

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD AT WAITAKERE CENTRAL,
6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON WEDNESDAY,
30 MAY 2007, COMMENCING AT 5.30 PM**

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PART A - OPENING OF MEETING

1 OPENING PRAYER

Pastor Martin Prokopetz from St Mark's Church, Swanson, will say the Opening Prayer.



2 APOLOGIES



3 CONFIRMATION OF MINUTES

Meeting Minutes - Wednesday, 18 April 2007
- Thursday, 26 April 2007

RECOMMENDATION

That the minutes of the Meetings of the Council held on Wednesday, 18 April 2007 and Thursday, 26 April 2007, including the public excluded minutes, as circulated, be taken as read and now be confirmed.

*Pages 3-4
Part H*

The public excluded minutes are attached at pages 3 to 4 of the Confidential Supplement labelled Part H.



4 URGENT BUSINESS

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the Council by resolution so decides; and
- (ii) the Chairman has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Council may make a decision on a matter determined to be urgent.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



PART B - REPORT OF THE MAYOR

The report of the Mayor will be circulated under separate cover with this agenda.

RECOMMENDATION

That the Report of the Mayor be received.

RA Harvey, QSO, JP

MAYOR OF WAITAKERE



PART C - REPORTS OF NEW LYNN COMMUNITY BOARD, WAITAKERE COMMUNITY BOARD, MASSEY COMMUNITY BOARD, HENDERSON COMMUNITY BOARD AND WAITAKERE YOUTH COUNCIL

5 NEW LYNN COMMUNITY BOARD

THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 30 APRIL 2007

1. WOODLANDS PARK SCHOOL - 40KM/H SCHOOL SPEED ZONE

The Board Recommends:

1. That in relation to **WOODLANDS PARK ROAD**:
 - (a) That, in accordance with the powers conferred by virtue of the Local Government Act 1974, the Land Transport Act 1998, the Transport Act 1962 and the Waitakere City Council Bylaw No.7, 1991 - Traffic, the following controls be now resolved to be specified and imposed, namely,
 - (i) a **SCHOOL ZONE SPEED LIMIT** be established in **WOODLANDS PARK ROAD** from a point 125 metres north of the intersection with **HUIA ROAD** to a point 297 metres north of the intersection with **JAYS ROAD** measured along the centre of **WOODLANDS PARK ROAD**. The speed limit in this area shall be 50km/h except at times when the variable speed limit signs are activated during which times the speed limit shall be 40km/h.
2. That in relation to **JAYS ROAD**:
 - (a) That, in accordance with the powers conferred by virtue of the Local Government Act 1974, the Land Transport Act 1998, the Transport Act 1962 and the Waitakere City Council Bylaw No.7, 1991 - Traffic, the following controls be now resolved to be specified and imposed, namely,
 - (i) a **SCHOOL ZONE SPEED LIMIT** be established along the entire length of **JAYS ROAD**. The speed limit in this area shall be 50km/h except at times when the variable speed limit signs are activated during which times the speed limit shall be 40km/h.

3. That the appropriate signage and/or road markings, in accordance with the provisions of Land Transport Rule: Traffic Control Devices 2004 - Rule 54002 hereby be approved to be put in place to properly establish, delineate and record the said speed limit restrictions.

2. OTHER MATTERS CONSIDERED

1-10
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 1 to 10 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the New Lynn Community Board held on Monday, 30 April 2007 be received.

P van der Voort, JP
CHAIRMAN



6 WAITAKERE COMMUNITY BOARD

THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 1 MAY 2007

1. HENDERSON VALLEY SCHOOL - 40KM/H SCHOOL SPEED ZONE

The Board Recommends:

1. That in relation to **HENDERSON VALLEY ROAD**:
 - (a) That, in accordance with the powers conferred by virtue of the Local Government Act 1974, the Land Transport Act 1998, the Transport Act 1962 and the Waitakere City Council Bylaw No.7, 1991 - Traffic, the following controls be now resolved to be specified and imposed, namely,
 - (i) that a **SCHOOL ZONE SPEED LIMIT** be established in **HENDERSON VALLEY ROAD** from a point 125 metres north of the intersection with **CANDIA ROAD** to a point 448 metres north of the intersection with **GUM ROAD** measured along the centre of **HENDERSON VALLEY ROAD**. The speed limit in this area shall be 50km/h except at times when the variable speed limit signs are activated during which times the speed limit shall be 40km/h.
2. That in relation to **GUM ROAD**:
 - (a) That, in accordance with the powers conferred by virtue of the Local Government Act 1974, the Land Transport Act 1998, the Transport Act 1962 and the Waitakere City Council Bylaw No.7, 1991 - Traffic, the following controls be now resolved to be specified and imposed, namely,

- (i) that a **SCHOOL ZONE SPEED LIMIT** be established along the entire length of **GUM ROAD**. The speed limit in this area shall be 50km/h except at times when the variable speed limit signs are activated during which times the speed limit shall be 40km/h.

3. That appropriate signage and/or road markings, in accordance with the provisions of Land Transport Rule: Traffic Control Devices 2004 - Rule 54002 hereby be approved to be put in place to properly establish, delineate and record the said speed limit restrictions.

2. OTHER MATTERS CONSIDERED

11-15
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 11 to 15 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the Waitakere Community Board held on Tuesday, 1 May 2007 be received.

CA Shepherd, JP
CHAIRMAN



7 MASSEY COMMUNITY BOARD

THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON WEDNESDAY, 2 MAY 2007

MATTERS CONSIDERED

16-23
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 16 to 23 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the Massey Community Board held on Wednesday, 2 May 2007 be received.

GE Barnard
CHAIRMAN



8 **HENDERSON COMMUNITY BOARD**

THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 3 MAY 2007

MATTERS CONSIDERED

24-30
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 24 to 30 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the Henderson Community Board held on Thursday, 3 May 2007 be received.

EAG Grimmer, MNZM

CHAIRMAN



9 **WAITAKERE YOUTH COUNCIL**

THE YOUTH COUNCIL SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 7 MAY 2007

MATTERS CONSIDERED

31-35
Part C

The Youth Council dealt with a number of items for which and a copy of the minutes of the meeting is attached at pages 31 to 35 in the supplement labelled Part C.

The Youth Council Recommends:

That the report of the Meeting of the Waitakere Youth Council held on Monday, 7 May 2007 be received.

A Wadsworth

CHAIRMAN



PART D - REPORT OF THE CHIEF EXECUTIVE OFFICER

10 LANDCARE RESEARCH - RELATIONSHIP AGREEMENT

PURPOSE OF THE REPORT

The purpose of this report is to obtain approval to enter into a Relationship Agreement with Landcare Research and to provide a presentation to Council on the work carried out by Landcare Research.

BACKGROUND

Council has developed a good working relationship with Landcare Research over a period spanning nearly 13 years. This has been beneficial to both parties, with Landcare Research being able to enhance its work programme by working with a partner who is effectively engaged with the community and promotes sustainable management. For Council, the relationship has enabled it to carry out research on a number of projects across the four well-beings and has enabled Council to leverage funding available to Landcare Research.

A1-A3 Included at pages A1 to A3 is a summary of projects that are being completed jointly with Landcare Research.

STRATEGIC CONTEXT

The relationship with Landcare Research enables Council to carry out development of its work programmes identified in the Long Term Council Community Plan on a scientific basis as well as monitoring the effectiveness of its programmes in areas such as ecological restoration, climate change as well as community uptake.

ISSUES

Landcare Research

Manaaki Whenua - Landcare Research is New Zealand's foremost environmental research organisation specialising in sustainable management of land resources optimising primary production, enhancing biodiversity, increasing the resource efficiency of business, and conserving and restoring the natural assets of our communities.

Landcare Research is one of nine independent Crown Research Institutes (CRIs) founded in 1992 from a reorganisation of Government funded research in New Zealand. It has about 390 staff, approximately 320 of whom are involved in research. It has strong collaborative links with other CRIs and universities so that it can use the most effective combination of skills on each project. Its researchers are supported by sophisticated technology, analytical laboratories, and specialised support such as legal and graphics services, communications and business development, and an extensive specialised library.

The largest of its research sites is at Lincoln, which is also home to its corporate office. It also has regional offices in Palmerston North and Hamilton, plus offices at Auckland, Gisborne, Nelson, Dunedin and Alexandra. Sirtrack Ltd (a subsidiary company that produces radio telemetry equipment for wildlife) is based at Havelock North.

Landcare Research is a leading proponent of triple bottom line reporting (economic, social and environmental performance) by companies and businesses. It has an ISO 14001 certified environmental management system, and is a founding member of the New Zealand Business Council for Sustainable Development.

Landcare Research's objective is to make a difference for a truly clean, green New Zealand.

Landcare Research's work programme is structured in two broad portfolios, Biological Systems and Environment and Society. Each of these portfolios contains five science teams led by a science leader.

Biological Systems

Biodiversity and Conservation

Research to underpin the protection of New Zealand's biodiversity, and to minimise the impacts of invasive weeds and invertebrates.

Biosystematics

The Biosystematics team studies plants, insects and other arthropods, fungi, and plant-associated bacteria, to describe New Zealand's biodiversity and species interrelationships, to work collaboratively with other researchers and end-users, and to make our information readily accessible.

Ecosystem Process

Study and management of natural ecosystems.

Pest Control Technologies

Understanding the ecological context of existing and emerging pest control techniques.

Wildlife Ecology and Epidemiology

Ecological response of pest populations and assemblages to management. Includes work on pests as vectors of disease.

Environment and Society

Built Environments

Contributing knowledge and understanding of urban systems.

Global Change Processes

Science underpinning New Zealand's ability to reduce greenhouse gas emissions, develop new mitigation options, adapt to the effects of a changing climate, and manage in land-based systems the risks and opportunities arising from global change.

Informatics

GIS, remote-sensing, biometrics and databases.

Soils and Landscapes

Soils, landscapes and water resources, soil processes and functions through landscape behaviour and response.

Sustainability and Society

Looking at the long-term effects of society on the environment.

Landcare Research / Council Collaborative Activities

Waitakere City Council and Landcare Research have worked together in a number of areas to enhance the urban environment. Landcare Research has completed contracts and provided information for Waitakere City from 1994 to 2005.

Waitakere City Council and Landcare Research acquires research funding from a number of government and non-government agencies. A significant proportion of these funds are being applied to develop and apply strategies for restoration, rehabilitation and improved urban development with Waitakere City Council.

A4

Both organisations have ongoing research activities, contracts, and joint initiatives, as set out in the attachment at page A4, such as preparing an Environmental Sensitivity Assessment to support the MUL shift.

Relationship Agreement

The Relationship Agreement provides a basis for Landcare Research and Council to work together in areas of mutual interest.

Both Landcare Research and Waitakere City Council have recognised and complementary capabilities, contacts and expertise in a broad range of advanced technologies and research capabilities in fields that are of potential strategic, tactical or commercial interest to both Parties including:

- Environmental protection and management;
- Mitigation and adaption to climate change;
- Low impact urban development;
- Sustainable business and government.

The purpose of the Relationship Agreement is to describe the relationship between Landcare Research and Waitakere City Council and in particular to:

- facilitate the sharing of confidential information and the development of proposals for collaborative research, contract research and ventures between the two organisations; and
- set out principles and guidelines to be followed by Landcare Research and Waitakere City Council in discussing and establishing future research projects and any spin-off commercial ventures.

Whilst Landcare Research and Waitakere City Council have acknowledged that the Relationship Agreement is not intended to set out contractual terms governing the conduct of specific research projects it is expected to result in:

- the sharing of relevant information on a confidential basis with the aim of identifying needs and capabilities of both parties;
- the establishment of a working relationship between the Parties which is targeted to the parties' specific needs; and
- the establishment of research and development projects and ventures of interest to both parties.

The two parties believe there are significant advantages to be gained from coordinating their research efforts in the fields of urban ecology, low-impact urban design, integrated catchment planning and management, adaptation to climate change and sustainable business and government.

RESOURCES

There are no resource implications arising from this report. Where there are opportunities for research projects, these have been built into the work programmes in the Long Term Council Community Plan.

Resources available to Landcare Research will enhance the approved work programmes.

CONCLUSION

The relationship with Landcare Research has matured to a point where it would be beneficial to both parties to enter into a Relationship Agreement to provide a more formal basis for the relationship.

Accordingly, it is recommended that authority be delegated to the Chief Executive Officer to enter into a Relationship Agreement with Landcare Research.

RECOMMENDATIONS

1. That the Landcare Research - Relationship Agreement report be received.
2. That authority be delegated to the Chief Executive Officer to enter into a Relationship Agreement with Landcare Research.

Report prepared by: Tony Miguel, Group Manager: Asset Management.



11 AUCKLAND REGIONAL GOVERNANCE

PURPOSE OF THE REPORT

The purpose of this report is to update Council on further work completed on proposals to strengthen regional governance, and to enable Council to consider that work and make decisions in relation to it.

BACKGROUND

A5-A23

The councils of the Auckland region developed a proposal for strengthening regional governance, which was submitted to the government in December 2006. Council, along with other councils in the region passed a number of resolutions in relation to aspects of the proposal. The resolutions of all councils are attached at pages A5 to A23.

The key features of the December proposal are:

- The creation of a Greater Auckland Council (GAC) with an appropriate new name, potentially new directly elected representation arrangements, a broader role and responsibilities, and access to new funding sources as well as regional rates;
- The establishment of a Regional Sustainable Development Forum (RSDF), as a standing committee of the Greater Auckland Council. This Forum would have similarities to the current multiparty Regional Growth Forum led by the ARC;
- The development by the Forum, of "One Plan" for the Auckland region to promote social, economic, cultural and environmental well being through prioritised action plans. It is envisaged that the process would produce a series of negotiated multilateral and/or bilateral agreements with the objective of implementing and funding strategies;

- The development of new national strategies by central government, that link with and guide regional strategies as well as central government funding and delivery;
- Multi-year funding agreements between central and local government;
- Amendment of transport legislation to enable the Regional Land Transport Strategy to specify both major projects and areas for focus and activity;
- Amendment of water legislation to enable Watercare to pay its territorial authority owners a dividend to fund stormwater infrastructure;
- The investigation by the councils of an expansion of shared services arrangements, and ways of optimising current rates bases and tools.

Council considered a further report on this matter at its meeting held on 18 April 2007. It resolved:

“That Watercare ownership be retained by the territorial local authorities as a Council Controlled Organisation and that it be able to pay a dividend which can be used by the territorial local authorities for the Three Waters.”

671/2007

“That any regional governance entity be more representative of the constituent territorial local authorities.”

672/2007

“2. That, in relation to Strengthening Auckland’s Regional Governance, Council note the request by the Minister of Local Government:

- *that each Auckland territorial local authority authorise relevant officers to collaboratively undertake further work to fully develop the detailed content of the concepts presented in the December 2006 proposal; and*
- *that this work is completed and details of the proposal agreed by July 2007 so that those considering standing in the October 2007 local elections, and electors are aware of the proposed changes to Auckland’s regional governance.*

3. That Council agree to make appropriate resources available as requested to progress further work including public consultation when appropriate to enable the proposal for Strengthening Auckland’s Regional Governance to be completed by June 2007.

4. That Council approve the continuation of Waitakere representation on the Strengthening Auckland’s Regional Governance, Political Reference Group, being His Worship the Mayor and Councillor Penny Hulse (with Councillor Derek Battersby as alternate).”

673/2007

Since that time, further work has been undertaken by central and local government officials. The output from this work is discussed below.

STRATEGIC CONTEXT

The strengthening Auckland’s Regional Governance project is an attempt to improve the performance of the region as a whole, and in particular to provide for more effective regional level engagement with central government. It is intended to address current weaknesses in governance, funding, and strategic planning. As such, this project potentially affects every aspect of sustainable development and good governance in Waitakere and the whole Auckland region.

ISSUES

A24-A58

The work undertaken by officials and the Political Reference Group has resulted in the production of a progress report. The report is attached at pages A24 to A58. The report identifies options which have been developed to further flesh out the December proposal, and seeks to address the various views expressed by individual Councils on specific aspects of the proposal.

Key elements of the proposal have been identified as:

- Mechanisms aimed at strengthening governance relating to:
 - The role and accountability of the GAC including its representation;
 - The role of the RSDF;
 - The scope of the One Plan including the proposed process for development of the One Plan, including the negotiation of funding for implementation actions and the timing and staging of developing the One Plan, recognising that much of the work already undertaken with respect to the Long Term Sustainability Framework and regional strategies represents a first step;
- The advancement of the other regionally significant issues (as identified in the December package) and their associated work streams.

The progress report does not present firm positions on some of the points of debate previously identified. Rather a number of possible positions for each option is outlined.

Greater Auckland Council

The proposal sees the GAC taking responsibility for regionally significant issues across the four well beings (social, cultural, economic and environmental). Access to adequate funding sources are identified as a key issue in terms of the GAC entity and resolution of the issues of regional significance that are faced.

The GAC would also have responsibility for convening the RSDF. It is envisaged that the GAC would provide executive support to the RSDF, receive the One Plan as a recommendation from the RSDF, implement decisions for which it is accountable, negotiate implementation commitments arising out of the One Plan, and monitor implementation of the One Plan. The GAC would also have a key role in managing the relationship with central government on issues of regional significance.

Issues that need finalisation with respect to the GAC include:

- The name of the entity;
- The power of the GAC with respect to the One Plan. The paper notes that the GAC *“would have the option of adopting the One Plan or being able to refer the One Plan back to the RSDF but its power to unilaterally change the One Plan could be limited”*. It is likely to be this Council’s concern to ensure that the GAC had no powers to unilaterally change the One Plan;
- The representation and electoral arrangements for the GAC, including the selection arrangement relating to the position of the leader/Chair.

Regional Sustainable Development Forum

The RSDF is envisaged as a standing committee of the GAC made up of elected representatives of each council and representatives of central government. The key role of the RSDF would be the development and recommendation of the One Plan.

Issues that still require finalisation with respect to the One Plan include:

- Representation, including whether and how central government is represented, how councils are represented, the relationship with tangata whenua and other key stakeholders, and who Chairs the RSDF;
- Decision Making and Voting, including whether central government representatives should have voting rights, and whether Council votes should be weighted, either by population or financial commitment to implementation;
- Accountability and consultation issues;
- The relationship of the RSDF with existing fora, in particular whether to retain existing fora and if so how these should be given direction by the RSDF.

From this Council's perspective, it would seem logical that each council has the ability to appoint its own representatives. It also would seem preferable to allow for two representatives for each council to provide for continuity of involvement should one representative be absent.

In terms of decision-making and vote weighting, some form of voting system is likely to be necessary, given that a consensus outcome is unlikely in every instance. The issue of vote weighting (or alternatively have more voting members) has been raised, particularly by some of the larger councils. Such a proposal has the potential to be highly disadvantageous to smaller and medium sized councils, Waitakere included. A voting system based on financial commitment seems to be a recipe for the 'rich getting richer and the poor getting poorer'. It could also have significant consequences if central government is given full voting rights. Given their spend in the region, they would dominate voting and could dictate priorities to councils.

Likewise, a voting system weighted by population has similar potential to distort decision making in favour of larger councils, meaning that each area of the region is not paid equal attention when the sustainable development of the region is being addressed.

Staff have taken a first principles approach to this issue, which is based on the One Plan being intended to drive the sustainable development of the whole region. If we are committed to the vision of a polycentric region around a Central Business District hub, it would seem more logical for each party at the table to have an equal say in the development of the One Plan. This is the model that works well at the Regional Growth Forum (aside from ARC representation). It also works well at other fora such as the Civil Defence Emergency Management Group. On that basis it would seem appropriate for Council to support equal representation on the RSDF for all councils including the GAC, with no weighting of votes.

Council should give direction as to how the RSDF should relate to other fora such as the Regional Growth Forum and the Regional Land Transport Committee. Regionally, officers are starting to see the benefits of having other fora continue, on the proviso that they report to and take direction from the RSDF.

One Plan

The One Plan is intended to be an integrated, prioritised and funded strategy for the region. In order to meet delivery expectations, it will require changes to governance and funding arrangements, and a willingness from all parties involved to cede autonomy in the interests of regional advancement.

A key issue to be resolved is the enforceability of the One Plan. Options range from voluntary implementation, through to parties being required to act in a manner "not inconsistent with", through to a legal requirement to "give effect to". The latter might involve enforceable bilateral and multilateral contracts or agreements emerging out of the One Plan. Regard needs to be given not just to how council might be bound to One Plan agreements, but also to how central government agencies would be affected.

Officers view a voluntary implementation regime as being of little use, bringing the region a little closer to having its priorities implemented. The report discusses a range of sanctions and levers that might be used to enforce or encourage implementation. Direction is sought from Council as to the extent and how enforceability should be pursued.

The other issue canvassed in relation to the One Plan is whether development work should start fresh from a zero base, or build on existing work (such as the Long Term Sustainability Framework and the Regional Growth Strategy among others). In the view of staff, the only logical approach is to build on existing work done, although the RSDF may want to revisit some aspects of it.

Decision Making

In addition to this report, it is intended to work through a list of decision points at the meeting to enable Council to more fully consider all of the issues canvassed in the report. Staff will provide this information by way of a brief presentation.

In addition to comments on issues outlined in the report, Council may wish to comment on consultation arrangements in relation to the proposals. The Council had sought eight week public consultation on the proposals. Given the timeframes outlined for council and government consideration and decision making, it is not clear how this will be achieved. It is noted that the current document has been released to stakeholders and publicly.

RESOURCES

The proposed package of reforms to Auckland's regional governance structures will have a range of funding and financial implications across the region. These will be investigated and developed more fully as part of further work. In brief, financial implications relate to:

- Development of a One Plan that agreed by all parties (including central government) should provide for more certain funding allocation to strategic regional priorities;
- A key part of the governance proposal is to address current funding shortfalls at the regional level through identifying new funding sources such as a regional fuel tax, development levies and departure tax;
- That there will be costs associated with implementing any proposed reforms such as a new name for the regional entity, potential new representative arrangements for a new entity, establishing and servicing the new RSDF, and One Plan, the collection of new revenue sources and investigating new shared services arrangements.

Staff time allocated to contributing to the development of proposals and providing advice to Council is being provided for within existing staff resources. Project costs are being shared between the councils and central government and are being funded from the regional projects budget.

CONCLUSION

A progress report on strengthening Auckland's regional governance has been released. The report further develops the December 2006 proposal to government. Comment and direction from Council is sought.

RECOMMENDATIONS

1. That the Auckland Regional Governance report be received.
2. That Council convey as part of its feedback, its previous decisions relating to Watercare dividends and representation arrangement for any regional governance entity.
3. That Council provide direction on the key decision points in relation to the Strengthening Auckland's Regional Governance - Report on Progress report, and authorise the Chief Executive Officer and its representatives on the Political Reference Group to make appropriate submissions and representations on these issues.

Report prepared by: Ross McLeod, Director: Corporate and Civic Services.



12 **2007 ELECTIONS - GUIDELINES FOR USE OF COUNCIL RESOURCES IN THE PRE-ELECTION PERIOD**

PURPOSE OF THE REPORT

The purpose of this report is to remind the Council of the Office of the Controller and Auditor-General's "Suggested Guidelines for Public Communications by Local Authorities" (the Guidelines) and which contain provisions that are particularly relevant to the pre-election period.

BACKGROUND

The Guidelines were adopted by the Council as 'good practice' on 26 May 2004. The Council's Code of Conduct is consistent with the Guidelines. The Guidelines apply to all Elected Members, including Community Board Members, and among other things, cover the use of Council resources in the pre-election period.

STRATEGIC CONTEXT

Council is committed to increasing community participation in democratic processes. Elections are a key democratic process. Elected Member behaviour, particularly during the lead up to elections, is considered to be a factor in contributing to the validity and integrity of the election process.

ISSUES

Guidelines from the Office of the Controller and Auditor-General

A59-A86

The Guidelines contain 14 Principles. A full copy of the Guidelines is attached at pages A59 to A86.

Those Principles that are relevant to the pre-election period (Principles 12 - 14) are described below:

PRINCIPLE	EXAMPLES
<p><i>Principle 12</i> Communication of a Member's personal views or opinions using Council resources is unacceptable during a pre-election period.</p>	<p>Not permitted:</p> <ul style="list-style-type: none"> - communicating personal views using Council stationery, email, postage or fax/phone facilities or any other Council resource.
<p><i>Principle 13</i> A Council's communications policy should also recognise the risk that communications by or about Members, whether in their capacities as spokespersons for Council or otherwise, during a pre-election period, could result in the Member achieving electoral advantage at ratepayers' expense. The Chief Executive Officer (or his delegate) should actively manage the risk in accordance with the relevant electoral law.</p>	<p>Permitted:</p> <ul style="list-style-type: none"> - photographs of members where it is the practice to include them, such as the Annual Report or website. <p>Not permitted:</p> <ul style="list-style-type: none"> - anything that could be construed as giving a sitting member an unfair advantage through a raised profile, such as a photo-opportunity or chairing a public meeting.
<p><i>Principle 14</i> The use of Council resources (including stationery and internet, e-mail and telephone communications facilities) for re-election purposes is unacceptable.</p>	<p>Not permitted:</p> <ul style="list-style-type: none"> - using, for re-election purposes, Council stationery, email, postage, fax/phone facilities or any other Council resource.

The Guidelines define the "pre-election period" to be three months before the close of polling day (13 July 2007 to 10 October 2007). The Guidelines also note that a Council may decide to apply restrictions over a longer period.

Election irregularity

The Local Electoral Act 2001 sets out a number of principles in section 4:

"4 Principles

- (1) *The principles that this Act is designed to implement are the following:*
- (a) *fair and effective representation for individuals and communities:*
 - (b) *all qualified persons have a reasonable and equal opportunity to—*
 - (i) *cast an informed vote:*
 - (ii) *nominate 1 or more candidates:*
 - (iii) *accept nomination as a candidate:*
 - (c) *public confidence in, and public understanding of, local electoral processes through—*
 - (i) *the provision of a regular election cycle:*
 - (ii) *the provision of elections that are managed independently from the elected body:*
 - (iii) *protection of the freedom of choice of voters and the secrecy of the vote:*

- (iv) *the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes:*
- (v) *the provision of impartial mechanisms for resolving disputed elections and polls.”*

In a case in 2003 (Aukuso and Ors v Hutt City Council and Ors) the District Court established that a breach of the principles can lead to an election “irregularity” and result in the election result being over-turned.

Re-election purposes

There may be instances where the use of Council resources would normally be entirely legitimate but doubts are raised because of the pre-election period. Two concepts that are used in the Guidelines and in the Local Electoral Act 2001 may be of assistance:

- whether there is a perceived electoral advantage through the use of Council resources;
- whether the activity is being carried out by the member in their capacity as a candidate or in their capacity as a member of the authority.

It is also important to note the activities that need to be accounted for in terms of declaring electoral expenses. The Local Electoral Act 2001 defines “*electoral activity*” to be (Section 104):

- “electoral activity, in relation to a candidate at an election, means an activity—*
- (a) *that is carried out by the candidate or with the candidate’s authority; and*
 - (b) *that relates to the candidate solely in the candidate’s capacity as a candidate and not to the candidate—*
 - (i) *in his or her capacity as a member of the local authority or community board, or as the holder of any other office; or*
 - (ii) *in any other capacity; and*
 - (c) *that comprises—*
 - (i) *advertising of any kind; or*
 - (ii) *radio or television broadcasting; or*
 - (iii) *publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; or*
 - (iv) *any electronic communication to the public, including (without limitation) the establishment or operation of a website or other method of communication to the public using the Internet; and*
 - (d) *that relates exclusively to the campaign for the election of the candidate; and*
 - (e) *that takes place within the applicable period before the close of polling day.”*

The “*applicable period*” is the three months prior to polling day.

Complaints

In order to support the principle in the Local Electoral Act 2001 referred to above that elections need to be managed independently it is important that any complaints are dealt with independently, outside of the political realm.

Complaints about the integrity of the elections should be made to the Electoral Officer. The Electoral Officer would, in turn, bring any complaints about the use of Council resources to the attention of the Chief Executive Officer.

RESOURCES

There are no additional resources required to action the recommendations contained in this report.

CONCLUSION

The “*Suggested Guidelines for Public Communications by Local Authorities*” published by the Office of the Controller and Auditor-General was adopted by the Council on 26 May 2004 as good practice. The particular aspects of the Guidelines that relate to elections are included in the Council’s Code of Conduct. The Guidelines apply to all Elected Members including Community Board Members.

RECOMMENDATIONS

1. That the 2007 Elections - Guidelines for Use of Council Resources in the Pre-election Period report be received.
2. That the “*Suggested Guidelines for Public Communications by Local Authorities*” produced by the Office of the Controller and Auditor-General and adopted as ‘good practice’ be noted.

Report prepared by: Darryl Griffin, Group Manager: Democracy and Support Services.



13 ELECTION SIGNS AND HOARDINGS SCHEDULE 2007

PURPOSE OF THE REPORT

The purpose of this report is to advise the Council of the schedule of local authority election roadside signs and billboards, approved by the Chief Executive Officer pursuant to the Council General Bylaw No 4, in preparation for the 2007 Triennial Election to be held on Saturday, 13 October 2007.

BACKGROUND

In 1998 Council adopted a hoardings policy for the 1998 Triennial Elections, which was generally successful in determining where hoardings signs and posters could be displayed for that election. As a result of some fine-tuning, a similar policy was adopted for the 1999 General Elections. Council then adopted the same policy at the Council meeting on 20 December 2000 to apply to the 2001 By-Election, the 2001 Triennial Elections in Waitakere City, the 2002 General Elections and the 2003 Waitakere Licensing Trust By-Election.

Following concerns expressed during the 2001 Triennial Elections about inappropriate siting of signs, content and enforcement procedures and resolutions of the Henderson Community Board and the Finance and Operational Performance Committee the policy was reviewed and re-adopted with changes for the 2004 Triennial Election and subsequent elections, including the 2005 parliamentary general election and the 2006 By-Election.

STRATEGIC CONTEXT

Active democracy and strong communities are two of the nine strategic platforms adopted by Council in the 2006-2016 Long Term Council Community Plan (LTCCP). Council is committed to increasing community participation in democratic processes.

Elections are a key democratic process. Election signs and hoardings are viewed as helping to raise community awareness of both elections and particular electoral candidates.

Another Strategic platform is Integrated Transport and Communications. A Safe City is one of the five strategic priorities also adopted with the 2006-2016 LTCCP. Hence Council is also concerned with issues such as road and pedestrian safety, visual amenity and litter control. Roadside signs and hoardings can have impacts on these issues through unsafe location, distraction of drivers, visual clutter and incomplete clean up/vandalism.

Accordingly Council needs to balance these factors when determining its policy.

ISSUES

During the 2005 parliamentary General Election some questions were raised by Council's enforcement officers as to the enforceability of this policy. Accordingly the Chief Executive Officer has requested that the possibility of a District Plan change to improve enforceability be investigated. It has been established that such a plan change can not be actioned in time for the 2007 Triennial Elections. As an interim measure, it was proposed that the Chief Executive Officer approve the policy as a schedule of approved advertisements pursuant to Clause 204A.1 of Waitakere City Council General Bylaw No 4.

During the 2004 elections and subsequently, particular enforcement difficulties were experienced with signs being erected in places that created an immediate danger to traffic safety. Accordingly it is proposed to amend the policy to allow the immediate removal of signs deemed to be dangerous or obstructing view of traffic.

Furthermore, the policy requires updating to incorporate the changes to ward boundaries introduced by the Local Government Commission's determination on the 2006 Representation Review.

A87-A90

The schedule approved by the Chief Executive Officer in accordance with Clause 204A.1 of the Waitakere City Council General Bylaw No 4 is attached at pages A87 to A90 for information.

RESOURCES

No additional resources will be required.

CONCLUSION

To remedy concerns regarding enforcement and safety, as well as complying with revised electoral boundaries, the Chief Executive Officer has approved a schedule in accordance with Clause 204A.1 of the Waitakere City Council General Bylaw No 4 and this is presented to the Council for its information.

This report is brought forward for the Council to note the small but necessary corrections and to make any comment it may wish to make.

RECOMMENDATIONS

1. That the Election Signs and Hoardings Schedule 2007 report be received.
2. That the Council Election Signs and Hoardings Schedule 2007 be noted.

Report prepared by: Darryl Griffin, Electoral Officer.



14 ENDORSEMENT OF THE AUCKLAND REGIONAL SETTLEMENT STRATEGY

PURPOSE OF THE REPORT

The purpose of this report is to update Council on the Auckland Regional Settlement Strategy (the Strategy) and to seek Council's endorsement of the Strategy and associated Auckland Settlement Action Plan (Action Plan).

BACKGROUND

The Strategy was developed as a joint project between central and local government under the umbrella of the Auckland Sustainable Cities Programme. This programme was in response to the Government's Sustainable Development Programme of Action for New Zealand.

The Strategy is an agreed long-term plan to achieve sustainable settlement outcomes which contribute to social cohesion in the Auckland region. The Strategy identifies opportunities for moving from negative settlement outcomes to the settlement outcomes desired by migrant and refugee communities.

The published Strategy and Action Plan have been forwarded under separate cover.

STRATEGIC CONTEXT

Waitakere City Council's vision as expressed in its Long Term Council Community Plan 2006-2016 is for a city where people:

- feel they can make a difference;
- feel safe and there is a strong sense of community;
- enjoy the diversity of lifestyles and people; and
- have choices in housing, transport, employment and recreation in their neighbourhoods and town centres.

Support for the settlement of newcomers to Waitakere contributes to the Long Term Council Community Plan goals of strong communities, a holistic approach to health and wellbeing and economic sustainability.

ISSUES

Process of endorsement

The draft Strategy was endorsed by Councils in the Auckland region during July and August 2005. As this Strategy was jointly developed with Central Government, it was a requirement that the Strategy be signed off by Cabinet.

The Cabinet approval process took longer than expected. This was due to a restructuring of the document layout and inclusion of central government support for settlement. Subsequently the Minister of Immigration requested that an action plan for the Strategy be developed for consideration by Cabinet at the same time as the Strategy document. The Strategy and associated Action Plan were therefore finally approved by Cabinet in December 2006. The Strategy was publicly launched at the Auckland Museum on 31 January 2007 and has become available for endorsement by Auckland Councils.

Overview of Auckland Regional Settlement Strategy and Auckland Settlement Action Plan

The Strategy's vision for the future is that:

"Migrants, refugees and their families have a sense of belonging through opportunities to fully participate and contribute economically and socially in the Auckland region; and by being recognised and respected as equal and valued New Zealanders".

The Strategy has ten goals related to settlement of migrants and refugees in the Auckland region:

- improved access to settlement-related information and advice through accessible information, better planning and processes and responsive agencies;
- facilitate migrant and refugee participation in employment and their economic contribution to the Auckland Region;
- enhance adult ESOL outcomes;
- enhance physical and mental health outcomes;
- enhance educational and settlement outcomes for refugee and migrant children and young people;
- meet housing needs;
- local government supporting migrants and refugees to connect at the local level;
- provide opportunities for migrant and refugee communities to contribute to policy development and service delivery processes through co-ordinated contact and responsive mainstream agencies;
- increase acceptance and understanding of diversity; and
- address the settlement needs of Pacific migrants.

A Strategic Leadership Group has been formed to provide governance and mandate for the implementation phase of the Strategy. The Strategic Leadership Group is jointly led by local and central government, with the Auckland Regional Council and the Department of Labour being the respective lead agencies. The Director: Strategic Performance is the local government representative on the Strategic Leadership Group.

The Strategy identified 92 opportunities to support these ten goals and the Action Plan details the specific actions that will be undertaken to implement the Strategy. Ten work strands have been established to support the achievement of actions in each of the ten goal areas in the Strategy. The lead agencies for each work strand report to the Strategic Leadership Group on progress towards achieving milestones for implementation of the Strategy.

Waitakere City Council is the lead agency for the following actions:

- Adapt the Office of Ethnic Affairs 'Ethnic Perspectives in Policy' guide for use in the local government environment. This is a resource for policy analysts to help identify and understand the issues for ethnic people, and contains best practice guidelines for policy development, consultation and responsiveness; and
- Collate data from existing surveys about attitudes towards living in diverse communities and the benefits to host and migrant communities and identify opportunities to provide positive leadership and education in the Auckland region (this action is jointly led by the Auckland Regional Council).

Update reports on the Action Plan will be brought to Council periodically as implementation of the Strategy is rolled out across the region.

RESOURCES

At this point, resourcing the implementation of the Strategy can be met from within existing budget allocation. If additional resource requirements are identified through the implementation of the Action Plan, costs that cannot be met through existing resources will be signalled for consideration as part of the Annual Plan/Long Term Council Community Plan process. There is also the potential for joint funding or resource sharing where the shared implementation of actions has been agreed between two or more agencies.

CONCLUSION

Council has been proactive in supporting successful settlement of new migrants and refugees. The Strategy and implementation of the Action Plan provides a positive framework through which Council can continue to play a role in supporting migrants and refugees who choose to live in Waitakere.

RECOMMENDATIONS

1. That the Endorsement of the Auckland Regional Settlement Strategy report be received.
2. That Council endorse the Auckland Regional Settlement Strategy and associated Auckland Settlement Action Plan.

Report prepared by: Monica Sharma, Strategic Partnerships Advisor: Ethnic Communities.



15 STURGES ROAD RAIL OVERBRIDGE REPLACEMENT - FIXING OF ROAD LEVEL

PURPOSE OF THE REPORT

The purpose of this report is to obtain a resolution from Council to raise the level of Sturges Road and the Sturges Road Bridge to permit future rail electrification.

BACKGROUND

The existing road over the rail bridge at Sturges Road, Henderson was built around 1940 by New Zealand Railways Corporation (ONTRACK) to permit vehicle traffic to pass over the single railway line to new housing developments. The present condition of this bridge is poor with severe alkali silicate reaction producing extensive cracking with the long term safety and life of this structure being limited. ONTRACK has posted a load limit on this bridge in an attempt to ensure vehicle and rail safety. ONTRACK intends to commence double tracking of stage four of the western line from Mount Lebanon Lane to Swanson Station later this year. The existing piers of the Sturges Road Bridge are aligned such that it is not possible to achieve double tracking without undertaking major structural changes. Accordingly a decision has been made by ONTRACK and Council to demolish the old bridge and to rebuild a new wider integrated transport bridge in its place, with bridge deck raised by about 1 metre to permit future rail electrification. Construction of a new bridge requires road levels to be raised.

Under Section 330 of the Local Government Act 1974 the Council may alter the level of a road subject to Schedule 13 of that Act, which sets out the process for the public notification of the proposal to raise the level of the road and to hear submissions in respect of that proposal.

The design scope includes a replacement bridge as well as the design of new cycle lanes, an additional vehicle lane and a revised road intersection with Swanson Road. It is intended to commence with bridge removal and reconstruction later in this calendar year.

STRATEGIC CONTEXT

The Waitakere City Council's *"Integrated Transport and Communication"* platform provides the strategic context for this report. The vision is for public transport and communications systems that provide fast, effective services and for city travel facilitated by integrated, environmentally responsible and innovative design, with a focus on meeting the essential needs of all, for access, communication and safety. Replacing the Sturges Road Bridge will allow for double tracking of the rail line and will provide an integrated link between key points of Swanson maintaining the safety of pedestrians, cyclists, vehicles and trains.

ISSUES

A91 Sturges Road is required to be raised about one metre in height to permit future rail electrification, over a road length of about 60 metres on either side of the planned new higher level bridge. The raised road will affect access to properties, as shown on the plan attached at page A91, requiring their driveways to be adjusted. In addition the road will be widened to permit the construction of an additional traffic lane, two cycle lanes and two pedestrian walkways. The wider road will need to be retained by timber retaining walls and reduced privacy is possible to neighbouring housing as the new walkways increase pedestrians' visibility into houses and yards. In all, some 22 properties will be affected by either driveway level adjustments or by retaining walls.

Analysis of Options

Consideration has been given to two options to enable future rail electrification as follows:

1. Preferred Option: Raise the New Bridge and Road

This option provides for a new bridge built from two longitudinal up-stand U beams that act as pedestrian walkways. These U beams also carry a series of shallow transverse beams that form the bridge deck. The transverse beams that carry the road traffic are less deep than the box beams of the alternative option due to the span being substantially shorter. Lower transverse beams result in lower approach embankments, with consequently less earthworks and lower retaining walls at neighbouring properties. The new bridge will be about 1m higher than the existing bridge in order to permit clearance for rail electrification.

The advantages and disadvantages of the preferred option are:

Advantages	Disadvantages
<ul style="list-style-type: none"> • Rail levels need not be adjusted. • Sturges Station height need not be adjusted. • No delays to the rail duplication project. • ONTRACK will partly fund the new bridge. • Lowest total project cost to ONTRACK plus Council. 	<ul style="list-style-type: none"> • Raised road levels affect access to households. • Bridge works are complex and expensive. • Consent approvals will take time.

2. Alternative Option: Lower the Rail Track

This option provides for the lowering of the rail levels over a length of about one kilometre in order to achieve an acceptable rail grade and rail alignment that will tie into existing track levels near Henderson and Ranui Stations. The Sturges Station will also need to be lowered. ONTRACK have stated that they are not prepared to consider this option due to operational considerations caused by acceleration/deceleration of trains running through a lowered then raised grade. The costs, according to ONTRACK, are more severe than the preferred option, because not only is the rail prism to be lowered over a length of one kilometre, but the bridge will still need to be removed and be rebuilt with a longer span to permit side by side alignment of two railway lines.

The advantages and disadvantages are:

Advantages	Disadvantages
<ul style="list-style-type: none"> • Road levels need not be adjusted. • No disruption to driveways. • No privacy issues for households. • The consents process is straightforward. 	<ul style="list-style-type: none"> • Rail operations are inefficient. • Large rail excavations needed. • Bridge still needs to be removed to fit the second rail line. • Substantially higher costs due to bridge replacement plus rail lowering.

Mitigation Works Planned

The raised road levels, widened road and new walkways may result in reduced privacy for households within 60 metres of the bridge, that front onto Sturges Road. Driveway levels also need to be adjusted to tie into the new road levels. It is proposed to undertake consultation with some 22 affected residents/homeowners to inform them of the need for the raised and widened road works, and to offer mitigation planting and screening of properties to maintain privacy.

Driveway works will be planned so that there is a minimum of disruption and if necessary temporary steel bridging plates will be used to enable vehicles to enter and exit properties during the construction phase.

Some trees will need to be removed by the widened road works and some driveway level adjustments and replacement planting will be undertaken to mitigate the effects of this.

The resource consent process will involve consultation with local affected residents. It is planned to complete consenting processes within about three months.

RESOURCES

Funding for this project has been provided in the 2006-2016 Long Term Council Community Plan with assistance from ONTRACK.

At this stage a detailed cost estimate is not available, but a report will be submitted to the Long Term Council Community Plan and Annual Plan Special Committee in June 2007 on this issue.

CONCLUSION

The Sturges Road Bridge needs to be replaced and to be lengthened and raised to permit future rail double tracking and future rail electrification. At the same time, Council will make use of the opportunity to widen the road over the bridge to include an additional traffic lane, two cycle lanes and two pedestrian walkways. The local community will be affected by raised road levels and a widened road. Mitigation planting and screening will be undertaken to minimise the impacts on the community.

RECOMMENDATIONS

1. That the Sturges Road Rail Overbridge Replacement - Fixing of Road Level report be received.
2. That Council resolve to publicly notify the proposal to raise the level of Sturges Road and Sturges Road Bridge to permit future rail electrification in accordance with s330 of the Local Government Act 1974.

Report prepared by: Joe Schady, Senior Engineer Special Projects.



16 OWENS GREEN RESERVE - LEASE TO MUDDY CREEK RIDERS INC. AND OTHER ISSUES

PURPOSE OF THE REPORT

The purpose of this report is to update Councillors in relation to matters relating to the departure of the Laingholm Riding Club Inc from the Owens Green reserve and the granting of a new lease of the reserve in favour of Muddy Creek Riders Incorporated.

BACKGROUND

Laingholm Riding Club Inc has occupied part of Owens Green reserve as tenant for some years. The most recent lease is dated 2 August 2001 and was for a term of five years expiring on 28 February 2006. When the lease fell due for renewal some controversy arose because of competition for the new lease between Laingholm Riding Club Inc on the one hand and Muddy Creek Riders Inc on the other. At its meeting on 5 October 2006 the City Development Committee resolved:

"That an adjudicator be appointed to review the lease applications for Owens Green reserve by Muddy Creek Riders and Laingholm Riding Club and to make a decision as to the lessee"

1977/2006

Subsequently, the Chief Executive appointed Matthew Casey (now Matthew Casey, QC) as the "adjudicator".

A92-A107 A hearing was held at which both parties made submissions. Mr Casey issued a written decision dated 26 February 2007, a copy of which is attached at pages A92 to A107.

The Laingholm Riding Club has continued to occupy Owens Green in the meantime. It is due to vacate the land by 31 May 2007. Council has been advised that the Club has located an alternative site and it has been taking steps to vacate. The Club sought council approval to remove some of its improvements from the site and a limited approval was given by the Service Manager: Parks and Open Spaces (Grant Jennings). Some of the items removed from the site over the weekend of 28 and 29 April 2007 exceeded the authority given by Mr Jennings and the Council is now in correspondence with the Club in relation to those items.

A108 Since publication of Mr Casey's decision on 26 February 2007 the Laingholm Riding Club has continued to express its displeasure at the decision although it has taken no formal steps in that regard. The Club has corresponded with the Minister of Conservation and a copy of the Minister's letter to the Club dated 24 April 2007 is attached at page A108. You will see in this letter the "suggestion" that Mr Casey's decision by the adjudicator be confirmed by the Council "in order to complete the process".

DISCUSSION

When the Laingholm Riding Club wrote to the Minister on 5 March 2007 seeking a review by the Minister of Mr Casey's decision, the Department of Conservation requested a copy of the decision from the Council. The Department then asked whether it was intended to put the decision to the Council for confirmation, on the basis that this action would be "desirable". When pressed the Department was unable to articulate a clear legal basis for that view.

The Department responded that the Minister may put this forward as a "suggestion" in reply to the Club. It was informed of the Council's view that this might prove unhelpful to an early resolution of this matter. As is apparent from the Minister's letter, which states that he has no power to direct the Council and that his view is merely a "suggestion", this request fell on barren ground.

In that context it is helpful to explain more fully the position which the Council has adopted in this matter.

Owens Green is not a Crown reserve, it is land which was formerly owned by the Council in fee simple but subsequently vested under the Reserves Act 1997, as a recreation reserve. The Council is the "administering body" for this reserve.

The power to grant leases of recreation reserves is to be found in Section 54 of the Reserves Act 1977, which is silent as to whether the leasing powers under Section 54 can be delegated. By contrast, where a leasing proposal attracts submissions, Section 120 of the Act directs that those submissions may be considered by "the administering body or a committee thereof or a person nominated by the administering body". Section 120 does not, however, confer any decision-making power on the person hearing those submissions.

Before granting a lease under Section 54 of the Reserves Act 1977 the consent of the Minister is required. However, by an instrument of delegation under Section 10 of the Reserves Act 1977 the Minister has delegated some of his powers of consent to the Council, including the power to give consents required under Section 54 of the Reserves Act 1977. The current delegation is dated 10 March 2004. Both the instrument of delegation and s10 are silent as to whether the delegated powers can be sub-delegated.

The general common law rule is that delegated powers cannot be sub-delegated in the absence of an express authorisation (this common law rule was contained in the Latin maxim *delegatus non potest delegare*). On the basis of the provisions of the Reserves Act generally and the terms of the Minister's delegation under Section 10, and without regard to the provisions of the Local Government Act 2002, it is undoubtedly correct the powers delegated to the Council could not be exercised by a committee, by a community board or by anyone else appointed by the Council for that purpose.

However, it is not possible to ignore the provisions of the Local Government Act 2002. That Act contains provisions which expressly authorise the delegation of a council's powers and functions.

Clause 32 of Schedule 7 of the Act reads "unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties or powers". Clause 32 then sets out six powers which may not be delegated including, for example, the power to make a rate. Other statutes specifically limit the powers of a local authority to delegate decisions, for example, the Resource Management Act 1991 which requires that decisions in relation to the district plan may not be delegated.

For the purposes of this discussion the key phrases in Clause 32 are:

- *"unless expressly provided otherwise in this Act, or in any other Act" - as noted above there are no express limitations on the power to sub-delegate to be found in the Reserves Act generally or in s10 or s54 (or in the instrument of delegation under s10) in particular;*
- *"For the purposes of efficiency and effectiveness in the conduct of a local authority's business" - which clearly indicates a preference for the most efficient means of dispatching local authority business. They can be no better example of "efficiency and effectiveness" than the circumstances where a particular matter has become divisive and all other efforts to bring the matter to a consensus outcome have been unsuccessful.*

In his letter to the Club the Minister says that *"the council's powers do not substitute for the specific delegation powers expressly provided for under the Reserves Act"*. However, the Reserves Act was passed in 1977; the Local Government Act was passed in 2002. Legislation is interpreted on a purposive basis, having regard to the intent to be gleaned from the language used. The comment in the Minister's letter defies the plain language of Clause 32 and would render the words *"or in any other Act"* meaningless in this context. No alternative basis is advanced by the Minister to support this proposition.

For the record, the Council has delegated (resolution 896/2005) all of its functions powers and duties under the Reserves Act 1977 to the City Development Committee in relation to city wide reserves. Owens Green is a city wide reserve. The delegation is in sufficiently broad terms to include the exercise of functions delegated to the Council under Section 10. In addition to this the Chief Executive also has a broad delegation in respect of a range of matters, including the Reserves Act 1977. That delegation authorised the appointment of Mr Casey as the *"adjudicator"* required by the resolution of the City Development Committee.

CONCLUSIONS

There is no legal requirement for the Council to confirm the decision of Mr Casey, since in terms of the authority delegated to him the decision is already binding upon the Council. Notwithstanding that conclusion, it is recommended that confirmation be given in any event to bring this matter to an end, once and for all and for the avoidance of any doubt.

RECOMMENDATIONS

1. That the Owens Green Reserve - Lease to Muddy Creek Riders Incorporated and Other Issues report be received.
2. That, acting under delegated authority from the Minister pursuant to Section 10 of the Reserves Act 1977, consent is given to lease Owens Green reserve under Section 54(1)(c) of the Reserves Act 1977.
3. That the Council confirm the decision of Matthew Casey dated 26 February 2007 to award a lease of the Owens Green reserve to Muddy Creek Riders Incorporated under Section 54(1)(c) of the Reserves Act 1977 upon the terms set out in the decision.

Report prepared by: Denis Sheard, Manager: Legal Services.

HV O'Rourke, MNZM, JP
CHIEF EXECUTIVE OFFICER



PART E - REPORTS FROM THE STANDING COMMITTEES

17 CITY DEVELOPMENT COMMITTEE

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORTS OF ITS MEETINGS HELD ON THURSDAY, 3 MAY 2007 AND FRIDAY, 18 MAY 2007

MATTERS CONSIDERED

1-8
Part E

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 1 to 8 in the supplement labelled Part E.

Your Committee Recommends:

That the reports of the Meetings of the City Development Committee held on Thursday, 3 May 2007 and the Extraordinary meeting held on Friday, 18 May 2007 be received.

PA Hulse
CHAIRMAN



18 FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 8 MAY 2007

MATTERS CONSIDERED

9-14
Part E

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 9 to 14 in the supplement labelled Part E.

Your Committee Recommends:

That the report of the Meeting of the Finance and Operational Performance Committee held on Monday, 8 May 2007 be received.

JM Clews, QSO, JP
CHAIRMAN



19 **PLANNING AND REGULATORY COMMITTEE**

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 9 MAY 2007

MATTERS CONSIDERED

15-17
Part E

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 15 to 17 in the supplement labelled Part E.

Your Committee Recommends:

That the report of the Meeting of the Planning and Regulatory Committee held on Tuesday, 9 May 2007 be received.

VS Neeson, JP
CHAIRMAN



20 **TE TAUMATA RUNANGA**

I NOHO TE TAUMATA RUNANGA KOMITI RAHINA TE KAU MA WHA O HARATUA 2007

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 14 MAY 2007

MATTERS CONSIDERED

18-21
Part E

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 18 to 21 in the supplement labelled Part E.

NGA TAKE E WHIRIWHIRIA

E whakataua ana Te Taumata Runanga i nga take i whakamanangia i te ture he whakaahua o nga tuhi kua tonoa ki nga mema o te Kaunihera.

Your Committee Recommends:

That the report of the Meeting of Te Taumata Runanga held on Monday, 14 May 2007 be received.

TW Taua, MNZM
CHAIRMAN



PART F - PRESENTATIONS

These presentations are scheduled to take place at 6.30 pm.

21 SIGNING OF LOPDELL HOUSE DEVELOPMENT PARTNERING AND FUNDING AGREEMENT

The Chief Executive Officer and the Chairman of the Lopdell House Development Trust will jointly execute the Lopdell House Development Partnering and Funding Agreement. The completion of this Partnering and Funding Agreement is required by the Culture, Arts and Events Special Committee to enable the release of the remaining ARST funding for project development.

22 PRESENTATION TO BEATRICE FAUIMINA

The Mayor will make a presentation to Beatrice Fauimina, appointing her as the inaugural Health and Wellbeing Ambassador of Waitakere.



PART G - PROCEDURAL MATTERS

23 QUESTIONS

Pursuant to Standing Order 39.2, any member of the local authority may at any meeting of the local authority at the appointed time, put a question to the Mayor as Chairman of the local authority, or through the Mayor to the Chairman of any standing or special committee, or to any officer of the local authority concerning any matter relevant to the role or functions of the local authority concerning any matter that does not appear on the order paper, nor arises from any committee report or recommendation submitted to that meeting.



24 NOTICES OF MOTION

Pursuant to Standing Order 28.1, notices of motion shall be in writing by the mover, stating the meeting at which it is proposed that the notice of motion be considered, and shall be delivered to the Chief Executive Officer at least five clear days before such meeting.



PART H - PUBLIC EXCLUDED MATTERS

25 FINA OCEANIA SWIMMING CHAMPIONSHIPS 2008

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely, FINA Oceania Swimming Championships 2008.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of the matters to be considered.	Reason for passing this resolution in relation to the matters.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
FINA Oceania Swimming Championships 2008	The withholding of information is necessary in order to: <ul style="list-style-type: none"> • enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). 	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *The report contains information which if released could affect the Council's negotiations.*



26 CLOSING PRAYER

