

**URGENT SEWER REPLACEMENT – 108 OLD CLEVELAND ROAD,  
CAPALABA**

**Objective Reference:** A2721748  
Reports and Attachments (Archives)

**Attachment:** [Site plan](#)

**Authorising Officer:** Peter Best  
General Manager Infrastructure & Operations

**Responsible Officer:** Kevin McGuire  
Group Manager Water & Waste Operations

**Report Author:** Simon Waite  
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**PURPOSE**

This report relates to the urgent replacement of approximately 95 metres of a defective sewer at 108 Old Cleveland Road, Capalaba. The defect became apparent during early construction activities of a commercial building on the site by TPM Builders (**the Builder**). The situation is complicated by difficult ground conditions and the on-going construction of the commercial building.

In order to address this situation a Redland City Council (Council) resolution is sought to enter into a medium size contractual arrangement without first inviting written quotes or tenders pursuant to section 235(b) of the *Local Government Regulation 2012*.

The relevant exception in *Local Government Regulation 2012* is where Council resolves:

*A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if-*

- (b) the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders.*

It is considered that because of the nature and location of the services to be provided, being the replacement of a sewer directly under a current construction site, the Builder has specialised knowledge of the site (geo-technical) and specialised skills (construction piling) and therefore is the most advantageous and preferred supplier for Council to construct the remedial sewer works.

**BACKGROUND**

Council received a request for development approval to build a class six commercial building at 108 Old Cleveland Road, Capalaba. The application was made on 10 August 2017 by HAS Property Holdings.

The proposed development is sited on what was formerly a landfill with a 150mm uPVC sewer traversing the site. The proposed building incorporated engineered footings to accommodate the location of the sewer and the prevalent ground conditions, resulting from the former landfill.

Approval for the development was provided to the applicant on 17 November 2017 and was conditioned (in part) that the sewer line be inspected before and after engineering works in the vicinity of the sewer. This is standard practice to ensure that Council's infrastructure is not damaged during footing works.

The builder commenced works on the site on 20 November 2017. These works included works in the vicinity of the sewer which was inspected by the builder's contractor. The inspection indicated potential deterioration of the sewer, subsequently the builder informed Council's officers of the situation.

Council's Water & Waste Operations Group attended the site on 22 November 2017, and confirmed the builder's assessment of the sewer.

The survey undertaken indicates that the uPVC sewer had been subject to pressures from ground movement which has caused dips in the horizontal alignment of the pipe and loss of the circular profile of the pipe.

## ISSUES

Council's Water & Waste Operations Group attended the site on 22 November 2017, and confirmed the builder's assessment of the sewer. The inspection undertaken revealed that the UPVC line had been subject to pressures from ground movement which has caused dips in the horizontal alignment of the pipe, and loss of the circular profile of the pipe.

There is limited information relating to the construction of the sewer, however records indicate that the line was constructed across a Council car park in 1979. The plans indicate that sewer is approximately 3 metres deep, and has minimal fall across the site. Engineering solutions are limited by the depth of existing sewer, geotechnical conditions, and minimal fall between the upstream and downstream manholes.

The sewer line in its current condition, whilst operational is at risk of further deterioration and ultimately complete failure. Any future remedial works or replacement of the sewer would be compromised and made difficult by the building currently under construction.

Council Officers met with the developer's representatives on 23 November 2017 to determine options to resolve the issue. During the meeting the developer tabled the potential option that they design and construct a replacement sewer, to Council specifications, at Council's cost. After discussions it was decided that this was a viable solution. It was recognised however, that any works would be subject to relevant legislation and advice would be sought from Council's Solicitor before proceeding.

The benefit of this option relies on specialist geotechnical knowledge of the site obtained by the builder during engineering investigation of the current construction. The reconstructed sewer will be laid on bored timber piers, and the builder also has specialised knowledge, material and equipment for the installation of bored piers. This will significantly reduce the cost to Council to obtain and use

the same information and equipment. This option minimises delay to construction of the commercial building and subsequent potential of claims against Council.

The estimated cost of engaging the Builder to undertake the works is \$500,000.00 (based on an estimate provided by the Builder). Prior to engaging the Builder, Officers will engage an independent consultant to ensure that the costing provided by the Builder represents value for money.

In the event that Council did not engage the builder directly, Council authorised officers or contractors could enter the site to repair the infrastructure pursuant to section 36 of the *Water Supply (Safety and Reliability) Act 2008 (the WSSRA)*. However section 39 of the WSSRA provides that if a person incurs loss or expense because of the exercise of a power under Part 3 Division 2, such as the power of entry provided by section 36, the service provider may be ordered to pay compensation to the person. Given the scale of the construction being undertaken on the site, it is likely that any delay caused by Council's repair works would cause significant expense to the owner of the site; Council could be ordered to compensate the owner for this expense.

In addition to the additional compensation costs, if Council engaged a third party to undertake the repairs, public tenders would have to be sought from the market in accordance with section 225 of the *Local Government Regulation 2012*. This option would result in additional cost to Council as the successful contractor would be required to duplicate preliminary works that have already been completed by the builder for the building works. Furthermore, additional costs would be incurred to undertake the installation of the required timber piers. The public tender process, investigation and design would also cause a significant delay to the project, and therefore increasing a potential claim for delay costs by the builder against Council. The estimated cost of this work is in excess of \$500,000.00 (based on the Builder's estimate and additional engineering required to finalise the design).

Alternatively, Council could opt to take no action at this time. Although the sewer is currently operating in its damaged state, inaction is considered to be particularly high risk as it could result in a complete sewer failure which would have a significant impact on the use of the building currently under construction and would likely result in increased rectification costs.

## STRATEGIC IMPLICATIONS

### Legislative Requirements

The legislative requirement associated with this report is;

Section 235(b) of the *Local Government Regulation 2012*.

The relevant exception in *Local Government Regulation 2012* is where Council resolves:

*A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if-*

- (b) *the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders.*

### Section 257 (b) of the *Local Government Act 2009*

A local government may, by resolution, delegate a power under this Act or another Act to;

(b) *the chief executive officer*

### **Risk Management**

The opportunity associated with the proposed resolution is to expedite works by using specialised knowledge and skills possessed by the Builder.

The risk associated with not expediting this work is a potential claim against Council for delay costs caused by the necessary investigations, design and procurement of the replacement of the sewer.

Redland Water will engage an independent consultant to review the estimate provided by the Builder to ensure value for money to Council. Should this review indicate areas of concern relating to value for money, Council will renegotiate with the Builder to clarify any elements of concern.

### **Financial**

Funding for this work is available from FY17/18 job 64171 Pump Station Infiltration. Some works in this job will be deferred and \$500,000.00 (estimated project cost) will be allocated to the replacement of gravity sewer at 108 Old Cleveland Road, Capalaba.

### **People**

The recommendation from this report does not have Council staff implications.

### **Environmental**

The recommendation from this report does not have environmental implications.

### **Social**

The recommendation from this report does not have social implications.

### **Alignment with Council's Policy and Plans**

This report is consistent with Council's procurement policy and legislative requirements.

Additionally, the proposed contract aligns with Council's Corporate Plan 2015-2020 which states that Council supports infrastructure that encourages business and tourism growth.

### **CONSULTATION**

The following Officers were consulted during the preparation of this report:

- Senior Solicitor, Legal Services Unit;
- Finance Manager, Business Partnering Unit;
- Senior Procurement Officer, Contracts/Procurement Unit;
- Group Manager Water & Waste Operations; and
- General Manager Infrastructure & Operations.



## OPTIONS

### Option 1

That Council resolves as follows:

1. That in accordance with section 235(b) of *the Local Government Regulation 2012*, because of the specialised nature of the services to be sought, it would be impractical or disadvantageous for the local government to invite tenders;
2. To delegate authority to the Chief Executive Officer, under s.257(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge an agreement between Redland City Council and the preferred supplier for the replacement of approximately 95 metres of 150mm uPVC sewer pipe at 108 Old Cleveland Road, Capalaba, and subject to the Chief Executive Officer being satisfied that the proposed contract demonstrates value for money; and
3. That this report and attachment remain confidential until the agreement has been signed by all parties.

### Option 2

Approach the market with a public tender to replace the existing sewer as prescribed in s225 of the *Local Government Regulation*.

### Option 3

That Council resolves to not take any action.

## OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. That in accordance with section 235(b) of *the Local Government Regulation 2012*, because of the specialised nature of the services to be sought, it would be impractical or disadvantageous for the local government to invite tenders;
2. To delegate authority to the Chief Executive Officer, under s.257(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge an agreement between Redland City Council and the preferred supplier for the replacement of approximately 95 metres of 150mm uPVC sewer pipe at 108 Old Cleveland Road, Capalaba, and , subject to the Chief Executive Officer being satisfied that the proposed contract demonstrates value for money; and
3. That this report and attachment remain confidential until the agreement has been signed by all parties.



