further legal advice we have received has indicated that the Council is not currently sufficiently informed about community preferences or about the relative costs and risks of the options to embark on an LTP amendment at this stage.

The Proposed Process

Figure 1 below outlines the proposed process and shows indicative timelines.

Figure 1: Proposed expedited pathway for Central Library

