

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE COUNCIL CHAMBER
AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON WEDNESDAY, 18 AUGUST 2010,
COMMENCING AT 9.30 AM**

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1 APOLOGIES



2 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.



3 CONFLICTS OF INTEREST

The Council has acknowledged in its Code of Conduct that Members need to be vigilant to stand aside from decision making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to check that no such conflicts arise in relation to any items on this agenda.



4 CREATIVE COMMUNITIES SCHEME ALLOCATION SUBCOMMITTEE - APPROVAL OF NEW MEMBERS.

GLOSSARY

Creative Communities Scheme Allocation Subcommittee	(CCSAS)
Creative New Zealand	(CNZ)
Creative Communities Scheme	(CCS)
Creative Communities Administrator's Guide	(CCAG)

EXECUTIVE SUMMARY

The purpose of this report is to seek approval from the Council for the appointment of three new members on the Creative Communities Scheme Allocation Subcommittee (CCSAS).

These new members are appointed in accordance with Creative New Zealand's (CNZ) newly released Creative Communities Administrator's Guide (CCAG) as to the membership and composition of committees administering Creative Communities Scheme (CCS) funding.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Creative Communities Scheme Allocation Subcommittee - Approval of New Members report.
2. **Approve** the appointment of three new members to represent the Waitakere Pacific Board, the Waitakere Central Community Arts Council and the Community Boards on the Creative Communities Scheme Allocation Subcommittee as follows:
 - (a) Apiseka Eka to represent the Waitakere Pacific Board;
 - (b) Jim Ellis to represent the Waitakere Central Community Arts Council; and
 - (c) Pim Van Der Voort to represent the Henderson, Massey, New Lynn and Waitakere Community Boards.

BACKGROUND

1. The CCS is a partnership between the Council and CNZ to disburse CCS funding. CNZ normally distributes funds to Council twice a year to allocate in the form of grants. In 2010/2011, CCS funding will be distributed in one round only, in August 2010, to allow for pending changes to Auckland's regional governance.
2. In Waitakere, Council distributes CCS funding by way of recommendations made by the CCSAS to its parent committee, the Finance and Operational Performance Committee. Currently, the CCSAS membership and delegated authority is as provided in the Delegations to Committees.
3. CNZ's preferred membership composition for committees such as the CCSAS who are responsible for disbursement of CCS funding, is clearly set out in the CCAG. Membership is to be made up of Elected Members and community members, ideally with a background in the arts and active in the local community. It should be composed of at least seven members and no more than 11 appointed or Elected Members for a specified term of not more than three years.
4. At its meeting on 12 July 2010, the Finance and Operational Performance Committee approved the changes to the CCSAS to align it with CNZ's recommendations, and subsequently Council approved the required change to the delegations of the CCSAS on 28 July 2010 (minute no 1007/2010). The changes to the CCSAS include the appointment of one community board member to represent all four community boards and one council member (instead of the existing two) to the CCSAS. This change to CCSAS membership was also reported to the meetings of the Henderson, Massey, New Lynn and Waitakere Community Boards at their August 2010 meetings, and each of these Community Boards appointed Pim van der Voort as their collective representative (minute nos. 1063/2010, 1039/2010, 1059/2010 and 1016/2010).

5. The three new appointments outlined in recommendation 2 need to be approved by the Council in order for the new members to join the existing six members at the upcoming CCSAS meetings on 30 and 31 August 2010.

DECISION MAKING

Issues

6. The new CCSAS representative for the Waitakere Pacific Board to be approved by the Council is Apiseka Eka.
7. The new CCSAS representative to be approved by the Council for the Waitakere Central Community Arts Council is Jim Ellis.
8. The new CCSAS representative to be approved by the Council for the Community Boards is Pim Van Der Voort.

STRATEGIC CONTEXT

9. The allocation of CCS funding contributes to achieving strong communities, toiora (healthy lifestyles) and in particular vibrant arts and culture community outcomes.
10. The allocation of CCS funding supports the Cultural Wellbeing Strategy by supporting access to arts and culture through grants and subsidies.
11. Council's Arts and Cultural Strategy (2002), now referred to as a 'Plan', also supports strong community arts outcomes.
12. The CCS is initiated and funded by CNZ as a support for grassroots arts and cultural activities. It is allocated on a per-capita basis.

CONSULTATION

13. CNZ has provided guidelines in the form of the CCAG for the preferred composition of bodies distributing CCS funding.

RESOURCES

14. There are no resources required other than staff time.

IMPLEMENTATION ISSUES

15. Once approval for the appointment of the three new members is obtained, the three members will receive induction information relevant to the CCSAS and be guided by the CCS administrator as to their role on the CCSAS.

AUCKLAND COUNCIL TRANSITION ISSUES

16. The decision making proposed in this report is not constrained by section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, as it does not directly or because of its consequences: significantly prejudice the reorganisation, significantly constrain the powers or capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation, or have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.

Report prepared by: Julie Nash, Community Arts Coordinator, Public Affairs.



5 **DECISION MAKING IN THE TRANSITION TO THE AUCKLAND COUNCIL – OCTOBER 2010**

GLOSSARY

Local Government (Tamaki Makaurau Reorganisation) Act 2009 (the Act)

EXECUTIVE SUMMARY

The purpose of this report is to: advise the Council on decision making in the lead up to the transition to the Auckland Council, from the date of the 2010 local elections on 9 October 2010 until 31 October 2010; to advise of existing delegations and to put in place contingency plans to meet any extraordinary requirements.

The Auckland Council comes into being on 1 November 2010. The existing eight local authorities that make up the Auckland Council (Auckland Region; Auckland, Manukau, North Shore and Waitakere Cities; Rodney and Papakura and part of Franklin Districts), remain as legal entities until the close of business on 31 October 2010.

The Chief Executive Officer's delegations are extensive and exception based. During the hiatus between when new councils are elected and sworn in, or indeed during periods of extended leave such as during the Christmas/New Year break, past practice is that the Chief Executive has made urgent decisions under delegation and reported back to the next Council meeting in an appropriate case. In the current circumstances, the report back will be made to the first business meeting of the Auckland Council.

Waitakere City Council remains the decision making body until and including 31 October 2010. If there are significant matters that require a decision, and the Chief Executive is not comfortable to exercise delegated powers, an extraordinary meeting of Council may be called in the normal manner. A decision made to which s31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 (the Act) applies will require confirmation by the Auckland Transition Agency before 31 October 2010.

RECOMMENDATIONS

It is recommended that the Council resolve to:

1. **Receive** the Decision Making in the Transition to the Auckland Council – October 2010 report.
2. **Agree** to confirm that the Council meeting (labelled as Council Various) scheduled for Wednesday, 6 October 2010, be the final meeting of this Council unless a situation arises that demands the calling of an extraordinary meeting of the Council.
3. **Note** that, whilst this Council remains the decision making body for this City until the close of business on 31 October 2010, any decision making during the balance of the month of October 2010 after 6 October 2010, which would normally require a decision of the Council or a committee of the Council, is delegated to the Chief Executive Officer who will exercise that delegation as appropriate and arrange to report any such decision requiring ratification to the first business meeting of the Auckland Council Governing Body.
4. **Note** that in the unlikely event that a significant decision needs to be made, or an emergency occurs, an extraordinary meeting of the Council, or any of the Community Boards, may be called in the normal manner. A decision made to which s31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 applies will require confirmation by the Auckland Transition Agency before 31 October 2010.

5. **Agree** that the Auckland Transition Agency be advised of these arrangements as a courtesy.

BACKGROUND

1. Section 32(2) of Act provides that each member of an existing local authority and each member of a community board of an existing local authority in Auckland remains in office until the close of 31 October 2010.
2. The current Council is able to continue to make decisions from the first working day post-election day; 11 October 2010 to 31 October 2010. However, the Council has decided informally that it should not meet during that period unless a matter of urgency occurs so no formal meetings have been scheduled for the month of October 2010 beyond the election date of Saturday, 9 October 2010. This decision accords with the constitutional convention that elected officials perform an essentially caretaker role in the period between and election and the date when the new elected officials assume office. That informal decision needs to be confirmed.
3. If the need arises to meet to deal with an urgent matter, there will need to be some attempt at consultation with Auckland Council, (notwithstanding it will not yet exist). It is suggested that this could be achieved through consultation with the Mayor elect and the Chief Executive Officer.

DECISION MAKING

Delegation to the Chief Executive Officer

4. In part, the Council's delegations to the Chief Executive Officer include:
"The Council delegates to the Chief Executive Officer all powers and authority to act on any matter in respect of which the Council is empowered or directed by law to exercise or undertake, except those powers or authorities in respect of which delegation is prohibited by the Act, by any other statute or regulation, or expressly excluded from this delegation. This delegation does not preclude the Chief Executive Officer from referring any such matter to the Council, or a Committee of the Council for a decision if the matter is particularly difficult, is of particular political importance or sensitivity or there is special community interest in it.

The Act prohibits the delegation of the following:

- *the power to make a rate; or*
- *the power to make a bylaw; or*
- *the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term council community plan; or*
- *the power to adopt a long-term council community plan, annual plan, or annual report; or*
- *the power to appoint a chief executive; or*
- *the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term council community plan or developed for the purpose of the local governance statement.*

In addition the Council has not delegated the following powers or authorities to the Chief Executive Officer:

- *the power to compulsorily acquire land under the Public Works Act 1981;*
- *the power to set strategic policy direction;*

- *the power to enter into contracts for the supply of goods and services to a value exceeding \$500,000;*
- *the power to enter into unconditional contracts for the sale or purchase of land or an interest in land;*
- *the power to enter into unconditional leases whether as landlord or tenant for a term of 2 years or more;*
- *the hearing of notified resources consents, designations and Heritage Order applications;*
- *any matter not permitted to be delegated by any other Act (for example the approval of a policy statement or plan under the Resource Management Act 1991 or the granting of special exemptions under s.6 of the Fencing of Swimming Pools Act 1987); and*
- *any matter that can only be given effect by a Council resolution.*

For the purposes of this delegation 'unconditional' means "without a condition requiring an approval to be given by resolution of the Council, or Committee of the Council with authority to give that approval".

5. In the unlikely event that a decision needs to be made by the full Council, an extraordinary meeting of the Council could be called in the normal manner.
6. Commissioners are being appointed to conduct resource consent hearings from the approved panel of Commissioners and they will continue to have the authority to make decisions on the matters in respect of which they are appointed, even if finalisation of the matter goes beyond 1 November 2010.

Final meeting of Council

7. The triennial schedule of meetings has a meeting of the Council (labelled as Council Various) scheduled for Wednesday 6 October 2010, three days before the 2010 local elections. The final ordinary meeting of Council is scheduled for Wednesday, 29 September 2010. It is recommended that this schedule of Council meetings be confirmed.

Final meetings of the Community Boards

8. There is a schedule of Community Board meetings during the first week of October 2010, and these meetings will conclude any business before the Community Boards. It is not considered that there is anything within the Community Board delegations which would require an extraordinary meeting of a Community Board in the period after the election. In the unlikely event that something arose which was within the delegation of the Community Board, either in whole or in part, consultation with the Community Board (through the Chair) could occur before the Council makes a decision.

STRATEGIC CONTEXT

9. There is no strategic context required for this report.

CONSULTATION

10. No consultation was required for this report.

RESOURCES

11. There are no resource issues.

IMPLEMENTATION ISSUES

12. There are no implementation issues.

AUCKLAND COUNCIL TRANSITION ISSUES

13. The decision making proposed in this report is not constrained by section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, as it does not directly or because of its consequences: significantly prejudice the reorganisation, significantly constrain the powers or capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation, or have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation. However it is considered that it would be courteous to advise the Auckland Transition Agency of the Councils determination of this matter.
14. Any decision made in the period between 11 October and 31 October 2010 will need to be assessed in terms of s 31 of the Act and confirmation sought if appropriate.

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



PUBLIC EXCLUDED MATTER

6 10-22 TOTARA AVENUE, NEW LYNN: DEVELOPMENT PROPOSAL UPDATE

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 parts of the proceedings of this meeting, namely, 10-22 Totara Avenue, New Lynn: Development Proposal Update.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to matters, 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 each of the matters to be considered.	Reason for passing this resolution in relation to each of the matters.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
10-22 Totara Avenue, New Lynn: Development Proposal Update	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 reports contain information which if released could affect Council's negotiations.*

