

Inquiry into the
University of
Auckland's decision
to purchase a house
in Parnell

November 2020

Contents

Auditor-General's overview	3
Part 1 – Introduction	6
Background	6
Why we were interested in this matter: sensitive expenditure	6
Scope of our work	7
Subsequent events	7
Structure of this report	8
Part 2 – Purchasing a house for the Vice-Chancellor	9
A house for the Vice-Chancellor	9
The decision to sell the Remuera house and the search for a new house	9
Purchasing the Parnell house	10
The arrangement with the Vice-Chancellor	11
Part 3 – Our findings	13
Was there a justifiable business purpose?	13
Was the decision made transparently and impartially?	17
Was the purchase moderate and conservative?	19
Relevant University processes	20
Concluding comments	23

Auditor-General's overview

E ngā mana, e ngā reo, e ngā karangangatanga maha o te motu, tēnā koutou.

In November 2019, the University of Auckland (the University) purchased a house in Parnell in Auckland. The University said the house would be used for accommodation, business-related operations, and functions.

The house cost about \$5 million, and the University entered into a tenancy agreement with the incoming Vice-Chancellor from the start of her five-year term of employment. The rent was set at about 50% of the market rent assessed by a valuer.

When the purchase of the house was publicly reported in January 2020, my Office was interested because it seemed an unusual purchase for the University to make. It raised questions about the University's use of public resources and how it manages sensitive expenditure. The focus of our work was on the University's actions and decision-making processes.

Although universities have their own role and level of independence, they are subject to the same expectations about how they spend public money as all public organisations. This includes how they manage sensitive expenditure.

Sensitive expenditure is spending by a public organisation that could be seen to give a private benefit to an individual employee in addition to the business benefit gained by the public organisation or a benefit that is disproportionate to the business purpose.

To maintain trust and confidence in public organisations, it is important that sensitive expenditure decisions can withstand parliamentary and public scrutiny. Public organisations need to be able to show that their sensitive expenditure decisions are based on appropriate standards of probity and that those decisions are financially prudent and appropriate in all respects.

It is clear that this situation involved sensitive expenditure. The University has not been able to show that this sensitive expenditure was appropriate in all respects. This is because the University has not been able to demonstrate it has met key principles of managing sensitive expenditure well.

In my view, the University has not been able to show a justifiable business purpose for purchasing the house. It is hard to accept that purchasing a house to provide accommodation for the incoming Vice-Chancellor, and to host an anticipated 14 events in two years, justifies the \$5 million expenditure. Nor does that level of hosting, in my view, justify an almost 50% reduction in the property's rent.

One of the principles of managing sensitive expenditure well is preserving impartiality, which means making decisions based on objective criteria. The University did not do this when it made the decision to purchase the house.

The University actively sought and took into account the Vice-Chancellor's preferences to the point where this informed which suburb the house would be in and which house the University would purchase. When weighed against the less-than-clear business purposes for the purchase, this makes it more difficult for the University to show that it has made its decision objectively and impartially.

In my view, the University could also have been more transparent about the arrangement. If the University is of the view that it has acquired an asset for business purposes, and agreed an appropriate rental agreement that accurately reflects the asset's use, it should be prepared to disclose and justify that. In my view, providing the house at a reduced rent could well be regarded as part of the overall remuneration and benefits package for the Vice-Chancellor.

The University has also been unable to show that the expenditure was moderate and conservative. Although the University paid a market rate for the house, it did not assess whether it needed to spend \$5 million on a house nor whether the house needed to be in an expensive part of Auckland. It also did not consider whether it could have effectively achieved the purposes it says it bought the house for – accommodation and hosting – for less cost.

The University also did not follow its policy on sensitive expenditure nor its processes for approving capital expenditure. Its sensitive expenditure policy requires a person at a more senior level to approve this kind of spending (the "one-up" principle). The policy also requires the expenditure to have a justifiable business purpose and not provide a private benefit to an individual. We did not see evidence that these requirements were met. The capital expenditure approval process requires significant purchases (more than \$100,000) to be supported by a robust business case, which we have not seen for this purchase.

Overall, it is not clear that the University recognised, at any stage of the process, that the purchase involved sensitive expenditure or gave proper consideration to this when making decisions. As such, the University did not consider the business need to purchase the house with appropriate rigour, nor did it document any identified risks and how it would mitigate them.

It is important that all public organisations pay close attention to their sensitive expenditure and manage it carefully. Trust and confidence in a public organisation is driven by competence, reliability, and integrity. Where there is any question about those things, real or perceived, trust and confidence can be quickly eroded.

Sensitive expenditure is one area where there can be a real risk that individuals are receiving a private benefit paid for out of public funds that is additional to the business benefit to the public organisation.

Where sensitive expenditure is concerned, I expect the University (and all public organisations) to consider each situation more carefully to ensure that it can justify the expenditure and is reasonably able to do so. To do that, I encourage the University and every public organisation to consider our good practice guide *Controlling sensitive expenditure: Guide for public organisations*.

This guide sets out principles for all public organisations to consider when making sensitive expenditure decisions. This will help them to make good decisions that can withstand public scrutiny.

I encourage anyone who is involved in making expenditure decisions on behalf of their public organisation to read the guide and consider what changes can be made to their own decision-making processes to improve public trust and confidence in the public sector.

Subsequent events

After we provided the University with a copy of my draft report, the Vice-Chancellor told us that the University is taking steps to review this situation and address issues raised in the report, including a review of its sensitive expenditure policy and processes. The Vice-Chancellor also told us that she has recommended to the University Council that the Parnell house be sold to assist with the University's overall financial position.

I thank the University and those who contributed to our work for their co-operation during our inquiry.

Nāku noa, nā



John Ryan
Controller and Auditor-General

26 November 2020

1

Introduction

Background

- 1.1 In January 2020, the media reported that the University of Auckland (the University) had spent \$5 million to purchase a house in Parnell. The house would be rented by the incoming Vice-Chancellor, who took up the position in March 2020.
- 1.2 This raised questions for our Office about the University's use of resources, which is a matter that the Auditor-General can inquire into under section 18 of the Public Audit Act 2001. To us, the purchase appeared unusual for a New Zealand university, and we wanted to understand how it came to make this decision and the business justification for it.
- 1.3 Section 161(1) of the Education Act 1989¹ (the Act) protects the academic freedom and institutional autonomy of universities. However, that freedom does not exclude universities from being accountable for how they spend public money. Like all public organisations, they are required to spend that public money well and follow good practice in doing so.
- 1.4 The Act reinforces this, requiring tertiary education institutions to:
 - ... *act in a manner that is consistent with –*
 - (a) *the need for the maintenance by institutions of the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards; and*
 - (b) *the need for accountability by institutions and the proper use by institutions of resources allocated to them.*

Why we were interested in this matter: sensitive expenditure

- 1.5 Our initial view was that this arrangement was unusual for a New Zealand university and that it involved “sensitive expenditure”. Sensitive expenditure is spending by a public organisation that could be seen to give a private benefit to an individual employee in addition to the business benefit gained by the public organisation or a benefit that is disproportionate to the business purpose.
- 1.6 It is important that public organisations manage sensitive expenditure appropriately and are aware of how it might be perceived. Otherwise, public trust and confidence in an organisation can be damaged or diminished.
- 1.7 We recognise that, for valid reasons, individual public organisations may make their own decisions about what is appropriate sensitive expenditure, depending on their circumstances. However, all public organisations need to take into

account the same principles when determining their organisational approach (or attitude) to sensitive expenditure decisions.

1.8 There are principles that underpin decision making about sensitive expenditure. Expenditure decisions should:

- have a justifiable business purpose;
- preserve impartiality;
- be made with integrity;
- be moderate and conservative, having regard to the circumstances;
- be made transparently; and
- be appropriate in all respects.

Scope of our work

1.9 Our work focused on how the University managed the purchase of the Parnell house from a sensitive expenditure perspective.

1.10 In carrying out our work, we:

- wrote to the University with questions about its decision to purchase and maintain the house;
- obtained and considered documentation the University provided in response to our questions;
- visited the University in early 2020 and met with senior University staff involved in the decision-making and the processes for selecting the property in 2019;
- spoke with the current Vice-Chancellor after she had started her role in March 2020; and
- talked with staff at Te Kawa Mataaho Public Service Commission (formerly the State Services Commission).

1.11 We understand that providing accommodation in connection with employment might give rise to income that is subject to income tax. We have not reached a view about whether the Income Tax Act 2007 applies to this case in that way, but the Vice-Chancellor and the University might want to consider this point.

Subsequent events

1.12 After we completed our work and provided a draft report to the University for comment, the University told us that it has initiated a review of its sensitive expenditure policy and other matters. It also told us that it has been in contact with the Public Service Commission about this issue.

- 1.13 The Vice-Chancellor also told us that she has recommended to the University Council that the house in Parnell be sold to assist with the University's overall financial position.

Structure of this report

- 1.14 In Part 2, we describe the background to the house purchase and the provision of housing for the previous and current Vice-Chancellors.
- 1.15 In Part 3, we discuss our findings about the house purchase.

Purchasing a house for the Vice-Chancellor

- 2.1 In this Part, we describe:
- the history of the University providing a house for its Vice-Chancellor;
 - the decision to sell the Remuera house and to purchase another house; and
 - the agreed arrangement with the incoming Vice-Chancellor.

A house for the Vice-Chancellor

- 2.2 During our work, we learned that this was not the first time the University had purchased a house to accommodate a Vice-Chancellor. In July 2004, the University purchased a 404 m² house in Remuera for \$2,050,000. The University told us that “the purpose of the investment was to provide a Vice-Chancellor residence, including facilities for University entertainment purposes”.
- 2.3 The previous Vice-Chancellor started on 1 January 2005 and moved into the house about the same time. We understand that the University rented the house to the previous Vice-Chancellor for the duration of his term of office, which ended in March 2020 (the term was extended to coincide with the start of the incoming Vice-Chancellor’s term of office).
- 2.4 Further to rental valuations, rental payments for that property were set at between 50% and 52% of the agreed weekly market rental rate.

The decision to sell the Remuera house and the search for a new house

- 2.5 The University told us that the Remuera house had weathertightness issues and was no longer fit for purpose (that is, no longer fit for hosting events). The University told us that it had been hosting events in other commercial venues for about two years. In 2018/19, the University hosted 22 donor events.
- 2.6 The University’s Property Services division did not consider the Remuera house to be a suitable long-term investment. In 2018, the Director of Property Services recommended selling the Remuera house.
- 2.7 The previous Vice-Chancellor lived in the house during that time and indicated to the University that the most appropriate time to sell the house would be at the end of 2019 (when his term of employment and occupancy of the house was due to finish). The house was put on the market in June 2020 and was sold for \$2,965,000 in July 2020.

Purchasing the Parnell house

House selection

- 2.8 The incoming Vice-Chancellor was appointed in May 2019, and her employment started in March 2020. From June 2019, the University initiated correspondence with the incoming Vice-Chancellor about the new house it would purchase and asked the Vice-Chancellor to provide information about her preferences.
- 2.9 In July 2019, the University engaged a search agent to locate another suitable three- to four-bedroom house in Parnell or Remuera. The property brief specified that the house had to be within walking distance of the University and have easy access to the bays, cafes, and restaurants.
- 2.10 The living spaces needed to be large enough to entertain up to 25 people. The house had to have a home office space, good off-street parking and bike storage, low-maintenance grounds, and privacy.
- 2.11 Because of the University's experience with the Remuera house, the property brief also specified that the purchaser would not consider plaster-clad homes built during the "leaky homes period" and that the house should not have any major building issues needing remediation.
- 2.12 The property brief described the client as looking for an executive-level home for a professional couple to be within easy walking distance (two to three kilometres) of the Auckland High Court/Waterloo Quadrant area. The brief continued:
... as our client enjoys outdoor activities including cycling and walking, easy access to the Bays is desirable. Nearby cafes and restaurants would also be beneficial. School zoning is not a particular consideration for our client's family but we realise these do impact future investment potential.
- 2.13 The property search agent identified 20 properties. The University inspected 15 of those and narrowed the list to three houses.

Parnell house purchase

- 2.14 A memorandum dated 21 November 2019 prepared by the former University Director of Property Services for agreement by the Chief Financial Officer, Deputy Vice-Chancellor, and the previous Vice-Chancellor recommended purchasing the house in Parnell. The memorandum noted that the house would be occupied by the incoming Vice-Chancellor when she commenced in March 2020 and used for accommodation, business-related operations, and functions.
- 2.15 Two other properties were eliminated by the University at this point for a range of factors, including location and distance to the University (Remuera compared to Parnell), privacy, scale, parking, fit-out, building materials, and the need for remedial work that would affect time or cost.

- 2.16 The University told us that the ability to offer additional guest accommodation was not part of the original property brief and was considered incidental to the purchase, but that the downstairs bedroom in the Parnell house could be used to accommodate officials from other universities.
- 2.17 In the 21 November 2019 memorandum, the University said that it had maintained active contact with the incoming Vice-Chancellor about the property search process. In the memorandum, the University described the incoming Vice-Chancellor as “being in agreement with” the University’s recommendations. The Vice-Chancellor told us that she was not aware of the 21 November 2019 memorandum nor of how the University described her involvement.
- 2.18 The rating value of the Parnell house was \$3.475 million, with an asking price of \$5.35 million. The University’s Property Services division obtained approval from the previous Vice-Chancellor to negotiate a purchase up to the asking price. An initial offer of \$4.8 million was made, subject to the University receiving a satisfactory valuation, a Land Information Memorandum, and a builder’s report.
- 2.19 The previous Vice-Chancellor had financial delegations to commit to unbudgeted capital expenditure of up to \$10 million. These financial delegations had been increased from \$5 million to \$10 million in August 2019.
- 2.20 The University concluded a sale and purchase agreement on 24 November 2019, with an initial purchase price of \$5.125 million. On 26 November 2019, the University had the house valued. The market valuation was between \$5.1 and \$5.2 million.
- 2.21 A building inspection on 28 November 2019 identified that remedial work was needed. The University told us that it subsequently spent between \$150,000 and \$170,000 on the house. The University told us that, because of this, it negotiated the final purchase price down to \$5.062 million.

The arrangement with the Vice-Chancellor

- 2.22 The University told us that the house was purchased as accommodation for the incoming Vice-Chancellor and for business-related operations and functions. The University explained that this primarily included hosting donor functions.
- 2.23 The University told us that the incoming Vice-Chancellor would need to establish relationships with donors and other key people, and that hosting and hospitality was an important way of doing this.
- 2.24 The University told us that hosting and hospitality was important:
- for the Vice-Chancellor to build connections with potential donors and key influencers; and
 - for the University to source philanthropic donations.

- 2.25 To assess the extent to which the house purchase could be seen to support the University's business, we wanted to understand how much hosting had been carried out in the Vice-Chancellor's house in recent years and the level of anticipated hosting in the new house. The University provided us with an indicative list of 14 dinners or events that it anticipated the incoming Vice-Chancellor might host at the house during the next two years.
- 2.26 The University obtained a rental valuation for the house, which it subsequently used as the basis for how much rent it would charge the Vice-Chancellor. That valuation was on the basis that:
- the Vice-Chancellor would occupy the house;
 - the value of the home office, downstairs bedroom, and ensuite would be deducted from the market rent; and
 - there would be a further discount for shared use of communal areas for entertaining.
- 2.27 The rent for the Parnell house was set at 52% of the market rental value, and the term of the tenancy was tied to the Vice-Chancellor's five-year employment contract.
- 2.28 We note that, despite the passage of time and the different properties involved, there is very little difference in the rental assessments carried out on the Remuera house in 2004 and 2008, and the rental assessment carried out on the Parnell house in December 2019.
- 2.29 The rental assessments (carried out by the same valuer) were virtually identical in format and description, as was the level of proposed deductions. All three rental assessments referred to "contractual obligations", including the provision of a suitable home office (which would also be an appropriate space to conduct interviews) and a suitable accommodation wing or flat. The rental valuation did not indicate the extent of the business-related use nor how the extent of that use underpinned the proposed rental reduction.
- 2.30 The University furnished all of the house's communal and outdoor areas, the home office, and the spare bedroom.
- 2.31 A residential tenancy agreement with the incoming Vice-Chancellor was signed on 12 March 2020. The tenancy agreement specifies that the home office may be required for University-related work and as required from time to time for entertaining University guests or staff, and/or accommodating University guests.

Our findings

- 3.1 In this Part, we discuss how well the principles and expectations relating to sensitive expenditure were considered and applied by the University when it made the decision to purchase the Parnell house and rent it to the incoming Vice-Chancellor.
- 3.2 In particular, we consider:
- whether there was a justifiable business purpose;
 - whether the decision was made transparently and impartially;
 - whether the purchase was moderate and conservative; and
 - the University's relevant processes.

Was there a justifiable business purpose?

- 3.3 The University stated that purchasing the house met the following two purposes:
- providing accommodation for the Vice-Chancellor; and
 - providing a venue for the University to use for hosting and entertaining, particularly in connection with fundraising activities.

Housing for the Vice-Chancellor

- 3.4 The University told us that the ability to offer housing was to them an important factor in recruiting for the Vice-Chancellor role and in attracting the right candidate. The University referred to several overseas universities in the United Kingdom, the United States of America, and Australia that provide accommodation for their Vice-Chancellors.
- 3.5 The University told us that it was unique among New Zealand universities in seeking to recruit a Vice-Chancellor in the competitive international market and that, relative to that market, the salary offered was not particularly competitive.
- 3.6 We note that, in the context of the New Zealand public sector, the University of Auckland Vice-Chancellor role was the fourth highest-paid role in 2019.²
- 3.7 The University told us that the property market in Auckland is particularly competitive, especially for people relocating from other locations (including overseas), and that it would be unreasonable to expect someone coming from overseas for a five-year term to purchase a house.
- 3.8 The University also told us that it did not think it would be appropriate to expect the Vice-Chancellor to rent accommodation on the open market because she might face disruption if the landlord decided to sell the house.
- 3.9 We looked at whether other domestic tertiary education institutions provided accommodation for their Vice-Chancellor. We are aware of only two other

² See www.publicservice.govt.nz for information about chief executives' remuneration.

universities that have a Vice-Chancellor's residence: Massey University in Palmerston North and the University of Otago in Dunedin.

- 3.10 However, the circumstances for those two universities are different to the University of Auckland. Massey University and the University of Otago have owned their properties for a considerable time.
- 3.11 The University of Otago was gifted its residence in 1950, and the University Council determined that it would be used as an official residence for the Vice-Chancellor.
- 3.12 Massey University's residence (Tiritea House) was part of an estate of 21 acres when the Palmerston North Borough Council gifted it to Massey Agricultural College in 1928. The house has not been used as a residence since 2008 and now accommodates the offices of the Massey University Foundation.
- 3.13 We acknowledge that the cost of living and accommodation might be an important consideration for candidates when deciding whether to accept a job offer. However, the University is not unique in the tertiary education sector (or the wider public sector) in seeking to recruit high-performing individuals from both domestic and international employment markets.
- 3.14 It is not uncommon for public sector organisations to provide temporary accommodation in such cases. It is, however, unusual for a chief executive of a public organisation to be provided with accommodation for the duration of their employment. The justification for doing this needs to be demonstrably clear.
- 3.15 There are limited situations (such as New Zealand Defence Force personnel or diplomats) where living at a certain location is a core requirement of the role the individual is employed to do. However, there is no clear requirement for the Vice-Chancellor to live on site or near the University to fulfil their role.
- 3.16 The Vice-Chancellor's salary, as publicly disclosed, is in the highest echelon of public sector salaries. Whether or not the salary is high by international standards, or the University considers that to be case, the amount is high enough that the University does not need to offer discounted accommodation for the Vice-Chancellor.
- 3.17 Many in the public sector on lower salaries do not receive that benefit. We do not accept the University's suggestion that a Vice-Chancellor would need assistance to engage with the Auckland property market.
- 3.18 This is especially so because the University had maintained that providing the house to the Vice-Chancellor did not form part of her employment terms and conditions.
- 3.19 We also considered the fact that the University has been providing accommodation for its Vice-Chancellors since 2004, and purchasing the Parnell

house was simply a continuation of that arrangement. In our view, even if there was a justifiable reason for the original Remuera house purchase, the University should have closely considered the reasons for purchasing a replacement house in 2019 and demonstrated why it was justifiable.

- 3.20 On the evidence we have seen, it did not do that. The 21 November 2019 memorandum seeking the former Vice-Chancellor’s approval for the purchase does not include a proper assessment of the business reason for the purchase or why accommodation should be provided to the incoming Vice-Chancellor. It simply states that accommodation will be one of the purposes.
- 3.21 In our view, the University has not provided us with sufficient evidence that purchasing a house for the purpose of providing Vice-Chancellor accommodation is a justifiable business purpose.

Purchasing a house for hosting purposes

- 3.22 The University also told us that the house would be used for hosting staff functions and external functions (in particular, to support fundraising for the University). It also told us that the spare bedroom in the house could be used to accommodate visiting academics.
- 3.23 The University told us that it saw hosting as a key factor in its fundraising activity and that fundraising is a long-term activity. However, it also acknowledged that fundraising was not an exact science and that it was difficult to prove a direct link between hosting and funds raised for the University.
- 3.24 Not only does the University need to be able to show that there is a business purpose, it also needs to show that the purpose is justifiable. By this, we mean that a public organisation should be able to clearly show that it has considered a range of options that could meet that primary business purpose and that there are longer-term costs and/or efficiency savings that justify the expenditure decision.
- 3.25 The University told us that the Remuera house had not been used for hosting functions for at least two years because of concerns about weathertightness. Instead, functions were held in alternative Auckland venues (such as at the Northern Club, located in central Auckland close to the University).
- 3.26 This brings into question why it believed it needed the Parnell house to do that hosting.
- 3.27 The only rationale outlined in the 21 November 2019 memorandum is that it “will be used for employee accommodation and business related operations and functions”. The focus of that memorandum was to describe the due diligence

carried out for the purchase, outline the University's Property Services division's recommendations about the purchase, and seek approval to proceed.

- 3.28 We saw no documented consideration about why the University needed the house for hosting, the benefits of that hosting, and how often it might be used. One consideration notably missing from the 21 November 2019 memorandum is that, in the previous two years, all functions had been held elsewhere.
- 3.29 We accept that hosting events in a smaller and more intimate location (for example, a house) can create a different atmosphere or environment that might help build stronger relationships with potential donors. However, it is not necessarily the case that the University had to purchase a house to hold such events.
- 3.30 The University provided us with an indicative plan for expected future events at the Parnell house. That plan shows 14 events during the next two years. This equates to an event every six to seven weeks. Based on this frequency, it is difficult, in our view, to justify purchasing a house (and spending \$5 million on that house) as a venue for hosting events to support fundraising activities.
- 3.31 We also understand that the University expects most of these events to involve professional caterers and cleaners engaged and paid for by the University. Therefore, the only apparent future cost saving to the University in this arrangement would be the venue hire.
- 3.32 The University also told us that the house could be used to provide accommodation to visiting academics or senior staff from other universities. We asked how often it had provided such accommodation.
- 3.33 The University was unable to provide any detail about previous or future hosting of visiting academics. The University would need to show it intended to host overseas academics regularly to justify that as one of the purposes for purchasing the house. This is especially so when the purchase price is \$5 million.
- 3.34 We asked the University about whether it is able to connect the donations it receives with the functions it holds and expenditure it makes for this purpose. The University said that this is not easy to do, given that donations can come in soon after events or many years later.
- 3.35 The University said that, sometimes, donations result from the enduring connection between donors and the University. We understand that it might not always be possible to draw a direct connection between hosting and a return in the form of a donation.

- 3.36 However, in our view, it is still important that the University consider, in situations such as this (where it might not be possible to evaluate the return for the spending), whether the amount it spends on hosting is appropriate.

Was the decision made transparently and impartially?

- 3.37 Our guidance on sensitive expenditure sets an expectation that decisions about sensitive expenditure are made transparently and in a way that preserves impartiality. Therefore, we looked at the extent to which the University acted impartially in aligning its stated business purposes/objectives in selecting a house.

Impartiality

- 3.38 Impartiality means that a decision by a public organisation is based on objective criteria.
- 3.39 It might be appropriate for a public organisation to take into account an employee's preferences if the sensitive expenditure is clearly linked to their overall remuneration package and appropriately disclosed.
- 3.40 For example, if the organisation is purchasing a vehicle for the employee, it might ask the employee whether they have a preference for a particular make or model (within the approved price range).
- 3.41 However, it is important that those conversations be held in the context of a clear business purpose for the expenditure. Where the business purpose is not clear, spending money in a way that benefits the individual can create the impression that the decision is not impartial and instead gives them an inappropriate personal benefit.
- 3.42 In this instance, the property search brief did not read consistently about who the client was. In some parts, it is clear that the University is the client. In other parts, the property search brief contained preferences that appeared to be quite personalised and which read as if they related specifically to the incoming Vice-Chancellor.
- 3.43 For example, the property brief specified that the house should be within easy walking distance of the University and the Auckland High Court/Waterloo Quadrant area, have easy access to the bays, cafes, and restaurants, and be private.
- 3.44 The University actively sought and took into account the incoming Vice-Chancellor's preferences to the point that this informed which suburb the house would be in and which house the University would purchase. When weighed against the less-than-clear business purposes for the purchase, this makes it more difficult for the University to show that it made its decision objectively and impartially.

Transparency

- 3.45 The University is responsible for setting the remuneration of its staff, including the Vice-Chancellor. However, like other tertiary education institutions, the University is required to obtain the Public Service Commissioner's agreement to the Vice-Chancellor's terms and conditions of employment, including remuneration.
- 3.46 The University did get the Public Service Commissioner's agreement to the incoming Vice-Chancellor's employment conditions and salary. However, the discussion with the Commissioner did not cover the arrangement to rent the Parnell house to the Vice-Chancellor or the amount of rent that would be charged.
- 3.47 The University told us that the Public Service Commission was aware that the previous Vice-Chancellor had been provided with a residence. The Public Service Commission told us that it had no record of the University informing it about the purchase of the Parnell house or the Remuera house, and renting them to the Vice-Chancellors, before the media reported the purchase.
- 3.48 It is difficult to reconcile the University's statements on the Parnell house. The University told the Public Service Commission and us that the house, and the associated rental arrangement, did not form part of the Vice-Chancellor's employment agreement or overall remuneration package.³
- 3.49 It is true that it has not been documented as being part of the Vice-Chancellor's employment agreement.
- 3.50 However, the University also told us that providing the house was part of attracting the right candidate during the recruitment process, which appears connected to employment. The rental agreement is also explicitly connected to the Vice-Chancellor's term of employment with the University.
- 3.51 We also understand that the University has refused to answer media questions about the arrangement on the basis that it "wouldn't discuss the terms of employment of either the current or the incoming Vice-Chancellor, so [the University] won't be commenting further".⁴
- 3.52 It is also difficult to understand why the University is not prepared to openly discuss the provision of the house if providing subsidised accommodation was necessary to attract the right candidate. If the rental agreement is not connected to the terms and conditions of employment, and represents an arm's-length agreement (that is, on a market valuation basis with only incidental personal benefit), then it is difficult to see why the University would not disclose this in full.

3 See "Auckland University buys \$5m Parnell mansion for incoming vice-chancellor" (29 January 2020) at www.stuff.co.nz.

4 See "Auckland University buys \$5m Parnell mansion for incoming vice-chancellor" (29 January 2020) at www.stuff.co.nz.

3.53 If the University is of the view that it has acquired an asset for business purposes, and agreed an appropriate rental agreement that accurately reflects the asset's use, it should be prepared to disclose and justify that.

3.54 In our view, the University could have been more transparent about the arrangement when it purchased the house and since.

Was the purchase moderate and conservative?

3.55 Our good practice guide on controlling sensitive expenditure sets the expectation that sensitive expenditure is moderate and conservative in all respects. We considered whether purchasing this particular house was moderate and conservative.

3.56 In asking this question, we acknowledge that the University had the house valued before it finalised the sale and purchase agreement and that it considered it was paying a fair market price for it.

3.57 That said, the University has made a significant financial investment in connection with the Parnell house, including that:

- it purchased the house for \$5.062 million;
- it spent \$150,000-\$170,000 on remedial work on the house;
- it agreed to discount the market rental of the house by 48% for five years; and
- it agreed to furnish the house and bear the usual running costs of the house (such as maintenance, rates, and insurance).

3.58 Although the University might spend larger amounts of money elsewhere, \$5 million is still a considerable amount of public money. We have not seen evidence that the University considered whether spending \$5 million was appropriate. We would expect to see full consideration given to such a decision.

3.59 Based on the evidence we have seen, and what the University told us, the University's starting position was that a house for the Vice-Chancellor would be purchased. The house would be either in Remuera (where the previous house was) or in Parnell, and at a location that took into account the preferences of the incoming Vice-Chancellor.

3.60 We saw no indication that the University turned its mind to whether the house needed to be in a part of Auckland that has some of the highest property prices or whether it could have selected a house elsewhere in Auckland for less cost.

3.61 The University seems to have given little, if any, consideration to whether it could achieve the objectives it was seeking with the purchase at lower cost. For example, we expected to see the University considering:

- whether a smaller or less expensive house could have achieved its purposes of accommodating the Vice-Chancellor;

- whether purchasing a residential house was preferable to leasing; and/or
- what other options there were for suitable venues for hosting University events.

- 3.62 Part of the justification for buying the house seems to be that it would provide an investment return over time. The 21 November 2019 memorandum said that purchasing the house outright had the potential to be a “solid long term investment for the University”.
- 3.63 The memorandum put forward the presumed capital gain for the house as support for the purchase. However, the memorandum does not include any analysis about what return the investment might yield over the five years.
- 3.64 As well as not finding a well-founded justification for the purchase, we saw no evidence that the University turned its mind to whether the purchase was moderate and conservative.
- 3.65 We also saw no evidence that the University had considered whether the discounted rent was moderate or conservative. A 48% reduction in market rent for five years on a property worth \$5 million is not an insignificant amount.
- 3.66 The University said that it agreed to the reduction to reflect the house being used for hosting events. However, we did not see any consideration by the University of whether a 48% reduction properly reflected the amount of time the house would be used for hosting.
- 3.67 There is an expectation in the tenancy agreement that the Vice-Chancellor might be asked to entertain university guests or staff or accommodate university guests. However, there is no expectation about how often that will be.
- 3.68 As discussed earlier, the University was planning to use the house for hosting events 14 times during 2020 and 2021. In our view, the reduction in rent does not seem proportionate to the amount of hosting the University planned, nor does there seem to be a mechanism for reassessing the proportionality of the rent compared to the entertaining or hosting that is actually provided.

Relevant University processes

- 3.69 Like many public organisations, the University has policies that staff need to follow when purchasing goods and services. It also has processes for delegating authority for purchasing decisions to certain staff.

Sensitive expenditure policy

- 3.70 The University has a sensitive expenditure policy. The University defines sensitive expenditure as expenditure that “could be seen as giving some private benefit to an individual member that is additional to the business benefit to the University”.

- 3.71 Providing discounted residential accommodation confers a private benefit. In our view, the University should have actively considered its sensitive expenditure policy and complied with it. We did not see any evidence that this was done. The University acknowledges that this was not done.
- 3.72 The sensitive expenditure policy at the relevant time is brief and comprised just two sections. There is no specific mention of particular types of sensitive expenditure and how to manage them. Instead, readers are directed to other policies that are intended to cover general principles and expectations about purchasing and expenditure (for example, there is a separate travel policy). We have not considered those policies as part of this work, but we would expect them to cover elements of sensitive expenditure as appropriate.
- 3.73 The first section of the policy requires “one over one” (one-up) approval where expenditure is “likely to be assessed as being sensitive”. The University’s policy confirms that a person at a higher level in the organisational chart must approve expenditure and that staff members cannot approve their own expenditure or that of their peers.
- 3.74 In this instance, the previous Vice-Chancellor had been given delegated authority to purchase the house. The University’s delegation policy states that the Vice-Chancellor had financial delegations to commit to unbudgeted capital expenditure of up to \$10 million. In August 2019, this delegation was increased from \$5 million to \$10 million.
- 3.75 The previous Vice-Chancellor approved a purchase that would benefit the incoming Vice-Chancellor. Although the previous Vice-Chancellor did not stand to benefit from the expenditure he was approving, it would benefit his successor. As such, we do not consider that this gave appropriate effect to the “one-up” approval process.
- 3.76 In our view, the University Council (or an appropriately delegated sub-committee) should have approved the house purchase. We understand that the University now accepts that position.
- 3.77 The University’s policy also states that all sensitive expenditure should be subject to a “proper prior assessment” and lists factors that must be covered. The policy requires the expenditure to “have a justifiable business purpose only and not provide a private benefit to an individual member,” which should be able to withstand public scrutiny.
- 3.78 It is difficult to see how the University has complied with this policy. Providing a \$5 million house to live in at reduced rent for five years is a clear private benefit to an individual member. It is also hard to see how there is a “business purpose only”

in this case. At best, there is both a business benefit and a personal benefit. We understand that the University also accepts this position.

3.79 In our view, the University should review its sensitive expenditure policy and other related policies, and update them as appropriate. A good sensitive expenditure policy includes guidance that:

- makes clear what types of expenditure are and are not permitted;
- outlines clear approval processes; and
- sets spending limits or boundaries, including explaining what is meant by “actual and reasonable” when these terms are used, and specifying dollar limits and defined boundaries, where practicable.

3.80 We also think that the University Council should implement a process to assure itself that the sensitive expenditure policy is followed when sensitive expenditure is incurred. Leaders and senior managers of public organisations are accountable for spending public money properly and prudently, including sensitive expenditure, and the internal controls to support this.

3.81 As outlined earlier, we understand from the University that it is reviewing its sensitive expenditure policy and processes.

Capital expenditure approval processes

3.82 The University has a financial delegations policy that requires all authorised capital expenditure that is more than \$100,000 to be based on a robust business case and aligned with the University’s business case assurance process.

3.83 “Business case assurance” is a service that is provided jointly by the University’s Strategic Programme Office and certain delegated senior finance staff. It considers both the robustness of the process followed and the quality of the resulting business cases.

3.84 A good business case provides justification for a project. It evaluates the strategic purpose, costs, benefits, and risks of alternative options and recommends a preferred approach. A business case should, among other things, set out the business need and how the spending will deliver the business objectives. It should also demonstrate an understanding of the market and price drivers, and estimate the whole-of-life cost.

3.85 The University told us that no formal business case was prepared or presented for this purchase. Instead, the University’s Director of Property Services presented the 21 November 2019 memorandum to the previous Vice-Chancellor, Deputy Vice-Chancellor, and Chief Financial Officer recommending the purchase. The 21 November 2019 memorandum did not cover the elements of a business case referred to above.

- 3.86 We understand that the University accepts that a business case should have been prepared for the house purchase.
- 3.87 The University has a Capital Expenditure Committee to which all purchases that are more than \$10 million need to be reported (or any expenditure of more than \$5 million made under the Vice-Chancellor's financial delegations).⁵
- 3.88 The Capital Expenditure Committee webpage provides useful information about the University's expectation for what supporting information business cases must include. Relevant details include:⁶
- a summary of the proposal, including proposed project management arrangements and programme;
 - the strategic case for the proposed expenditure, which must be based on the Strategic Plan and outline how, directly or indirectly, the proposal will enhance the achievement of the Strategic Plan's objectives; and
 - the business case for the proposed expenditure, including an outline of the proposed capital expenditure, operating expenditure and revenue, with analysis supporting all material assumptions.
- 3.89 We looked at whether the 21 November 2019 memorandum reflected this guidance. The paper did not present a strategic case for the purchase, did not consider alternative ways of fulfilling the intended objectives (accommodating the Vice-Chancellor and supporting hosting activities), and did not provide detailed future projections of operating costs.

Concluding comments

- 3.90 Public organisations that effectively manage sensitive expenditure do so openly and transparently. They have clear and unambiguous policies that leave staff in no doubt about how those policies will be applied. These organisations set a clear tone from the top, with senior staff modelling the behaviour expected, and they avoid preferential treatment, whether perceived or actual.
- 3.91 Overall, it is not clear to us that the University recognised, at any stage of the process, that purchasing the house and renting it to the Vice-Chancellor involved sensitive expenditure. Proper consideration of sensitive expenditure needed to be given when making the decision to purchase the house.
- 3.92 As such, the University did not consider the business need to purchase the house with appropriate rigour, nor did it document any identified risks and how it would mitigate them, particularly from a public perception perspective. As a result, the University is not able to show that the expenditure was appropriate in all respects.

5 The proposal did not require the approval of the Capital Expenditure Committee (only reporting) because the house purchase was approved within the former Vice-Chancellor's delegated financial authority of \$10 million.

6 See the Capital Expenditure Committee's webpage at www.auckland.ac.nz.