

**Chairperson and Committee Members**  
CORPORATE BUSINESS COMMITTEE

**19 SEPTEMBER 2013**

Meeting Status: **Public**

Purpose of Report: For Decision

## **GRANTING OF A NEW LICENCE WITH VODAFONE NEW ZEALAND LTD FOR AN EXISTING TELECOMMUNICATIONS FACILITY AT RIWAI RESERVOIR**

### **PURPOSE OF REPORT**

- 1 This report is to seek land owner approval from Council to enter into a new licence agreement for an existing telecommunications facility tower by Vodafone New Zealand Ltd, at the Riwai Reservoir site in Paraparaumu.

### **SIGNIFICANCE OF DECISION**

- 2 This report does not trigger the Council's Significance Policy.

### **BACKGROUND**

- 3 Vodafone's predecessor Bellsouth New Zealand entered into a lease agreement with Council in 1996, for the installation of a telecommunications facility at the Riwai Reservoir site in Paraparaumu. The lease term was for six years, with two further rights of renewal of six years each. Both of these rights of renewal were exercised by Vodafone New Zealand Ltd, or its predecessor Bellsouth New Zealand.
- 4 Representatives acting for Vodafone have approached Council with a view to entering into a new agreement. Although the final expiry of the existing lease is 23 October 2014, Vodafone New Zealand Ltd and its agents are seeking Council approval at this early stage due to the complexities of finding a new site, should continuation past 23 October 2014 at this existing site not be granted.
- 5 This existing telecommunications facility is sited at the Paraparaumu Riwai Reservoir land, which is comprised of 3.11 hectares more or less being Ngarara West B1 SEC 3B4 Block, all the land in Computer Freehold Register/Certificate of Title WN 56A/194. The area is zoned residential.
- 6 Although the existing agreement with Vodafone New Zealand Limited is in the form of a lease, Council's solicitors have recommended that a new agreement take the form of a licence, both to achieve consistency with other telecommunications agreements Council has at that site, and also as an appropriate legal mechanism to ensure Council's interests at that site are preserved. (The difference between a lease and a licence is that a lease grants a legal interest in the land whereas a licence grants merely a personal right of occupation).
- 7 Vodafone New Zealand Ltd have an approved resource consent for the existing telecommunications facility at this site which was issued on 8 October 1996 (RM960301). The resource consent did not have any specific condition limiting

the duration of the activity. As Vodafone's wish is to continue to use the telecommunications facility without any change to the scale, character or intensity of the activity, then the existing use rights provisions of section 10 of the Resource Management Act 1991 apply, and the use can continue indefinitely without the need for any further consent under that Act.

- 8 Council was approached by Vodafone's representatives in February 2013 with a proposal to seek Council's approval to add two additional antennae onto the existing Vodafone telecommunications facility at the Riwai Reservoir site. This additional equipment was for the NZ Police, who had agreed with Vodafone to install this Police equipment on Vodafone's telecommunications infrastructure. In addition, Vodafone proposed to increase the lease area at the base of the facility slightly (to incorporate the installation of a small equipment shed for the Police).
- 9 These changes were incorporated under a variation to the existing lease which was signed on 5 July 2013 by the Chief Executive under delegated authority. The request by Vodafone New Zealand Ltd to enter into a new agreement from October 2014 would therefore include this new equipment (antennae and shed), and the slightly increased area at the base of the facility.
- 10 Currently, there are two other existing agreements in place at the Riwai Reservoir site, between Kapiti Coast District Council and two other telecommunications companies who have facilities on this site. The proposal by Vodafone New Zealand Ltd for a further agreement from October 2014 would be subject to agreement by both other companies to allow continued co-siting to exist at this location.

## **CONSIDERATIONS**

### **Issues and Options**

- 11 Vodafone New Zealand Ltd and Kāpiti Coast District Council have reached preliminary agreement with a licence term of six years, with two rights of renewal of six years each, at a market rate agreed by both parties. There will be review dates inserted into the licence every three years, as well as a consumer price index adjustment on an annual basis. This is in line with similar agreements with telecommunications companies which are already in place with Kāpiti Coast District Council at this Riwai Reservoir site.
- 12 Council staff who have responsibilities for the Riwai reservoir site have been consulted on this proposal. The Infrastructure Services Group Manager, Water and Wastewater Asset Manager, and the Technology Manager are all in agreement that a new licence can be negotiated for this existing telecommunications facility.

### **Financial Considerations**

- 13 Vodafone New Zealand Ltd and Kapiti Coast District Council will agree a licence fee set at a commercial rate, should the Committee's approval to proceed be granted.

### **Legal Considerations**

- 14 A licence agreement would be drafted by Council's Solicitors. Vodafone New Zealand Ltd and Kapiti Coast District Council will finalise this licence should approval to proceed be granted. The change from the existing lease, to a licence

agreement from 24 October 2014 would bring this agreement into line with the other telecommunications agreements at the Riwai Reservoir site.

## Delegation

- 15 The Committee may make a decision on this matter under Section B3 of the Governance Structure 2012/13

### ***Leasing and licensing of Sale of Land***

7.14 *With the exception of reserve land leases, the Committee has the power to:*

- *grant leases of Council land or non-residential buildings where the term of the lease is greater than 1 year or where the annual rent is greater than \$20,000; and*
- *grant licences to occupy Council land where the term of the licence is greater than 1 year.*

## Consultation

- 16 Relevant Council staff have been consulted on this proposal, and have indicated that this proposal can proceed. This telecommunications facility is already in place and there is no further consultation required.

## Policy Implications

- 17 The activity complies with the Objectives and Policies of the Kapiti Coast District Plan.

## Publicity Considerations

- 18 There are no publicity considerations to be considered.

## RECOMMENDATIONS

- 19 That the Committee authorises the Chief Executive Officer to negotiate and sign a licence agreement with Vodafone New Zealand Ltd for the existing telecommunications facility at the Kapiti Coast District Council-owned Riwai reservoir site as shown in Appendix 1 to report CS-130959, for a term of six years from 24 October 2014, plus two rights of renewal of six years each at a market rental agreed by both parties.

**Report prepared by:**

**Approved for submission by:**

Sean Hester  
**PROPERTY ASSET PLANNER**

Tamsin Evans  
**GROUP MANAGER, COMMUNITY SERVICES**

**ATTACHMENTS:**

Appendix 1: Site location and plan view of the Vodafone telecommunications facility.

Appendix 2: Elevation plan and photo of Vodafone telecommunications facility.