

**AGENDA FOR AN ORDINARY MEETING OF THE COUNCIL TO BE HELD IN THE
CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON MONDAY, 14 JULY 2003, COMMENCING AT 9.30 AM.**

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1 APOLOGIES



**2 SETTING OF RATES AND CHARGES FOR THE 2003/2004 FINANCIAL YEAR
(1 JULY 2003 - 30 JUNE 2004)**

PURPOSE OF THE REPORT

The purpose of this report is to present the resolution necessary to set the rates for the 2003/2004 financial year in accordance with the recently adopted Annual Plan 2003/2004.

BACKGROUND

Waitakere City Council has adopted its Long Term Council Community Plan and Funding Impact Statement in respect of the 2003/2004 financial year, and now is required to set the rates for that financial year in accordance with the Local Government (Rating) Act 2002.

LEGISLATIVE REQUIREMENTS

The Local Government (Rating) Act 2002 requires Council to set its rates by resolution. The new legislation no longer requires a Special Order process to be undertaken to change or amend the rating system, nor the advertising of the proposed rates before they are adopted. It is recommended that the proposed resolution be passed and that each part be resolved seriatim.

CONCLUSION

The quantum of rates has been set by the Annual Plan deliberation process. In order to collect the Annual Plan Rate Requirement for 2003/2004, the Council must resolve to set the rates.

RECOMMENDATIONS

1. That the information be received.
2. That each recommendation set out below be resolved seriatim:

That the following rates be set for the financial year commencing on 1 July 2003 and ending on 30 June 2004 pursuant to the powers conferred on it by the Local Government (Rating) Act 2002 and in accordance with the relevant provisions of the Long Term Council Community Plan and Funding Impact Statement:

(a) **General Rate**

A1

A General Rate set under Section 13 of the Local Government (Rating) Act 2002 on all rateable land, calculated on the rateable land value of rating units and levied differentially on the different categories of land as specified in the Funding Impact Statement and Description of the Differential Rating system and Method of Calculation of Rates, as set out in Schedule A attached at page A1 on attachment to this item.

(b) **Uniform Annual General Charge**

A Uniform Annual General Charge set under Section 15 of the Local Government (Rating) Act 2002 of \$460 inclusive of GST on all rateable land being set and charged upon each separately used or inhabited part of a rating unit.

(c) **Wastewater Rate**

A targeted rate for Wastewater set under Section 16 of the Local Government (Rating) Act 2002 on all rateable land in the Drainage Area of the City as defined in the Description of the Differential Rating System, and on non-rateable land in respect of which a wastewater service is provided, calculated on the rateable land value of rating units and levied differentially on the different categories of land as specified in the Funding Impact Statement and Description of the Differential Rating System and Method of Calculation of Rates, as set out in Schedule A attached hereto.

(d) **Waste Collection Rate**

A targeted rate set as a fixed charge on a uniform basis under Section 16 of the Local Government (Rating) Act 2002 of \$8 inclusive of GST being set and charged upon each separately used or inhabited part of a rating unit, excluding vacant land, for the purpose of meeting the residual costs of waste collection.

(e) **Harbourview Rate**

A targeted rate set as a fixed charge on a uniform basis under Section 16 of the Local Government (Rating) Act 2002 of \$8 inclusive of GST being set and charged upon each separately used or inhabited part of a rating unit for the purpose of recovering a contribution towards the costs of establishing, developing and maintaining for public purposes certain land on the Te Atatu Peninsula known as "Harbourview".

(f) **Rural Sewerage Rate**

A targeted rate described as the Rural Sewerage Charge set as a fixed charge on a uniform basis under Section 16 of the Local Government (Rating) Act 2002 of \$63 inclusive of GST set and charged upon all rating units in the Non-Drainage Area of the City as defined in the Description of the Differential Rating System and Method of Calculation of Rates, upon each septic tank, long drop or grease trap that is scheduled to be pumped out by the Council within the three-yearly cycle, for the purposes of recovering the costs of implementation of the On-site Waste Systems Management Plan.

(g) **Environment Monitoring Rate**

A targeted rate described as the Environment Monitoring Charge set as a fixed charge per rating unit on a uniform basis under Section 16 of the Local Government (Rating) Act 2002 of \$15 inclusive of GST set and charged on all rating units in the Non-Drainage Area of the City as defined in the Description of the Differential Rating System and Method of Calculation of Rates, for the purposes of recovering the costs of monitoring and addressing pollution of watercourses.

(h) **Water Supply Rate**

A targeted rate described as a Water Supply Charge set and charged according to a scale of charges under Section 19 of the Local Government (Rating) Act 2002 of \$1.48 inclusive of GST per cubic metre of water provided as measured by meter, with a minimum charge of \$17 for each six monthly reading period.

(i) **Due Dates for Payment of Rates**

The rates (other than the targeted rates for water supply) for the year from 1 July 2003 to 30 June 2004 will be payable in four instalments on due dates as follows:

Instalment Number	Due Date
1	20 August 2003
2	20 November 2003
3	20 February 2004
4	20 May 2004

The due date for the targeted rate for water supply shall be the "last date for payment" set out in each rates invoice for water supply, shown on the respective assessment for such charge as delivered to the owner of the rating unit, which will be a date 30 days after the date of each rates invoice for water supply.

(j) **Penalties on Unpaid Rates**

Pursuant to Sections 57 and 58 of the Local Government (Rating) Act 2002

(i) A penalty of ten per cent of the amount of rates assessed under each instalment in the 2003/2004 financial year (other than targeted rates for water supply) that are unpaid after the due date of each instalment, will be added to such unpaid rates on the day following the due date of the instalment.

Provided that where all rates (other than the targeted rate for water supply) payable to 30 June 2004 (together with any arrears of rates, other than targeted rate for water supply, but including penalties on arrears of rates) are paid in full by 20 November 2003, no instalment penalty will be payable in respect of the 2003/2004 year.

(ii) A further penalty calculated on rate arrears (other than the targeted rate for water supply) will be added on the day following 30 September 2003. This further penalty will be ten percent of the amount of rates assessed in any prior financial year to the 2003/2004 year (other than the targeted rate for water supply), including any penalties added, that remain unpaid on 30 September 2003.

(iii) A further penalty calculated on rate arrears (other than the targeted rate for water supply) will be added on the day following 31 March 2004. This further penalty will be ten percent of the amount of rates assessed in any prior financial year to the 2003/2004 year (other than targeted rates for water supply), including any penalties added, that remain unpaid on 31 March 2004.

(k) **Payment of Rates**

The rates are payable to the Director: Finance or such other person as may from time to time be appointed by the Council to collect the revenue.

Rates will be payable at any of the following places:

Civic Centre	8.00 am - 5.00 pm
6 Waipareira Avenue	
New Lynn Service Centre	8.30 am - 4.30 pm
Lynmall	

Report prepared by: Andrew Pollock, Director: Finance.



3 **WARRANTS OF APPOINTMENT**

PURPOSE OF THE REPORT

The purpose of this report is to obtain Council's approval for the issuing of Warrants of Appointment under the Local Government Act 2002 for those officers required to undertake the role as Enforcement Officers under the Act.

BACKGROUND

Under the Local Government Act 1974 the power to issue warrants to enforce bylaws and offences could be delegated to the Chief Executive Officer. All council officers required to enforce breaches were issued with the power under a Local Authority warrant issued by the Chief Executive. Within Waitakere City Council some 100 staff hold warrants under the Local Government Act 1974. These officers had a variety of titles and specific offences that they could enforce.

With the enactment of the Local Government Act 2002 the basis on which enforcement powers are now conferred has been changed to a single designation of Enforcement Officer under Section 177 of the Act. The power to appoint Enforcement Officers must be exercised by the Local Authority,

Section 177 Appointment of enforcement officer

- (1) *A local authority may appoint persons to be enforcement officers in the district or region of the local authority in relation to any offences under this Act, including, without limitation, -*
 - a) *Offences against bylaws made under this Act:*
 - b) *Infringement offences provided for by regulations made under section 259.*

- (2) *A local authority must issue warrants in writing to enforcement officers appointed under this section, specifying -*
 - a) *the responsibilities and powers delegated to them; and*
 - b) *the infringement offences in relation to which they are appointed.*

The Local Authority can no longer delegate the authority to issue Warrants of Appointment to the Chief Executive under the Local Government Act 2002 and the Building Act 1991. The power to delegate appointment is retained elsewhere under the Resource Management Act 1991 but it is logical to deal with it in the same manner. It must now authorise officers by resolution of Council.

The Local Authority now has the right to issue warrants for specific areas of the Act or for general enforcement officers with responsibilities and powers under the Act.

It is therefore a requirement that all staff requiring power to act and enforce bylaws and infringements under the Local Government Act 2002, the Building Act 1991 or the Resource Management Act 1991 and all contractors such as Noise Control Enforcement Officers under the Resource Management Act 1991 be reappointed by Council and be reissued with warrants under the seal of the local authority. The Chief Executive still has the power to issue Warrants of Appointment to act under the Litter Act, Dog Control Act Building Act 1991, Dangerous Goods Act 1974, Fencing of Swimming Pools Act 1987, Food Act 1981, Health Act 1956, Reserves Act 1977, Sale of liquor Act 1989, Transport Act 1962, Impounding Act 1955 (Pound keeper), Impounding Act 1955 (Deputy Pound keeper), Impounding Act 1955 (Ranger), Machinery Act 1950, Hazardous Substances and New Organisms Act 1996, Forest and Rural Fires Act 1977, so these powers are unaffected.

ISSUES

Given the new statutory provisions it is felt that a more robust procedure is required around the issuing of Warrants of Appointment.

The requirement for Council to issue Warrants of Appointment impacts on the Chief Executives employment processes where a jobholder requires a Warrant of Appointment to do their job. If Council refuses to issue a Warrant of Appointment to a new employee who requires one to carry out their job, that person would be unable to do that job.

For this reason Council needs a policy around the issuing of warrants. The policy would restrict the basis on which the Council could withhold a warrant to matters covered in the background checks.

The policy proposed is that Council would be required to reissue warrants on a tri-annual basis to warrant holders. As part of that reissue the Chief Executive will provide a report on the suitability of the person to continue to hold a warrant. This suitability would be based on the following checks being carried out for the Chief Executive:

- a) A full criminal record check to check for previous offences that could affect the honesty or creditability of the officer (i.e. dishonesty or violence offences).
- b) A full credit history check to check for issues that could affect the honesty or impartialness of the officer (i.e. large indebtedness or proceedings).
- c) New appointments would require at least two reference checks with previous employers and two referee checks.

For persons employed by external contractors submitted for Warrants of Appointment the external contractor must provide a report to the Chief Executive providing proof of staff vetting to at least the same standard in a), b) and c) above. All Security personnel must have current Certificates of Approval to be a Security Guard issued by the Department for Courts.

It is proposed that all the current warrants be renewed as at 14 July 2003 to expire on 31 August 2004. Any new warrants issued between those dates would also expire on 31 August 2004. Renewals will continue on a three yearly basis.

For the purposes of the current re-issue and due to the constraints of time on getting criminal checks completed by the Ministry of Justice (some 8 weeks turn around) it is proposed that the current officers will have their warrants issued without the above checks. These current officers have had references checked when employed. In addition, Council would also need to update current employment contracts to gain signed authority from current staff to allow these checks to be carried out.

All new warrants will be subject to the proposed checks.

As the Council is now responsible for the issuing of the warrant it is important that this matter becomes a standing item on the Council agenda so that warrants can be issued in a timely manner.

CONCLUSION

Due to the changes brought about by the Local Government Act 2002, it is necessary for Council to change its process for the issuing of Warrants of Appointment. The recommendations set out will achieve the changes required under the new Act.

RECOMMENDATIONS

1. That the information be received.
2. That Council adopt the following policy in relation to the issuing of Warrants of Appointment, namely:

Policy on the issuing of Warrants of Appointment

Council is required to issue Warrants of Appointment to persons authorised to carry out the Council's functions and responsibilities and to exercise the powers of enforcement officers under the Local Government Act 2002, the Resource Management Act 1991 and the Building Act 1991. Council has adopted the following policies in relation to the issuing of Warrants of Appointment:

- a) Council recognises that the employment of staff and contractors is an issue for the Chief Executive at his/her sole discretion.
- b) Council will not unreasonably withhold a Warrant of Appointment for any person requiring a Warrant of Appointment, and will only concern itself in determining whether or not to issue the Warrant, with relevant information being the recommendation of suitability from the Chief Executive and the findings of background and reference checking done as part of the employment and/or appointment process.
- c) The following checks will form part of the Chief Executives vetting process irrespective of whether the appointment is one which must be made by Council resolution, or may be made by the Chief Executive, under delegated authority or otherwise, in relation to staff to be submitted for Warrants of Appointment, namely:
 - A full criminal record check to check for previous offences that could affect the honesty or creditability of the officer (ie. dishonesty or violence offences);
 - A full credit history check to check for issues that could affect the honesty or impartialness of the officer (ie. large indebtedness or proceedings);
 - New appointments would require at least two reference checks with previous employers and two referee checks.

- d) For persons employed by external contractors submitted for Warrants of Appointment the external contractor must provide a report to the Chief Executive providing proof of staff vetting to at least the same standard as required in a), b) and c) above. All Security personnel must have current Certificates of Approval to be a Security Guard issued by the Department of Courts.

3 That council adopt the following wording for Warrants of Appointment in relation to the Acts listed:

a) **The Building Act 1991**

The holder of this warrant is authorised pursuant to SECTION 77 of the BUILDING ACT 1991 ("the Act") to carry out all or any of the functions and powers of Waitakere City Council as an Enforcement Officer under the Act, including but not limited to the following:

- **Notice to rectify (Section 42):**
Issue a notice to cease building work and/or rectify building work.
- **Compliance schedules (Section 44):**
Issue a compliance schedule.
- **Power to enter for inspection (Section 76):**
To inspect land or building work for compliance with a building consent, the building code, the Act or to determine whether a building is dangerous, insanitary or earthquake prone within the meaning of Sections 64 or 66 of the Act.

This warrant is issued pursuant to section 77(2) of the Building Act 1991.

b) **The Local Government Act 2002**

The holder of this warrant is authorised pursuant to section 177 of the Local Government Act 2002 ("the Act") to carry out all or any functions and powers of the Waitakere City Council as an Enforcement Officer under the Act including but not limited to:

- Seize property in accordance with section 164 - 166 of the Act;
- Enter upon private property under sections 171 - 173 of the Act;
- Enforce offences against the Act;
- Enforce offences against bylaws made under the Act.

This warrant is issued pursuant to sections 174 and 177 of the Local Government Act 2002.

c) **The Resource Management Act 1991**

The holder of this warrant is authorised pursuant to SECTION 38 of the RESOURCE MANAGEMENT ACT 1991 ("the Act") to carry out all or any of the functions and powers of Waitakere City Council as an Enforcement Officer under the Act, including but not limited to the following:

- **Require name & address (Section 22):**
To require any person concerned to give his or her name & address.
- **Abatement notices (Section 322):**
Serve an abatement notice.

- **Power to enter & seize noise source (Section 323):**
Where an abatement notice relating to the emission of noise is not complied with, may without further notice enter the place where the noise source is situated (accompanied by a Constable if the place is a dwelling house) and take any reasonable steps to reduce the noise to a reasonable level, and/or where accompanied by a Constable seize and impound the noise source.
- **Noise direction (Section 327):**
Issue an excessive noise direction.
- **Power to enter & remove equipment/render inoperable (Section 328):**
Where an excessive noise direction is not complied with, enter property (when accompanied by a Constable) and remove the noise source, or render inoperable or unusable.
- **Power to enter for inspection (Section 332):**
Inspect property to ensure compliance with any resource consent or the requirements of the Act.
- **Power to enter for survey (Section 333):**
Enter property to take samples and make other investigations.
- **Infringement notices (Section 343C):**
Serve or deliver an infringement notice.

This warrant is issued pursuant to section 38(50) of the Resource Management Act 1991.

d) The Resource Management Act 1991 (Noise Control Contractors)

The holder of this warrant is authorised pursuant to SECTION 38 of the RESOURCE MANAGEMENT ACT 1991 ("the Act") to carry out the functions and powers of Waitakere City Council as an Enforcement Officer under the Act, including but not limited to the following:

- **Require name & address (Section 22):**
Require any person concerned to give his or her name & address.
- **Abatement notices (Section 322):**
Serve an abatement notice, relating to an excessive noise circumstance.
- **Power to enter & seize noise source (Section 323):**
Where an abatement notice relating to the emission of noise is not complied with, enter the place where the noise source is situated (accompanied by a Constable if the place is a dwelling house) and take any reasonable steps to reduce the noise to a reasonable level, and/or where accompanied by a Constable seize and impound the noise source.
- **Noise direction (Section 327):**
Issue an excessive noise.
- **Power to enter & remove equipment/render inoperable (Section 328);**
Where an excessive noise direction is not complied with, enter property (when accompanied by a Constable) enter any such place and remove the noise source, or render inoperable or unusable.

This warrant is issued pursuant to section 38(5) of the Resource Management Act 1991.

4. That Warrants of Appointment to exercise the powers and responsibilities of Enforcement Officer under Section 177 of the Local Government Act 2002 and the powers under the other Acts listed be issued to the following persons as follows, namely:

Name	Position	Warrant Sections
Adam Moller	Transport Engineer	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Alan Ahmu	Compliance Team Manager	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Alan George Tresadern	Service Manager Aftercare / Special Projects	Resource Management Act 1991
Alfredo Sodo	Building Surveyor	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Andrew Bilham	Enforcement Officer	Local Government Act 2002 Resource Management Act 1991
Andrew Chalton	Customer Field Advisor - Health Compliance	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Andrew Richards	Field Services	Building Act 1991 Local Government Act Resource Management Act 1991
Ban Najim Aldin	Water Engineer	Local Government Act 2002
Barry Saich	Surveyor	Local Government Act
Bethany Megan Evans	Customer Field Advisor-Resource Management	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Bronwyn Jackson	Office Manager	Local Government Act Resource Management Act 1991
Chris Olsen	Building Surveyor	Building Act 1991 Local Government Act Resource Management Act 1991
Christopher Mark Thomas	Principal Engineer	Local Government Act 2002
Colin Diprose	Customer Field Advisor - Resource Management, Environment, Compliance, Enforcement	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Colin Waite	Team Leader: Parking Services	Local Government Act 2002 Resource Management Act 1991
Collett Taylor	Sale of Liquor Inspector	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Dave Ball	Subdivision & Consents Engineer	Local Government Act 2002

Name	Position	Warrant Sections
David Gordon	Customer Field Advisor	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
David Rankin	Customer Field Advisor - General - Compliance	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
David Raymond Nelson	Aftercare Engineer	Resource Management Act 1991
Dean Nuralli	Team Manager	Building Act 1991 Local Government Act Resource Management Act 1991
Dick Fong	Waste Minimisation Officer	Local Government Act 2002 Resource Management Act 1991
Don Samaranayaka	Water Assets Engineer	Local Government Act 2002
Eric Williams	Quality Control Supervisor	Local Government Act 2002
Falelua Ale	Enforcement Officer (Armourguard)	Resource Management Act 1991
Felise Tamiano	Enforcement Officer (Armourguard)	Resource Management Act 1991
Francis Ma	Customer Field Advisor - Health Compliance	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Geoffrey William Tremain	Senior Environmental Engineer	Local Government Act 2002
Goeffrey Keith England	Customer Services technical Support	Local Government Act 2002
Graham Leonard	Senior Water Quality Technician	Local Government Act 2002
Grant Mitchell	Enforcement Officer (Armourguard)	Resource Management Act 1991
Helen Mui Lean Chin	Drainage Water Engineer	Local Government Act 2002
Huw Hill-Male	Customer Field Advisor - Parks Compliance	Local Government Act 2002 Resource Management Act 1991
Ian Davis	Customer Field Specialist	Local Government Act 2002
Isaiah Kalava	Enforcement Officer (Armourguard)	Resource Management Act 1991
Isi Filitonga	Enforcement Officer (Armourguard)	Resource Management Act 1991
Iuso Puheke	Enforcement Officer (Armourguard)	Resource Management Act 1991
Jacob Te Wao	Enforcement Officer (Armourguard)	Resource Management Act 1991

Name	Position	Warrant Sections
Jason Sheehan	Swimming Pool Bylaws Officer	Building Act 1991, Local Government Act 2002 Resource Management Act 1991
Jeyesh Kumar Solanki	Drainage Water Engineer	Local Government Act 2002
Jill Edwards	Sale of Liquor Inspector	Local Government Act 2002
Joachim Lechtenborger	Customer Field Advisor - General Compliance	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Joe Alefaio	Enforcement Officer (Armourguard)	Resource Management Act 1991
Joe Balchin	Meter Inspector	Local Government Act 2002
John Cox	Customer Field Advisor - Enforcement	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
John Franciscus Koolen	Team Leader: Enforcement Support	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
John Gillespie	Contract Supervisor Temp	Local Government Act 2002
John McKeown	Customer Field Advisor - Resource Management Compliance	Local Government Act 2002 Resource Management Act 1991
John Tuliakiono	Enforcement Officer (Armourguard)	Resource Management Act 1991
Johnathan Akapo	Enforcement Officer (Armourguard)	Resource Management Act 1991
Jonathan Bruce Reddell	Customer Field Advisor-Building	Building Act 1991 Local Government Act 200 Resource Management Act 1991
Joshua Paito	Enforcement Officer (Armourguard)	Resource Management Act 1991
Karen Ruth Pegreme	Environmental Monitoring Officer	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Kevin Fan	Drainage Network Modeller	Local Government Act 2002
Kim McLeod	Customer Field Advisor - Environmental Compliance	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Kim Nankivell	Team Leader: Animal Welfare Field Services	Local Government Act 2002 Resource Management Act 1991
Lawrie Blair	Operations Manager RTS	Local Government Act 2002
Malakai Tameilau	Enforcement Officer (Armourguard)	Resource Management Act 1991
Martin Sharp	Customer Field Advisor - Arborist / Ecologist	Building Act 1991 Local Government Act 2002 Resource Management Act 1991

Name	Position	Warrant Sections
Mathew Parry	Enforcement Office(Armourguard)	Resource Management Act 1991
Max Wilde	Manager Field Services	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Michael Letele	Enforcement Officer (Armourguard)	Resource Management Act 1991
Natalie Kay Marsden	Enforcement Officer	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Neville Colling	Team Leader: Compliance Solutions	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Neville Exler	Customer Field Advisor - Building	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Neville Olsen	Surveyor - PM	Local Government Act 2002
Olga Caine-Caitlin	Parking warden	Local Government Act 2002 Resource Management Act 1991
Pam Pooley	Field Services Administrator	Local Government Act 2002
Patrick Richard Stuart Andrews	Customer Field Specialist	Local Government Act 2002
Paul Andrew Bailey	Meter Inspection Officer	Local Government Act 2002
Paul Innes	Enforcement Officer (Armourguard)	Resource Management Act 1991
Pesile Faau	Parking Officer	Local Government Act 2002 Resource Management Act 1991
Peter Kovacevich	Staff Engineer - Drainage	Local Government Act 2002
Peter Reid	Drainage Assets Engineer	Local Government Act 2002
Philip Larmer	Enforcement Officer (Armourguard)	Resource Management Act 1991
Ram Reddy	Parking Officer	Local Government Act 2002 Resource Management Act 1991
Ranjit Ranatunga	Water & Drainage Engineer	Local Government Act 2002
Reginald Pritchard	Bylaws Officer	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Richard Taylor	Asset & Network Manager	Local Government Act 2002
Robert Davidson	Customer Field Advisor - Health & Peak Support Compliance	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Roger Wilson	Issues Resolution Manager	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Roscoe Webb	Parks Project Manager, Arborist, Quality Assurance	Local Government Act 2002 Resource Management Act 1991

Name	Position	Warrant Sections
Rowan Stenberg-Calder	Waste Minimisation Officer	Local Government Act 2002 Resource Management Act 1991
Samual Johnson-Chung	Drainage Water Engineer	Local Government Act 2002
Shelley Diane Renkema	Water & Drainage Engineer (Consents)	Local Government Act 2002
Sriya Erangane Fernando	Staff Engineer - Water	Local Government Act 2002
Stephen Lamusitele	Parking Warden	Local Government Act 2002 Resource Management Act 1991
Steve Kalka	Enforcement Officer (Armourguard)	Resource Management Act 1991
Steven Cresswell	Enforcement Officer (Armourguard)	Resource Management Act 1991
Stuart Richard Liddell	Team Leader: Customer Field Specialist	Local Government Act 2002
Teresa Hart	Parking Service Administrator	Local Government Act 2002 Resource Management Act 1991
Terry Moorehouse	Dangerous Goods Inspector	Local Government Act 2002 Resource Management Act 1991
Tony Miguel	Network & Operations Manager	Local Government Act 2002
Vineet Sharma	Enforcement Officer (Armourguard)	Resource Management Act 1991
Wolfgang Nethé	Environmental Monitoring Officer	Building Act 1991 Local Government Act 2002 Resource Management Act 1991
Zoran Pilipovic	Asset Planning Engineer	Local Government Act 2002

Report prepared by: Warren Cornor, Security Manager.



4 **ADOPTION OF CODE OF CONDUCT FOR COUNCILLORS**

PURPOSE OF THE REPORT

The purpose of this report is for Council to adopt a Code of Conduct (the Code) in terms of the Local Government Act 2002 (the Act).

BACKGROUND

Schedule 7 clause 15 of the Local Government Act 2002 requires that:

“A Local Authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.”

The date of commencement of Schedule 7 to the Act is 1 July 2003.

A draft Code of Conduct has been circulated to Councillors and a workshop for Councillors to discuss the Code was held on 16 April 2003.

Council's Legal Services Manager subsequently re-drafted the Code in order to ensure full compliance with the Local Government Act 2002, while capturing all of the sentiments expressed at the Councillors workshop.

B1-B24

The proposed code is attached at pages B1 to B24 on attachment to this item.

STRATEGIC CONTEXT

Council has taken pride in taking the lead in the implementation of a number of aspects of the Local Government Act 2003. Council would be able to continue this trend by adopting the required Code of Conduct as soon as practicable after the date of commencement of the Act.

ISSUES

Care has been taken in the drafting of the Code to fully comply with the provisions of Schedule 7 clause 15 of the Act. A worked example of a statement of interests by an Elected Member is attached to the Code.

The Code once adopted is binding on all Councillors, including the Mayor. Once adopted a code can only be amended or replaced by a 75% vote of the Members present. It is not possible to revoke the Code once adopted, without replacing it with another.

Section 54 (2) of the Act provides that Part 1 of Schedule 7, with the exception of clauses 15 and 33 to 36, applies to Community Boards. The specific exclusion of clause 15 means that the Code is not automatically applicable to Community Boards. Community Boards may, however, adopt a Code of Conduct on a voluntary basis and may use the Council's Code as a basis for their own. The Code adopted by the Council will be referred to each Community Board for its consideration.

RESOURCES

No additional resources will be required.

CONCLUSION

Council is required to adopt its first Code of Conduct as soon as practicable on or after 1 July 2002. Consultation has been undertaken with the Councillors. Accordingly Council should be in a position to adopt the Code.

Once Council has adopted its Code, it will also be in a position to encourage the four Community Boards in Waitakere City to adopt their own Codes of Conduct.

RECOMMENDATIONS

1. That the information be received.
- BI-B24* 2. That Council adopt the Code of Conduct, as attached at pages B1 to B24 on attachment to this item.
3. That Council recommend to the Henderson, Massey, New Lynn and Waitakere Community Boards that they adopt similar Codes as soon as practicable.

Report prepared by: Charlie Inggs, Acting Senior Committee Secretary.



5 ADOPTION OF STANDING ORDERS

PURPOSE OF THE REPORT

The purpose of this report is to adopt Standing orders, which comply with, and refer to, the Local Government Act 2002.

BACKGROUND

Clause 27 of Schedule 7 of the Local Government Act 2002 requires that Council adopts a set of Standing Orders for the conduct of its meetings and those of its committees. This clause further provides that once adopted, Standing Orders can only be replaced or amended by a vote of not less than 75% of the Members present.

Section 293 of the Local Government Act 2002 makes a transitional provision to the effect that Standing Orders adopted under the Local Government Act 1974, and in force at the date of commencement of the Local Government Act 2002, will continue in existence or until replaced or amended in accordance with clause 27 of Schedule 7 of the Local Government Act 2002.

- D1-D64* The Standing Orders, as attached at pages D1 to D64 on attachment to this item, have been reformatted to comply with the consultation copy of the standard New Zealand Standard Model Standing Orders NZ9202: 2003 (except with regard to the casting vote, as discussed in issues below). The changes that have been made are to update all the terminology and all references to the Local Government Act, so that these refer to the 2002 Act, not the 1974 Act.

ISSUES

All references to the Local Government Act 1974 have been replaced with references to the Local Government Act 2002. The following changes are also highlighted:

- The term “Chief Executive” has now replaced the term, “Principal Administrative Officer”;
- All references to “Special” and “Emergency” meetings have been replaced by references to “Extraordinary” meetings;
- In terms of a consequential amendment to the Local Government Official Information and Meetings Act, all resolutions from Extraordinary Meetings require to be advertised;
- Notices of time and place of meetings are now required to be sent out no later than 14 days before the meeting (the 1974 act provided for 10 working days notice; the new requirement includes Saturdays, Sundays and Public Holidays).

There is uncertainty as to the interpretation of clause 24 of Schedule 7 of the Local Government Act 2002.

The Department of Internal Affairs has issued a Newsletter (Issue 5) in respect of the Local Government Act 2002, in which they advise that they have obtained a Crown Law Office opinion to the effect that it is not possible for a Mayor or Chairperson to exercise a casting vote. Standards New Zealand have followed the Department of Internal Affairs line, by specifically providing against a casting vote in the consultation copy of the revised model standing orders. Council’s Legal Services Manager is of the opinion, that the casting vote is permissible provided it is specifically provided for in Standing Orders. The latter opinion is strongly supported by Simpson Grierson, Brookfields, and Buddle Findlay legal practices.

The matter is currently being pursued through the Auckland Region CEO's Forum and Local Government New Zealand. It is strongly recommended that Council continue to provide for a casting vote while the issue is resolved.

RESOURCES

There are no additional Resources required.

CONCLUSION

It is advisable to update the current Standing Orders in order to incorporate all changes made by the Local Government Act 2002. These include changes in terminology and references to sections in the Local Government Act. It is further advisable to continue to provide for a casting vote in the Standing Orders, while the issue of uncertainty on the issue is being pursued.

RECOMMENDATIONS

1. That the information be received.
2. That the Standing Orders which will be circulated separately with this agenda, be adopted for the remainder of the 2001/2004 term of Council.

Report prepared by: Charlie Inggs, Acting Senior Committee Secretary.



6 ADOPTION OF REVISED DELEGATIONS TO COMMITTEES AND COMMUNITY BOARDS REGISTER

PURPOSE OF THE REPORT

The purpose of this report is for Council to adopt an updated version of the Delegations to Committees and Community Boards Register in order to reflect changes made necessary by the commencement of the Local Government Act 2002, on 1 July 2003, together with other changes in legislation.

BACKGROUND

A limited number of the provisions of the Local Government Act 2002 (concerning decision making processes and planning) came into effect on 25 December 2003. The remaining provisions became effective on 1st July 2003. The Local Government Act 1974 was repealed by the new Act. However, Schedule 18 of the 2002 Act has saved a number of the provisions of the Local Government Act 1974. These relate to infrastructural issues such as drainage and roading as well as Auckland only provisions (including those relating to Infrastructure Auckland and Watercare). It has been necessary to revise the Delegations Register to reflect the current legislative regime.

Other related legislative changes, together with relevant transitional provisions, including the Local Government (Rating) Act 2002 and the Civil Defence Emergency Management Act 2002 have also necessitated changes to the Delegations Register. Changes to the Resource Management Act provisions relating to delegations take effect on 1st August 2003.

A separate report updating the Delegation to Officers - Responsibilities Register is being prepared and will be presented to Council in due course.

ISSUES

The power to sub-delegate is contained in Schedule 7 clause 32 (3) of the Local Government Act 2002:

“(3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the delegation.”

In addition, with the commencement of the Local Government Act 2002, Council is no longer a public body for the purposes of the Public Bodies Contracts Act 1959 and delegations need to be updated to reflect this change.

A number of references to the Local Government Act 1974 have been retained, as these are references to saved sections.

Where there are no longer specific sections in the Local Government Act relating to the subject matter of the delegations concerned, the delegations have been made generic in nature.

The Resource Management Act 1991 provides for Council to delegate to officers. It requires that such delegations are made through the Chief Executive Officer. The Resource Management Amendment (No.2) Act 2003 comes into force on 1 August 2003 and now provides as follows:

“34A Delegation of powers and functions to employees and other persons

- (1) A local authority may delegate to an employee, or hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers or duties under this Act except the following:
 - (a) the approval of a policy statement or plan;*
 - (b) this power of delegation.**
- (2) A local authority may delegate to any other person any functions, powers or duties under this Act except for the following:
 - (a) the powers in section (1)(a) and (b);*
 - (b) the decision on an application for a resource consent;*
 - (c) the making of a recommendation on a requirement for a designation.**
- (3) A delegation under this section must be made by the chief executive officer of the local authority or by a group of senior executive officers.”*

Thus, by Section 34A(3), Council's delegations to commissioners as well as employees will also need to be made through the Chief Executive Officer. The delegations have been amended accordingly by including reference to the role of the CEO.

RESOURCES

No additional resources will be required as a result of the adoption of the updated Registers as recommended in this report.

CONCLUSION

E1-E44

Council is required to ensure that its Delegations Registers fully reflect the current legislative arrangements in order that all actions undertaken with delegated authority have full legal standing. The Council is therefore being requested to adopt the revised Delegations Register are attached at pages E1 to E44 on attachment to this item.

RECOMMENDATIONS

E1-E44

1. That the information be received.
2. That Council adopt the Delegations to Committees and Community Boards Register as attached at pages E1 to E44 on attachment to this item.

Report prepared by: Charlie Inggs, Acting Senior Committee Secretary.



7 CIVIC FUTURE PROJECT - LAND DISPOSAL HOBSONVILLE AIRBASE

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, Land Disposal Hobsonville Airbase.

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.
<ul style="list-style-type: none"> Land Disposal Hobsonville Airbase 	The withholding of information is necessary in order to: <ul style="list-style-type: none"> Enable the 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 would affect the Council's negotiations.*

