



## NOTICE OF MEETING COUNCIL

I hereby give notice that an Ordinary Meeting of the Council will be held on:-

**DATE:**        **Wednesday, 19 November 2003**        **TIME:**        **9.30 am**

**VENUE:**       **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

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

14 November 2003

Ngareta Delamere  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8552

### MEMBERSHIP:

Mayor	RA	Harvey, QSO, JP
Deputy Mayor	CA	Stone
Councillors	DQ	Battersby, JP
	BA	Brady, JP
	JM	Clews, QSO, JP
	RP	Dallow, QPM, JP
	AC	Fenton
	OE	Hoskin, MNZM, JP
	PA	Hulse
	JP	Lawley
	GE	Nash, JP
	VS	Neeson, JP
	GB	Presland
	GW	Russell, JP
	DA	Yates, JP

(Quorum 8 members)

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(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.)

# WAITAKERE CITY COUNCIL



AGENDA FOR AN ORDINARY MEETING OF THE COUNCIL (VARIOUS) TO BE  
HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN,  
WAITAKERE CITY, ON WEDNESDAY, 19 NOVEMBER 2003,  
COMMENCING AT 9.30 AM.

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**AGENDA FOR AN ORDINARY MEETING OF THE COUNCIL (VARIOUS) TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON WEDNESDAY, 19 NOVEMBER 2003, COMMENCING AT 9.30 AM.**

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**1 APOLOGIES**



**2 URGENT BUSINESS**

Section 46A(7) and (7A) 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 item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Council resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

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



**3 PORTS OF AUCKLAND LIMITED - PROPOSAL TO DISPOSE OF WESTHAVEN MARINA**

**PURPOSE OF THE REPORT**

The purpose of this report is to seek Council's recommendation regarding the potential sale of the Westhaven Marina, held by Ports of Auckland Limited (Ports), and, indirectly, Infrastructure Auckland. A letter has been sent by North Shore City Council to all Auckland Territorial Authorities, to Infrastructure Auckland, Infrastructure Auckland Electoral College, and to Ports of Auckland Limited, expressing that Council's concern that Westhaven Marina may be removed from public ownership.

A1-A2

A plan of the Westhaven Marina, in the context of the wider area, is shown at page A1. A copy of the letter received from the Chair of North Shore City's Strategy and Finance Committee is shown at page A2.

## BACKGROUND

Infrastructure Auckland was established under the provisions of the Local Government Act following the divestment of assets from the Auckland Regional Services Trust in October 1998. Its principal function is to contribute funds, by way of grants, for projects (or parts thereof) within the Auckland Region, in the areas of:

- Land transport;
- Any passenger service;
- Any transport operation;
- Stormwater infrastructure.

Where there are identifiable benefits to the general community arising from the grants process. Funding is primarily granted for capital project costs.

Waitakere City's governance role in Infrastructure Auckland is facilitated through the Deputy Mayor's representation on the Electoral College. The Electoral College is a regional body that appoints the Infrastructure Auckland board of directors and is assisted by an officer's working group.

Infrastructure Auckland's non-treasury asset base comprises financial assets, an eighty percent shareholding in Ports of Auckland Limited, a \$23million investment in Northern Disposal Systems Limited, and complete ownership of America's Cup Village Limited, which is presently the subject of a likely transfer to Auckland City.

## STRATEGIC CONTEXT

The regional significance of the Ports of Auckland Limited investment is primarily related to the region's (indirect) ownership of an 80% shareholding in one of the two major passenger and freight connections between Auckland and the rest of the globe.

## ISSUES

### 1 Ability of Territorial Authorities to Decide the Future of Ports of Auckland

Historically, Infrastructure Auckland has made clear its policy of retaining the region's 80% shareholding in Ports of Auckland Limited in public ownership in perpetuity. The region's Territorial Authorities, through their representation on the Infrastructure Auckland Electoral College, have agreed with this policy. Indeed, should Infrastructure Auckland consider the disposal of more than 24.9% of its shareholding, a significant public referendum would be required by statute, prior to any final formal negotiation taking place.

Because Ports of Auckland Limited is a subsidiary of Infrastructure Auckland, however, the disposal of assets owned by the company is not subject to the same criteria, or, for that matter, the direct governance of the Infrastructure Auckland Electoral College. As with all corporate subsidiary investments owned by Infrastructure Auckland, Ports of Auckland has unfettered ability to acquire and dispose of assets as part of its business activities.

In the past, this has been helpful to the region, for example when the Ports of Auckland was able to transfer public ferry wharves to the Auckland Regional Transport Network Limited, for inclusion into the public transport network. Now, however, the Ports' proposal to dispose of the Westhaven Marina, as the business "...no longer represents an investment in the core business strategy of the company" has raised concerns at the North Shore City Council, which has resolved its belief that the Marina should be secured in regional public ownership in perpetuity. North Shore City Council has also requested other Councils to support its stance, as well as approaching the Infrastructure Auckland Electoral College.

North Shore City's letter also signals its belief that Hobson West Marina, in the Viaduct Basin, will be subject to a potential sale process in the near future.

## **2 Other Factors**

Waitakere City Council has been requested to support North Shore City Council in its stance, but is not bound by any agreement or statute to pass a formal resolution in this matter. Should it wish to do so, however, the following factors (at least) should be considered:

## **3 Relevance to Infrastructure Auckland's Granting Programme**

- Infrastructure Auckland has a policy of retaining the 80% shareholding in Ports of Auckland at the end of its granting programme in 2008/2009. At that time, however, its forecast accounts show a net asset value increase of some 16% over the value shown as at 30 June 2003. The relatively light value increase per annum (2.5%) over the six year period possibly reflects Infrastructure Auckland's perception that Ports of Auckland might gradually dispose of non-core assets, while developing others. Consequently, Councillors need not be concerned that the proposed sale - or retention - of the Marina would unduly interfere with the existing forecast granting programme, other than to limit the potential for unanticipated income. The conservative accounting policy of Infrastructure Auckland, coupled with the high potential for unanticipated income over the next six years, suggests that the granting programme could remain intact if Westhaven Marina was not sold.

## **4 A New Ownership Structure is Signalled**

- The fact that Ports of Auckland has identified Westhaven Marina as an activity that is no longer core to its business activities is significant. It signals that the company directors find the Marina ownership to be an intrusion into their development and management of the (now) core activities of the company, which are presumably based around the operation of freight and passenger links with the rest of the world.

Yet, Councillors need not draw an automatic conclusion that the lack of relevance of the Marina to Ports' core business necessarily implies that it should be divested to local or foreign private ownership. This is but one option. Others include:

- Corporatising the Marina, with its own governance structure, and retaining it as an income-generating subsidiary of the Ports company;
- Calling for tenders for the management of the Marina for a medium or long-term period (essentially 'leasing' the Marina operation for an extended period, but retaining ownership);

- Corporatising the Marina as above, and 'selling' it to Infrastructure Auckland, for the value of a consequent cash dividend to the remaining 20% shareholders. Infrastructure Auckland would then own the Marina as a separate business, and be entitled to net income.

## 5 Links to Wider Foreshore Debate

- The potential for this issue to affect, or be affected by, the wider debate of Maori custodianship of the national foreshore has not, the writer believes, been recorded as having been considered or resolved.

## 6 Relevance of Ports of Auckland to Infrastructure Auckland's Primary Purpose

- The question of whether the Marina should or should not be sold is strongly linked to the motivation for this Council to have, historically, supported the retention of Ports' shares in public ownership. In line with the current proposal, Ports of Auckland could dispose of all of its significant assets, despite retaining the 80% shareholding in public ownership.
- Similarly, in the writer's opinion, this particular issue has strong links to the relevance of Ports of Auckland share ownership by Infrastructure Auckland, which is a question that may form part of a statutory review of Infrastructure Auckland in 2008. Given Infrastructure Auckland's primary purpose of making infrastructure grants, a granting programme that is planned to be complete in 2009, and an historic desire by all parties (including Infrastructure Auckland) not to dispose of Ports' shares, the retention of this investment seems potentially incongruous with Infrastructure Auckland's primary purpose, at least beyond the period of forecast debt repayment (2013). Other options, such as a regional shareholders' group, could be considered, which would give the regional Territorial Authorities much greater ability to negotiate the strategic direction of an entity that is of long-term importance to the region.

If, as is recommended, Councillors resolve to support North Shore City's desire to retain the Westhaven Marina in regional public ownership, in some form or another, it is recommended that Councillors further resolve to instruct their representative on the Infrastructure Auckland Electoral College to call for a report from officers as to the possible long-term ownership options for Ports of Auckland shareholding, in order that they may be sufficiently explored in the short term, to enable the strategic direction of Ports of Auckland to shape appropriately, in advance of the 2008 statutory review of Infrastructure Auckland.

## CONCLUSION

North Shore City Council has requested all Auckland Territorial Authorities to support its stance in resolving that the Westhaven Marina should remain in public hands for perpetuity. It has written, requesting formal support, to all Territorial Authorities, as well as to Infrastructure Auckland, the Electoral College, and to Ports of Auckland itself.

Waitakere City is not required to pass resolution on this matter, but is recommended to do so, and to recommend that the Westhaven Marina should remain in public ownership, although the fact that Ports of Auckland Limited has indicated that the Marina no longer forms a part of its core business suggests that the form of ownership should change from the status-quo.

Councils who have representation on the Infrastructure Auckland Electoral College have been asked to consider North Shore City's request, and to instruct their Electoral College representatives in advance of this matter being debated at a future Electoral College meeting.

**RECOMMENDATIONS**

1. That the information be received.
2. That Council supports the retention of the Westhaven Marina in regional public ownership in perpetuity.
3. That Council's representative on the Infrastructure Auckland Electoral College be instructed to call for an officers' report, exploring the possible long-term ownership options for Ports of Auckland shareholding (including the status-quo).

Report prepared by: Michael Riley, Project Manager: Strategic Property Projects.



**4 14 TRADING PLACE**

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 14 Trading Place.

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"> <li>• 14 Trading Place</li> </ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"> <li>• enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li> </ul>	<p>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.</p>

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.*

