



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE

I hereby give notice that a meeting of the Finance and Operational Performance Committee will be held on:-

DATE: Monday, 12 July 2010 **TIME:** 9.30 am

MEETING ROOM: Council Chamber

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson, Waitakere

to consider the business as set out herein and to take any necessary action connected therewith.

7 July 2010

Carmen Fernandes
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8887

MEMBERSHIP:

Councillors	RI	Clow (Chairman)
	JM	Clews, QSO, JP (Deputy Chairman)
	DQ	Battersby, QSM, JP
	BA	Brady, JP
	MFP	Chan, JP
	LA	Cooper, JP
	AK	Corban, OBE, JP
	RP	Dallow, QPM, JP
	WW	Flaunty, QSM, JP
	PA	Hulse
	MM	Jolley
	JP	Lawley, JP
	PG	Mitchell
	VS	Neeson, JP

Mayor RA Harvey, QSO, JP (ex officio)

(Quorum 5 members)

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(Meeting Room could be subject to change)

(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A MEETING OF THE FINANCE AND OPERATIONAL PERFORMANCE
COMMITTEE TO BE HELD IN THE COUNCIL CHAMBER AT WAITAKERE
CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON MONDAY, 12 JULY 2010,
COMMENCING AT 9.30 AM**

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**AGENDA FOR A MEETING OF THE FINANCE AND OPERATIONAL PERFORMANCE
COMMITTEE TO BE HELD IN THE COUNCIL CHAMBER AT WAITAKERE
CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON MONDAY, 12 JULY 2010,
COMMENCING AT 9.30 AM**

PART A - OPENING OF MEETING

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 Committee 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 Committee 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 CONFIRMATION OF MINUTES

Meeting Minutes - Thursday, 10 June 2010

RECOMMENDATION

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the minutes of the meeting of the Finance and Operational Performance Committee held on Thursday, 10 June 2010, as circulated, and that they be taken as read and now be confirmed.



PART B - LEGAL AND CONSTITUTIONAL

5 AFFIXATION OF COMMON SEAL

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Affixation of Common Seal report.
2. **Agree** that the action taken in affixing the Common Seal on the documents as set out in the agenda report be adopted.

EXECUTION OF DOCUMENTS: 4 June 2010 to 2 July 2010

Nº	NAME	PARTICULARS
5039	WCC - VF Miles and AEM Sherriff	Authority and Instruction form for electronic transaction - Sale of 133 Millbrook Road, Sunnyvale - Council resolution 1150/2007
5040	WCC - WD Warren and others	Conservation covenant - 14 Railside Avenue, Henderson - Environmental Management Committee, Resolution 2090/2003
5041	WCC - N Ward	Authority and Instruction form for electronic transaction - 38 Glendale Road, Glen Eden - Finance & Operational Performance resolution 1348/2005
5042	WCC - Rehia Investment 2009 Limited (S Huo)	Authority and Instruction form for electronic transaction - 29 Rehia Road, Massey - re s.224(c) certificate, Consent Notice under s.221 RMA 1991, Drainage and water supply easements and Bonds - RMA20041634
5043	WCC - Henderson High School; Waitakere Regional Hockey Turf Trust, Her Majesty the Queen	Heads of Agreement - Culture and Community Committee, Resolution 538/2009
5044	WCC - Ross Ian Clow and Lynn Pearl	Road Encroachment - 376 Titirangi Road, Titirangi
5045	WCC - Harry Semmens, Tui Semmens and Warren Bygrave	Road Encroachment - 50 Seacrest Drive, West Harbour
5046	WCC - Graeme Nelson Trevor Turner, Authorised Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC100
5047	WCC - Glenn Stanley Moser, Authorised Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC108
5048	WCC - Vijaya Ramakrishna, Authorised Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC441
5049	WCC - Andrew Charles Ian Collier, Authorised Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC400
5050	WCC - John Edwards, Authorised Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC156
5051	WCC - John Perry, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC489
5052	WCC - West Fynn, Aborist	Warrant of Appointment and Evidence of Identity - No.WCC490
5053	WCC - Kaisala Lui, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC486
5054	WCC - Talanoa Fugalei, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC487

Nº	NAME	PARTICULARS
5055	WCC - Sione Uasi, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC488
5056	WCC - Ryan So'oula, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC483
5057	WCC - Robert Haffeiki, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC484
5058	WCC - Moa Vili, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC485
5059	WCC - Mark Suetena, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC480
5060	WCC - Kalama Amituana'i, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC481
5061	WCC - Andrew Taula, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC482
5062	WCC - Benjamin Fidow, Enforcement Officer	Warrant of Appointment and Evidence of Identity - No.WCC479
5063	WCC - Legal Services Unit	Authority and Instruction form for electronic transaction - 23 Totara Avenue, New Lynn - Council resolutions 1575/2009 and 1219/2009
5064	WCC - Timothy Cochrane, Authorised Enforcement Officer	Warrant of Appointment and Evidence of Identity – No.WCC491
5065	WCC - Daniel Richard Downie, Customer Field Specialist	Warrant of Appointment and Evidence of Identity - No.WCC492

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



PART C - FINANCE

6 STATUS OF SPECIAL FUNDS

EXECUTIVE SUMMARY

A1

The purpose of this report is to inform the Finance and Operational Performance Committee of the status of the Council's special funds as at 31 May 2010, as attached at page A1.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the Status of Special Funds report.

BACKGROUND

1. Special funds are those funds held or designated by the Council for a specific purpose or purposes.

2. Special fund movements are recommended through the Long Term Council Community Plan and Annual Plan adoption process. Special funds are classified as either “Restricted Funds” or “Non-Restricted Funds”. Restricted funds are those funds that have been received by the Council from a third party or parties and are to be used for a specific purpose or purposes. Non-restricted funds are funds established by a Council resolution to use and set aside its own funds and also to meet a specific purpose or purposes. Council can determine when non – restricted funds are no longer required and they can be transferred back to the general fund.
3. The special funds have been used to offset Council borrowings. This is part of the overall fund management strategy. Therefore any payments from the special funds will be drawn from Council overall cash or debt funds as appropriate. Interest is allocated to applicable funds at official cash rate for each month.

DECISION MAKING

4. There are no decisions required in respect of this report.

ISSUES

5. There are no major movements of the special funds between April 2010 and May 2010 other than receipts for the Land Subdivision Reserve Fund and interest allocations.
6. The Auckland Regional Services Trust Arts Fund has been fully allocated to fund the replacement of the existing tin sheds and portable buildings occupied by the Waitakere Pacific Arts and Cultural Centre. This project is managed by Property Assets group. The balance of the fund has not been drawn at 31 May 2010. However, work is currently underway on the buildings and the funds will be utilised as work progresses.

STRATEGIC CONTEXT

7. The Council uses special funds as provided for in the Long Term Council Community Plan and Annual Plan.

CONSULTATION

8. No consultation was required in respect of this report.

RESOURCES

9. This report has no resource implications.

IMPLEMENTATION ISSUES

10. There are no implementation issues in respect of this report.

AUCKLAND COUNCIL TRANSITION ISSUES

11. 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: Khee Mee Soo, Deputy Director: Finance.



7 BORROWING AND INVESTMENT REPORT

GLOSSARY

Reserve Bank of New Zealand	(Reserve Bank)
Long Term Council Community Plan 2009-2019	(LTCCP)
Finance and Operational Performance Committee	(the Committee)

EXECUTIVE SUMMARY

This is a monthly report to the Council's Finance and Operational Performance Committee (the Committee) and is also a requirement of the Council's adopted Liability Management and Investment Policy. It provides information on the Council's borrowing and investment activities over the past month and also high level information on current financial market conditions. From time to time additional and more detailed information is requested on particular areas of interest by the Finance and Operational Performance Committee or other committees.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Borrowing and Investment Report.
2. **Approve** the Borrowing and Investment Report.

BACKGROUND

1. The Council enters into treasury related financial contracts in the ordinary course of its business. It is the role of the Council's Funds Management section to manage such contracts and the impact that they have on the organisation. All funds management transactions are governed by the Liability Management and Investment Policy prepared in compliance with the Local Government Act 2002. As a requirement of that Policy this report informs the Committee on the current and future movements of the Council's debt and cash investments, and provides a general commentary of financial market conditions.

2. The relevant portfolio and graphs reflect the estimated position as at 31 May 2010 and are attached at pages A2 to A7.

DECISION MAKING

Issues

3. The Council's Funds Management function actively manages a large portfolio of various debt and investment instruments. The benefit of borrowing is that it enables the Council to carry out the projects identified in the Annual Plan and Long Term Council Community Plan 2009-2019 (LTCCP), while spreading the costs for those projects over time to recognise the future benefits. Borrowing funds therefore assist the Council with its entire loans funded strategic initiatives. The Liability Management and Investment Policy requires that a report detailing the management of the portfolio be presented to the Committee on a regular basis. The report must include information on the following subjects:
 - Cash/debt position;
 - Forecasted borrowing profile;
 - Interest rate profile;
 - Risk management;
 - Material transactions; and
 - Market commentary.
4. This report addresses the requirement of the Policy and may include other information that is relevant to the Funds Management function.

Financial Implications

5. The active management of the treasury portfolio seeks to minimise the Council's borrowing costs and maximise investment returns of liquid assets. The Funds Management function is also charged with seeking investors, thus ensuring that there is sufficient liquidity available for the Council to continue its work programme. New Zealand financial markets are significantly volatile and therefore interest rate risk management is a key responsibility of the Funds Management function. Detailed financial information included within this report is intended to give assurance of the prudent management of the Council's portfolio.
6. The Council maintains a Standard and Poor's Credit Ratings of A-1+ short term, and AA- long term (Stable Outlook).
7. The Council has adopted financial ratios included in its Liability Management and Investment Policy which provides limits on the level of debt and interest the Council will have. The following table shows the ratio limit, the 2007/2008 actual and the 2009/2010 budgeted levels.

Financial Ratio	Actual 2007/2008	Budget 2009/2010
Net Debt as a percentage of income	144.48%	212%
Net interest as a percentage of income	9.4%	12%
Net Interest as a percentage of rates	17.7%	20%

Interest Rates

8. Significant financial market volatility continued during May and June 2010 as international financial market stability continues to be tested. Some financial market commentators now question the possibility of a double dip global recession. Again, New Zealand is not immune to global sentiment, as the New Zealand currency is regarded internationally as a risky commodity currency. New Zealand credit margins crept higher over June 2010 reflecting this risk aversion. A similar outcome was experienced in Australia. By way of example an AA rated New Zealand borrower could achieve a credit margin of approximately 0.85% for 3 year debt during May 2010, by late June 2010 this margin had increased to approximately 1.15%.
9. The Reserve Bank of New Zealand's (Reserve Bank) move to begin to tighten monetary policy began in June 2010 with the first Official Cash Rate change since 30 April 2009. The cash rate increased from the low of 2.50% by 0.25% to 2.75%. This is the first in what is likely to be a string of increases over the next 12 months, as the Reserve Bank works towards a more neutral cash position. This will become increasingly necessary to prevent an over heated economy. In the Monetary Policy Statement issued on 10 June 2010, the Reserve Bank expects the Consumer Price Index to increase to above the medium term target mid rate of 2.0%. This is attributed to the change in Goods and Services Tax in October 2010. Inflation is forecasted to peak at 5.3% by June quarter 2011; however, the 90 day bank bill is forecasted to be 4.6% by then. Currently the 90 day bank bill is approximately 3.15% on a cash rate of 2.75%, so the implied official cash rate in June 2011 is approximately 4.25%-4.50%. If we assume a retail lending margin of 3.0% (which is the current approximate difference between cash and variable mortgages), the implied floating rate mortgage should be expected to be approximately 7.50% by June 2011 and potentially over 8.0% by December 2011. With the current fixed rate mortgage competition currently in progress, it may well be a good opportunity for those with floating rate exposures to consider fixing.

Integrated Treasury Group Update

10. The Integrated Treasury Group has discussed a number of issues over the past month. These include discussions on Auckland Council security and expenditure forecasts for debt issuance reasons. A number of possible initiatives are currently being discussed, that will ensure the Auckland Council remains liquid after transition. At this stage, unfortunately, most of these discussions are in there infancy.

STRATEGIC CONTEXT

11. The management and use of borrowing and investments is aligned to all of the Council's strategic objectives, as adopted in both the LTCCP and the Annual Plan 2009/2010.

CONSULTATION

12. This report includes data sourced by the Council's external treasury advisors, Asia Pacific Risk Management, and material, opinions or views sourced from various financial institutions.

RESOURCES

13. The Council, through its Annual Plan 2009/2010, provided for total new borrowings of \$230.585 million, including loans attributable to projects carried forward from previous years totalling \$114.412 million. Total interest cost has been provided in the Annual Plan 2009/2010 of \$31.839 million.

IMPLEMENTATION ISSUES

14. There are no implementation issues identified for this report.

AUCKLAND COUNCIL TRANSITION ISSUES

15. 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: Bruce Wilkin, Group Manager: Funds Management.



PART D - GENERAL

8 COUNCIL CONTROLLED ORGANISATIONS – FINAL STATEMENTS OF INTENT FROM 1 JULY 2010

GLOSSARY

Statements of Intent	(SOIs)
Waitakere City Holdings Limited	(WCHL)
Waitakere Properties Limited	(WPL)
Waitakere Enterprise	(WE)
Funding and Service Agreement	(FSA)
Local Government Act 2002	(LGA 2002)
Council Controlled Organisation/s	(CCOs)
Auckland Transition Agency	(ATA)
Annual Activity Plan	(AAP)

EXECUTIVE SUMMARY

The purpose of this report is to seek approval from the Finance and Operational Performance Committee of the final Statements of Intent (SOIs) adopted by the respective Boards for Waitakere City Holdings Limited (WCHL), Waitakere Properties Limited (WPL), and Waitakere Enterprise (WE), effective from 1 July 2010. It also seeks approval for the 2010/2011 Funding and Service Agreement (FSA) contract agreement for WE.

These documents have been finalised within the context of the transition to one Auckland Council on 1 November 2010 and Council's comments on draft documents. These documents address the requirements of the Local Government Act 2002 (LGA 2002), the Local Government (Tamaki Makaurau Reorganisation) Act 2009, the Local Government (Auckland Council) Act 2009, and the provisions of the Local Government (Auckland Transitional Provisions) Act 2010.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Council Controlled Organisations - Final Statements of Intent from 1 July 2010 report.
2. **Approve**, subject to resolution 4 below, the final Statements of Intent, from 1 July 2010, for Waitakere City Holdings Limited, Waitakere Properties Limited and Waitakere Enterprise.
3. **Approve**, subject to resolution 4 below, the Waitakere Enterprise 2010/2011 Funding and Service Agreement.
4. **Note** that resolutions 2 and 3 above are subject to confirmation by the Auckland Transition Agency.

BACKGROUND

1. WCHL provides leadership and manages the relationship and performance of Waitakere's Council Controlled Organisations (CCOs) / Trading Organisations. The relationship between the Council and the WCHL Board is managed by the Director: Corporate and Business Services. Council has a 100% shareholding in WCHL which in turn has a 100% shareholding in WPL which develops and manages Council-owned properties. The Waitakere Enterprise Trust Board (trading as WE) is the Council's economic development agency and is tasked with undertaking initiatives which accelerate the sustainable economic growth of the City. The Finance and Operational Performance Committee has the delegated responsibility to consider matters relevant to the governance and performance (of the boards) of the CCOs. This includes providing comment on draft SOIs and associated contract agreements for these entities, and accepting/approving the final documents.
2. In accordance with the LGA 2002, which specifies the content and requirements of the SOIs, draft SOIs for CCOs are required to be delivered to Council by 1 March 2010. The Boards of the CCOs must consider shareholder comments and finalise these documents on or before 30 June each year. WCHL has responsibility for negotiating the annual SOIs between Council (as shareholder) and itself, and with WPL and WE as its reporting entities.
3. Council officers, including Directors, and the WCHL Board reviewed the draft SOIs in March 2010, and comment on the key updates and features of the 2010 documents (including suggested minor changes) were reported to the Finance and Operational Performance Committee on 12 April 2010. Formal feedback was provided to Waitakere CCOs and the final documents, as adopted by the respective Boards and provided to the Council by 30 June 2010, are now provided for information and final formal approvals.
4. In accordance with the relevant legislation WCHL has been identified as a terminating entity and it will be disestablished on 1 November 2010 (the function of this entity is undertaken within councils across the rest of the Auckland region).

5. Work force plans, providing further information on the future role and structure of the proposed new Auckland Council CCOs are due for release in the second week of July 2010. Further certainty for WPL and WE should be provided by August 2010, with the anticipation that they will transfer across to the proposed Property Holdings CCO and Economic Development, Tourism and Events CCO respectively.
6. It is envisaged that once the new CCOs are established from 1 November 2010, new SOIs may also have been developed by Auckland Transition Agency (ATA), which will reflect the primary purpose of the new entities and the strategic priorities of the new Auckland Council (once they are established). In the meantime, transferring entities (WPL and WE) will continue to work in accordance with the approved budgets and SOIs finalised for 1 July 2010 through to at least 31 October 2010 (and possibly through to 30 June 2011).
7. It is noted that all CCOs will now have the option to complete a 16 month annual report and audit (for July 2009 through to 31 October 2010). In accordance with the provisions of the Local Government (Auckland Transitional Provisions) Act 2010, performance reporting for existing / transferring CCOs, for the period of July 2010 to October 2010, needs to be presented to the new Auckland Council by 31 December 2010 and will constitute the 'Half-Yearly' report for 2010/2011 as defined in the LGA 2002.

DECISION MAKING

8. This report is to present the Finance and Operational Performance Committee with the final SOIs for WCHL, WPL and WE which now need to be presented to the ATA for confirmation. It also seeks approval for the FSA contract agreement for WE.

Issues

Waitakere City Holdings Limited

- A8-A33
9. The SOI attached at pages A8 to A33 has been finalised to the fullest extent possible by 30 June 2010. Further updates to the financial status of reporting entities will be updated in due course pending year-end financial processes. Whilst the SOI has been developed for a full year, in accordance with statutory requirements, it is acknowledged that WCHL has been identified by the ATA for disestablishment on 31 October 2010. Arrangements are in place to ensure that WCHL will remain fully operational in its existing governance role until at least this point in time.

Waitakere Properties Limited

- A34-A49
10. The WPL Board incorporated changes proposed by Council in its final SOI which is attached at pages A34 to A49. Clarity on how WPL will transfer across to the proposed Property Holdings CCO and what the final role and structure of this entity will be provided by August 2010.

Waitakere Enterprise

- A50-A78
11. The final SOI for WE is attached at pages A50 to A78. As per the covering letter submitted by WE, the final SOI is dependant on:
 - Legislative environment for transitional operations.
 - Central government funding for business assistance and estimated timeframes and impacts of decisions (July to October 2010).
 - Physical location of WE post 31 October 2010 and the potential impacts of any change in location.

A79-A90

12. It is noted that WE operates under a FSA with the Council which requires that a supporting Annual Activity Plan (AAP) be negotiated and approved by Council. Due to the impending transition to one Auckland Council, a one-year (versus three-year) FSA was entered in to with WE through to 30 June 2010. There is still considerable uncertainty regarding the future governance and operational delivery of WE services within the proposed new Economic Development, Tourism and Events CCO and external funding revenues to support their broader programmes in business assistance. It is deemed appropriate to enter in to a FSA for a further year on the basis of the final SOI and approved Long Term Council Community Plan 2009-2019 and Annual Plan 2010/2011 budget provisions (refer attached agreement at pages A79 to A90). The 2010/2011 AAP (incorporating a 4 month plus 8 month work programme) will need to be finalised once there is further clarity on the future governance arrangements, external funding revenues and confirmed service delivery programme from November 2010 onwards.
13. Clarity on how WE will transfer across to the proposed Economic Development, Tourism and Events CCO and what the final role and structure of this entity will entail will be provided by August 2010.

STRATEGIC CONTEXT

14. CCOs of all types are used as vehicles to implement aspects of the Long Term Council Community Plan and Annual Plan. The Council has established WCHL, WPL, WE and other entities to assist the Council in meeting its strategic outcomes through a return on investment, involvement in strategic projects, economic development and in the support of service delivery. This includes investigating investment opportunities which have the potential to enhance employment opportunities or to stimulate economic growth, promoting investment in Waitakere.
15. WCHL currently has a responsibility to ensure that WPL and WE operate economically and efficiently, and in accordance with the strategic direction and priority concerns of the Council (including the Waitakere Economic Wellbeing Strategy 2009) and their agreed SOIs, to optimise returns (both financial and non-financial) within the parameters set by the Council. It also has responsibility for negotiating the annual SOIs.

CONSULTATION

16. Engagement has occurred with the Chairmen and Chief Executives of WCHL, WPL and WE, and with Council's Directors Group. Representatives for WPL and WE attended WCHL Board Meetings on 21 January and 24 February 2010 and presented information in support of the development of their draft SOIs. The draft SOIs were also considered by the Finance and Operational Committee on 12 April 2010.
17. Consultation has also been undertaken with officers across Council who engage directly with Waitakere's CCOs - these include Democracy and Support Services, the Finance Directorate, Legal Services and Strategic Planning (Economic Development Strategy).

RESOURCES

18. The resource commitments associated with the governance, monitoring, operation and delivery of projects and services by WCHL, WPL and WE are provided for within the Long Term Council Community Plan 2009-2019 and the Annual Plan 2010/2011. It is noted that WE also secures external funding to deliver the combination of core Council services and ancillary support services for skill development and business support. At the time of preparation for this report, the level of external funding was subject to uncertainty due to central government funding reviews.

IMPLEMENTATION ISSUES

19. There is a degree of uncertainty over the implementation of approved SOIs for the eight month period of November 2010 - June 2011. The newly established CCOs of the Auckland Council may have SOIs that supersede existing documentation.

AUCKLAND COUNCIL TRANSITION ISSUES

20. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on Waitakere City Council's decision making capabilities in respect of a decision to agree to, or modify, the statement of intent of a council-controlled organisation (section 31(4)(n)). Accordingly, the decision to receive the final SOI's for WCHL, WPL and WE will need to be confirmed in writing by the ATA before the decision is implemented.

Report prepared by: Jaine Lovell-Gadd, Director: Corporate and Business Services.



9 CATHY'S CAFÉ – LEASE OF RATANUI STREET COFFEE KIOSK AT 6 RATANUI STREET, HENDERSON

GLOSSARY

Telecom New Zealand Limited (TNZL)
Sodexo Total Support Services Limited (Sodexo)

EXECUTIVE SUMMARY

The purpose of this report is to seek the Finance and Operational Performance Committee's approval to grant Cathy's Café a lease of the Coffee Kiosk situated on the land leased from Telecom New Zealand Limited (TNZL) at 6 Ratanui Street, Henderson.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Cathy's Café – Lease of Ratanui Street Coffee Kiosk at 6 Ratanui Street, Henderson report.
2. **Approve** that a new lease for the Coffee Kiosk at 6 Ratanui Street, Henderson be granted to Cathy's Café for a term of two years with one right of renewal for a further two years.
3. **Agree** that the Chief Executive Officer be authorised to negotiate and conclude with Cathy's Café a new lease for the Coffee Kiosk, situated at 6 Ratanui Street, Henderson.

BACKGROUND

1. Isthmus Group was awarded the contract in 2004/2005 to design new urban concepts for the Rainside Avenue to Alderman Drive and Catherine Mall Precincts. As part of the detailed design it was proposed that two Adshel street trading kiosks could be positioned in the Ratanui Street footpath in the vicinity of the TNZL site.

2. At the Finance and Operational Performance Committee meeting held on Monday, 12 December 2005, it was resolved as follows:

- “1. *That the Ratanui Street Streetscape Renewal Project, Deed of Lease with Telecom New Zealand Limited report be received.*
2. *That the Deed of Lease with Telecom New Zealand Limited be approved and, that authority be delegated to the Chief Executive Officer to approve the terms and execute the signing of the agreement.*
3. *That a trader tenant lease agreement be prepared in conjunction with Council’s Manager: Legal Services and that authority be delegated to the Chief Executive Officer to execute the agreement.”*

2451/2005

3. A Deed of Lease was successfully negotiated and signed with TNZL commencing 1 March 2006 and expiring 25 November 2022 with an annual peppercorn rental of \$1 plus GST.
4. Two Adshel kiosks were installed on site and a Lease Agreement was successfully negotiated and signed with Sodexo Total Support Services Limited (Sodexo) to occupy and operate a food or beverage kiosk from the site commencing October 2006 for an initial term of three years. Sodexo fitted out one kiosk as a coffee shop and the other to sell magazines and convenience foods.
5. In April 2007, Sodexo wrote to Council advising many operational difficulties with the facilities. After trying many different options to improve turnover Sodexo requested in January 2008 that they be released from the Lease Agreement and Council acceded to this request. Sodexo ceased trading from the kiosks at the end of January 2008.
6. In December 2009, Council received a request for lease of the Coffee Kiosk. A six month lease agreement was negotiated and signed commencing March 2010 with Cathy’s Café. A short term lease was agreed to allow the operator to gauge foot traffic and establish a client base before committing to a long term lease.
7. In May 2010, Cathy’s Café confirmed their desire to enter into a long term lease on the Coffee Kiosk.
8. There is a proposal by another party to lease the second kiosk, which is the subject of another report.

DECISION MAKING

9. It is proposed that a lease be negotiated and concluded with Cathy’s Café for the Coffee Kiosk on the area leased by Council from TNZL.
10. It is proposed that the new lease contain the same terms and conditions as the current lease, and be for a term of two years, with one right of renewal for a further two years, at an initial rate of \$4,000 pa plus GST.

Options Identified

11. The identified options are as follows:
 - Option 1) Enter into a new lease with Cathy's Café; or
 - Option 2) Continue to allow Cathy's Café to occupy the space as a monthly tenant under the same terms and conditions as the existing six month lease; or
 - Option 3) Invite expressions of interest from the public for a lease of the Coffee Kiosk.

Assessment of Options

12. Option 1 would provide the Council with a secure guaranteed income for the term of the lease, and ensure that the kiosk remains operational over this period.
13. Option 2 would not provide either the Council or Cathy's Café any secure tenure over the space.
14. Option 3 would allow Council to identify other parties that might be interested in leasing the kiosk. The kiosk is small and is well suited to an owner operated business. However, the kiosk was vacant for approximately one year prior to the temporary lease being issued to Cathy's Café and historically there has been little interest in leasing this space. It is not considered that the time and cost associated with conducting an expression of interest will yield a better outcome than under Option 1.

Preferred Option

15. The preferred option is Option 1 - to enter into a new lease with Cathy's Café; this option gives the Council a guaranteed income, and allows the tenant to have security of tenure.

STRATEGIC CONTEXT

16. The objective of implementing renewed infrastructure in the Railside Avenue to Alderman Drive and Catherine Mall precincts is to make the Henderson Town Centre a vibrant and enjoyable place to live, work and play by creating attractive urban places that encourage growth and economic development, with minimal environmental impacts contributing to the Growth Management and Economic Wellbeing Strategies.
17. The close proximity to the new transport centre in Railside Avenue also contributes to the Transport Strategy by providing people with a place to meet and socialise at a location which is easy to get around. The kiosks have been positioned specifically to cater for foot traffic.

CONSULTATION

18. No consultation was required for this report.

RESOURCES

19. No resources are required other than staff time.

IMPLEMENTATION ISSUES

20. If approval is granted a new lease will be negotiated and agreed with Cathy's Café.

AUCKLAND COUNCIL TRANSITION ISSUES

21. 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: Melonie Lister, Senior Property Manager - Tenancy.



10 ROBERT DEMETER - LEASE OF RATANUI STREET FOOD KIOSK AT 6 RATANUI STREET, HENDERSON

GLOSSARY

Telecom New Zealand Limited (TNZL)
Sodexo Total Support Services Limited (Sodexo)

EXECUTIVE SUMMARY

The purpose of this report is to seek the Finance and Operational Performance Committee's approval to grant Robert Demeter a lease of the Food Kiosk situated on the land leased from Telecom New Zealand Limited (TNZL) at 6 Ratanui Street, Henderson.

RECOMMENDATIONS

It is recommended that the Finance and Operational Performance Committee resolve to:

1. **Receive** the Robert Demeter - Lease of Ratanui Street Food Kiosk at 6 Ratanui Street, Henderson report.
2. **Approve** that a new lease of the Food Kiosk at 6 Ratanui Street, Henderson be granted to Robert Demeter for an initial term of six months, with a right to two further terms of two years each.
3. **Agree** that the Chief Executive Officer be authorised to negotiate and conclude with Robert Demeter a new lease of the Food Kiosk, situated at 6 Ratanui Street, Henderson.

BACKGROUND

1. Isthmus Group was awarded the contract in 2004/2005 to design new urban concepts for the Rainside Avenue to Alderman Drive and Catherine Mall Precincts. As part of the detailed design it was proposed that two Adshel street trading kiosks could be positioned in the Ratanui Street footpath in the vicinity of the TNZL site.

2. At the Finance and Operational Performance Committee meeting held on Monday, 12 December 2005, it was resolved as follows:

- “1. *That the Ratanui Street Streetscape Renewal Project, Deed of Lease with Telecom New Zealand Limited report be received.*
2. *That the Deed of Lease with Telecom New Zealand Limited be approved and, that authority be delegated to the Chief Executive Officer to approve the terms and execute the signing of the agreement.*
3. *That a trader tenant lease agreement be prepared in conjunction with Council’s Manager: Legal Services and that authority be delegated to the Chief Executive Officer to execute the agreement.”*

2451/2005

3. A Deed of Lease was successfully negotiated and signed with TNZL commencing 1 March 2006 and expiring 25 November 2022 with an annual peppercorn rental of \$1 plus GST.
4. Two Adshel kiosks were installed on site and a Lease Agreement was successfully negotiated and signed with Sodexo Total Support Services Limited (Sodexo) to occupy and operate a food or beverage kiosk from the site commencing October 2006 for an initial term of three years. Sodexo fitted out one kiosk as a coffee shop the other to sell magazines and convenience foods.
5. In April 2007, Sodexo wrote to Council advising many operational difficulties with the facilities. After trying many different options to improve turnover, Sodexo requested in January 2008 that they be released from the Lease Agreement and Council acceded to this request. Sodexo ceased trading from the kiosks at the end of January 2008.
6. In May 2010, Robert Demeter approached Council requesting a lease of the Food Kiosk for a six month initial trial period, with the first right of refusal for a longer term lease.

DECISION MAKING

7. It is proposed that a lease be negotiated and concluded with Robert Demeter for the Food Kiosk on the area leased by Council from TNZL.
8. It is proposed that the new lease contain the same terms and conditions as the Coffee Kiosk lease, and be for an initial term of six months, with a right to two further terms of two years each, at an initial rate of \$4,000 pa plus GST.

Options Identified

9. The options identified are as follows:

- Option 1) Enter into a new lease with Robert Demeter; or
- Option 2) Invite expressions of interest from the public for a lease of the Food Kiosk.

Assessment of Options

10. Option 1 would provide the Council with a secure guaranteed income for the term of the lease, and ensure that the kiosk remains operational over this period.

11. Option 2 would allow Council to identify other parties that might be interested in leasing the kiosk. The kiosk is small and is well suited to an owner operated business. However, the kiosk was vacant for approximately 18 months prior to the request from Robert Demeter for a temporary lease and historically there has been little interest in leasing this space. Although Council has received enquiries regarding the Food Kiosk over the past 18 months none of these enquiries have lead to a serious proposal for lease until now. It is not considered that the time and cost associated with conducting an expression of interest will yield a better outcome than under Option 1.

Preferred Option

12. The preferred option is Option 1 - to enter into a new lease with Robert Demeter; this option gives the Council an immediate guaranteed income, and allows the tenant to have security of tenure.

STRATEGIC CONTEXT

13. The objective of implementing renewed infrastructure in the Railside Avenue to Alderman Drive and Catherine Mall precincts is to make the Henderson Town Centre a vibrant and enjoyable place to live, work and play by creating attractive urban places that encourage growth and economic development, with minimal environmental impacts contributing to the Growth Management and Economic Wellbeing Strategies.
14. The close proximity to the new transport centre in Railside Avenue also contributes to the Transport Strategy by providing people with a place to meet and socialise at a location which is easy to get around. The kiosks have been positioned specifically to cater for foot traffic.

CONSULTATION

15. No consultation was required for this report.

RESOURCES

16. No resources are required other than staff time.

IMPLEMENTATION ISSUES

17. If approval is granted a new lease will be negotiated and agreed with Robert Demeter.

AUCKLAND COUNCIL TRANSITION ISSUES

18. 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: Melonie Lister, Senior Property Manager - Tenancy.



11 **CREATIVE COMMUNITIES SCHEME ALLOCATION SUBCOMMITTEE - CHANGES TO MEMBERSHIP**

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 the Finance and Operational Performance Committee's approval to amend the number of Councillors and Community Board Members on the Creative Communities Scheme Allocation Subcommittee (CCSAS), and to endorse appointment and not nomination as the method of selection for future CCSAS members. These changes are recommended to ensure the membership of the CCSAS is aligned 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 Finance and Operational Performance Committee resolve to:

1. **Receive** the Creative Communities Scheme Allocation Subcommittee - Changes to Membership report.
2. **Agree** that the maximum number of Waitakere Councillors and Community Board Members on the Creative Communities Scheme Allocation Subcommittee be reduced to a maximum of two to align with Creative New Zealand's Creative Communities Administrator's Guide.
3. **Agree** to appoint rather than nominate new members to the Creative Communities Scheme Allocation Subcommittee.
4. **Agree** that it be recommended to the Council to change the Delegations to Committees for the Creative Communities Scheme Allocation Subcommittee to reflect resolutions 2 and 3 above for the appointment and number of members, to read as follows:

CREATIVE COMMUNITIES SCHEME ALLOCATION SUBCOMMITTEE
(A Subcommittee of the Finance and Operational Performance Committee)

FIELD OF ACTIVITY

Consideration and recommendation to the Finance and Operational Performance Committee of the allocation of funding from the Creative Communities Scheme. This subcommittee is established in accordance with Creative New Zealand's Creative Communities Administrator's Guide.

MEMBERSHIP

- 1 Member of the Finance and Operational Performance Committee appointed by the Council. An alternate may be appointed if the appointed representative is unavailable.
- 1 Member representing the Community Boards (1 person appointed collectively by all four Community Boards).

- 2 Members who are professional artists (1 person appointed by Lopdell House Society and 1 person appointed by the Waitakere Arts and Cultural Development Trust).
- 1 Member appointed by the Waitakere City business sector.
- 1 Member appointed by the Titirangi Community Arts Council.
- 1 Member appointed by the Waitakere Central Community Arts Council.
- 2 Members appointed by Te Taumata Runanga.
- 1 Member appointed by the Waitakere Pacific Board.

Quorum: 5 Members, including at least 1 Councillor or Community Board representative.

The Subcommittee will elect its own Chairman.

DELEGATED POWERS

Responsibility to assess applications for funding in accordance with the Council's eligibility criteria, priorities for support and the Creative Community Scheme and to recommend funding allocations to the Finance and Operational Performance Committee for approval.

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. At present, membership comprises:
 - 1 Council-appointed member of the Finance and Operational Performance Committee, and one alternate;
 - 4 Community Board representatives nominated by each Community Board;
 - 2 professional artists nominated by the Lopdell House Society and Waitakere Arts and Cultural Development Trust respectively;
 - 1 member nominated by the Waitakere business sector;
 - 1 member nominated by the Titirangi Community Arts Council;
 - 1 member nominated by the Waitakere Central Community Arts Council;
 - 2 members nominated by Te Taumata Runanga; and
 - 1 member nominated by the Waitakere Pacific Board.
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. The composition as approved by CNZ is as follows:
 - 1 Council representative;
 - 1 Community Board representative;
 - 1 member from each of the local iwi;

- 1 member from the local Pacific Board;
- 1 member from each of the two Community Arts Councils;
- 1 member from each of the two local Arts trusts; and
- 1 member from the local business sector.

DECISION MAKING

Issues

4. The current composition of the CCSAS does not comply with the criteria for membership laid down by CNZ as there are three more Elected Members represented on the CCSAS than recommended by CNZ.
5. To ensure Waitakere's practice of disbursing CCS funding complies with CNZ's CCAG it is recommended that the Finance and Operational Performance Committee endorse changes to the number and selection of CCSAS members, including a reduction of Council/Community Board members and appointment versus nomination of further CCSAS members. This amendment to current membership selection is to ensure that the CCSAS can be constituted in time for the August 2010 round of CCS funding distribution. If the Finance and Operational Performance Committee approves these changes to CCSAS membership, a recommendation will be made to Council to amend the current Delegations to Committee to reflect the altered membership composition and selection criteria.

STRATEGIC CONTEXT

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

CONSULTATION

10. CNZ has provided guidelines in the form of the CCAG for the preferred composition of bodies distributing CCS funding.
11. Council's Democracy Services staff and the Chairman of the Finance and Operational Performance Committee have been consulted in the preparation of this report.

RESOURCES

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

IMPLEMENTATION ISSUES

13. There are no implementation issues in respect of this report.

AUCKLAND COUNCIL TRANSITION ISSUES

14. 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.



12 RECOMMENDATION FROM INFRASTRUCTURE AND WORKS COMMITTEE

DRAFT WAITAKERE CITY COUNCIL SPEED LIMITS BYLAW 2010 – HEARING REPORT

It is recommended that the Finance and Operational Performance Committee resolve to:

Agree to approve \$280,000 for school speed zones to be funded from the capital project surplus in the Annual Plan 2010/2011.



PART E - REPORTS FROM THE SUBCOMMITTEES

13 TENDERS SUBCOMMITTEE

THE SUBCOMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON FRIDAY, 4 JUNE 2010 AND FRIDAY, 18 JUNE 2010

MATTERS CONSIDERED

A91-A98

The Subcommittee 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 A91 to A98.

It is recommended that the Finance and Operational Performance Committee resolve to:

Receive the meetings report of the Tenders Subcommittee held on Friday, 4 June 2010 and Friday, 18 June 2010.

RI Clow
CHAIRMAN



PART F - PUBLIC EXCLUDED MATTER

14 TUI GLEN RESERVE LAND PURCHASE

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, Tui Glen Reserve Land Purchase.

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 matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
Tui Glen Reserve Land Purchase	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:

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

