

MAIN AGENDA



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING COUNCIL

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

DATE: **Wednesday, 15 December 2004** **TIME:** **5.30 pm**

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.

10 December 2004

Audrey Chan
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8603

MEMBERSHIP:

Mayor	RA	Harvey, QSO, JP
Deputy Mayor	CA	Stone
Councillors	DQ	Battersby, JP
	PJ	Booth, OBE
	MFP	Chan, JP
	JM	Clews, QSO, JP
	RI	Clow
	LA	Cooper
	AK	Corban, OBE, JP
	RP	Dallow, QPM, JP
	WW	Flaunty, QSM, JP
	DE	Gilmour
	PA	Hulse
	JP	Lawley
	VS	Neeson, 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.)

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE CIVIC CENTRE,
6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON WEDNESDAY, 15 DECEMBER 2004
COMMENCING AT 5.30 PM**

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**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE CIVIC CENTRE,
6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON WEDNESDAY, 15 DECEMBER 2004
COMMENCING AT 5.30 PM**

PART A - OPENING OF MEETING

1 OPENING PRAYER

Father Shanahan from St Josephs of Orakei will say the Opening Prayer.



2 APOLOGIES



3 CONFIRMATION OF MINUTES

Extraordinary Meeting	- Wednesday, 10 November 2004
Reconvened Extraordinary Meeting	- Tuesday, 16 November 2004
Meeting	- Wednesday, 17 November 2004
Meeting	- Wednesday, 24 November 2004

RECOMMENDATION

That the minutes of an Extraordinary Meeting of the Council held on Wednesday, 10 November 2004, the Reconvened Extraordinary Meeting held on Tuesday, 16 November 2004, the Minutes of Meetings held on Wednesday, 17 November 2004 including the public excluded minutes, and on Wednesday, 24 November 2004, as circulated, be taken as read and now be confirmed.

*Pages 23-27
Part E*

The public excluded minutes are attached at pages 23 to 27 of the confidential supplement labelled Part E.



4 URGENT BUSINESS

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

- (i) the Committee by resolution so decides; 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 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.



PART B - REPORT OF THE MAYOR

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



PART C - TE TAUMATA RUNANGA AND COMMUNITY BOARDS

5 TE TAUMATA RUNANGA

This report was not available at the time of printing the agenda and will be circulated separately with this Agenda.



6 NEW LYNN COMMUNITY BOARD

THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 29 NOVEMBER 2004

MATTERS CONSIDERED

*1-11
Part C*

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 1 to 11 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the New Lynn Community Board held on Monday, 29 November 2004 be received.

P van der Voort, JP

CHAIRPERSON



7 **WAITAKERE COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON DAY,
TUESDAY, 30 NOVEMBER 2004**

MATTERS CONSIDERED

12-17
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 12 to 17 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the Waitakere Community Board held on Tuesday, 30 November 2004 be received.

CA Shepherd, JP
CHAIRPERSON



8 **MASSEY COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON
WEDNESDAY, 1 DECEMBER 2004**

MATTERS CONSIDERED

18-24
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 18 to 24 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the Massey Community Board held on Wednesday, 1 December 2004 be received.

JA Good
CHAIRPERSON



9 **HENDERSON COMMUNITY BOARD**

THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 2 DECEMBER 2004

MATTERS CONSIDERED

25-33
Part C

The Board dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 25 to 33 in the supplement labelled Part C.

The Board Recommends:

That the report of the Meeting of the Henderson Community Board held on Thursday, 2 December 2004 be received.

EAG Grimmer, MNZM
CHAIRPERSON



PART D - REPORT OF THE CHIEF EXECUTIVE

10 **PROPOSED TEEN PARENTS SCHOOL - WESTVIEW RESERVE**

PURPOSE OF THE REPORT

The purpose of this report is to bring issues around the former Glen Eden Woman's Bowling Club building to the Council.

BACKGROUND

He Wero O Nga Wahine approached Council staff in August 2004 as a community group seeking available land and/or a community building to be funded by the Ministry of Education. He Wero O Nga Wahine has been operating in Waitakere for the past two years as an Alternative Education Provider. They were advised that the only currently available community lease/space was the Glen Eden Women's Bowling Club who owns the club rooms on Westview Reserve (a Recreation Reserve classified under the Reserves Act 1977). As the club is amalgamating with another bowling club they are looking to sell their building to a group with a view to them either relocating the building or applying to Council to stay on the site and lease the land. He Wero O Nga Wahine was advised that any interested group would need to apply to lease the land from Council, be suitable under the Reserves Act 1977, and obtain the approval of Waitakere City Council.

The Property Group (on behalf of the Ministry of Education) wrote to Council shortly afterwards advising that the Ministry of Education were planning to establish a Teen Parents Unit (as a small school) in Waitakere in 2005. They are intending to fund He Wero O Nga Wahine for this purpose and wish to lease the bowling club site for 35 years at a nominal rental (on the basis of the Teen Parenting Unit's non-profit status). They also requested that the land be re-designated for education purposes in order to give the Ministry of Education the highest protection of their use in terms of the Resource Management Act 1991.

STRATEGIC CONTEXT

Westview Reserve is within the Glen Eden Town Centre area of influence and identified as a Local Park under the Parks Strategy.

The park is currently landlocked and is accessed via Janet Clews Place. The park is within a 1km radius of the Glen Eden Town Centre, currently has poor access and, anecdotally, is little used by the local community. It does however, fulfil a role in providing an area of green space in an area identified for further intensification, and is adjacent to Council Housing for Older Adults and provides an area of amenity for surrounding residents.

The Council currently does not have a programme for divestment of reserves, although this issue is being looked at as part of the review of the Parks Strategy.

ISSUES

The Reserves Act 1977 does not allow for schools on reserves (under any classification) and therefore a lease of part or all of Westview Reserve for the Teenage Parents School is not legally possible. If the Council supported the use of the reserve for a Teenage Parents School, then revocation of the reserve status, and preferably also, a Designation by the Ministry of Education for a school site, or alternatively a rezoning of the site in terms of the District Plan would be required.

Currently reserve divestment proposals are looked at on a case by case basis and assessed according to the Parks Strategy and the Parks Acquisition and Divestment Policy. The process required for redesignation of this site would be similar to that of divesting the reserve as both processes would require public notification and community consultation and could result in the loss of a public reserve. These statutory processes would take 12 - 18 months to complete. Further issues associated with this request include the proposal from the Ministry of Education to expand the quantity of buildings on the site to up to four times the current building size, and that the school would be situated directly next to a senior citizens village. Consultation would also be required under the Local Government Act 2002 under S97 (1)(a) and (b) (certain decisions to be taken only if provided for in the Long Term Council Community Plan).

It should also be noted that while Westview Reserve is vested in Waitakere City Council it is actually a reserve under Crown ownership. Therefore if the Council decided that it did wish to divest the reserve the proceeds would go to the Crown. This would mean that no funding would be available to purchase another, more suitable reserve site in the area should it be needed.

This request has raised a number of wider issues that need to be progressed including those about school locations generally and the "best" future of this reserve in central Glen Eden. The proposed school would serve a city-wide population and has no particular need to locate in Glen Eden. While Glen Eden is accessible by rail, it is probable that a location in the vicinity of the Waitakere Central or New Lynn Town Centres would be more accessible from all parts of the City, and would better serve the needs of teen parents and their children.

The Ministry of Education has approached the Council regarding the possible use of other reserve sites for education uses because of the difficulty of obtaining land in the existing urban area. This is a problem shared by the Waitakere City Council in terms of reserve land acquisition - where in intensifying areas land for reserve comes with significant acquisition costs. While the Council may support the Ministry of Education proposal, careful consideration of the long-term reserve needs of our intensifying city needs to also be given.

RESOURCES

As this is a project not currently budgeted for within the Council work programme, should the Council wish to undertake public consultation on the proposal for Westview Reserve to be developed into a school for teenage mothers, then it is recommended that the costs of the consultation (estimated at \$5,000) be sought from the Ministry of Education.

CONCLUSION

The Ministry of Education has approached Council with regard to a proposal to convert Westview Reserve former Glen Eden Women's Bowling Club into a school for teenage parents. Such a proposal is inconsistent with the Reserves Act and therefore removal of the reserve status would be required for it to proceed. This also raises policy issues around the conversion of reserve land for school purposes in an intensifying part of the City. If the Council considers that the proposal has sufficient merit that it wishes to engage the community around it, then it is recommended that funding for the consultation be sought from the Ministry of Education.

RECOMMENDATIONS

1. That the Proposed Teen Parents School - Westview Reserve report be received.
2. That the Glen Eden Women's Bowling Club be advised that a school use on the Westview Reserve is not permitted under the Reserves Act, and that any use of the building on the Reserve would need to be for a purpose provided for under the Reserves Act.

Report prepared by: Lois Easton, Group Manager: City Development Projects.



11 PROPOSED SALE OF LAND AT WAIKUMETE ROAD, GLEN EDEN

PURPOSE OF THE REPORT

The purpose of this report is to seek Council's approval to the sale of a parcel of land at the end of Waikumete Road, Glen Eden, being Allotment 746 Parish of Waikomiti all Certificate of Title NA58D/237.

BACKGROUND

- A1 In 1984 the Auckland Gas Company made a request to the Waitemata City Council and the Glen Eden Borough Council to purchase a parcel of land which straddled the boundary between both councils for the purpose of establishing a gas delivery point facility. The site is located at the end of Waikumete Road close to the Waikumete Cemetery and adjacent to the railway line. It is shown on the diagram attached at page A1.
- A2 The land was in fact road and the necessary steps were taken to have it stopped. The Survey Office Plan attached at page A2 shows Allotment 745 (owned by Waitemata City) and Allotment 746 (owned by Glen Eden Borough).

At the request of the Glen Eden Borough Council the sale of both allotments was handled by the Waitemata City Council who had a specialist property division but as the settlement of the sale approached, it transpired that whilst Waitemata City Council wished to sell its land at current market value, Glen Eden Borough, whose residents would benefit from the greatly enhanced gas supply system considered it appropriate to offer the land to the Auckland Gas Company on lease at a peppercorn rental. Waitemata City sold its land to the Auckland Gas Company but no record can be found of any lease or sale of the Glen Eden Borough land. The installation was however, built entirely on the Glen Eden Borough land.

In 1998 the site was decommissioned, the pipe work removed and the building abandoned but now Vector Limited, the successor to the Auckland Gas Company, wish to reactivate this installation and for that purpose to purchase the land formally owned by Glen Eden Borough. This land is now of course owned by Waitakere City Council.

STRATEGIC CONTEXT

The land is currently administered as part of the Waikumete Cemetery but it has long since been decided that it is not needed for cemetery purposes and the appropriate officers of Council have advised that it is not needed for any other strategic purpose within the Glen Eden area. Its sale will permit the re-establishment of the delivery point facility which will greatly enhance the quality and quantity of natural gas supply to the Glen Eden area. Sale proceeds will be paid into Council's reserves account.

RESOURCES

It is proposed to offer the site to Vector Limited at a price recommended by a registered valuer. The cost of this valuation and all other costs relating to the sale will be borne by the purchaser.

LEGAL ISSUES

Under the Local Government Act 2002, Council is required to consult all parties likely to be affected by or have an interest in the decision it proposes to make. It is considered that the only such party would be the New Zealand Rail Corporation whose rail corridor land adjoins the site. This company has, however, advised that it is not interested in the site and has no objection to its sale to Vector Limited.

The land, being stopped road, is required to be disposed of in accordance with Section 345 of the Local Government Act 1974. This provision specifically permits Council to sell stopped road to an adjoining owner at a price to be fixed by a competent valuer.

Section 40 of the Public Works Act 1981 requires that land originally acquired for a public work but no longer needed for that or any other public work must be offered back to the person from whom it was acquired. A consideration of all the legal issues suggests that because Section 345 of the Local Government Act 1974 is a complete code covering the sale of all stopped road, Section 40 of the Public Works Act being concerned with the general disposition of land no longer required for a public work, does not apply. However, should this not be the case it seems probable that an offer back need not be made as it appears that the land was acquired for a road over 100 years ago and the person from whom it was acquired and that person's successor would be long since deceased. Confirmation of this, however, was unavailable from the archives of the Land Information New Zealand when preparing this report but will be advised to Council at the time of the meeting.

CONCLUSION

Vector Limited wishes to re-establish a disused gas deliveries point facility to greatly enhance the quality of gas supply in the Glen Eden area. To achieve this aim, the company needs to take title to the land upon which the facility is to be located. The land is no longer required by Council but the company has been advised that such a sale requires the approval by resolution of Council.

RECOMMENDATIONS

1. That the Proposed Sale Of Land At Waikumete Road, Glen Eden report be received.
2. That approval be given to the sale of the land in Certificate of Title NA58D/237 to Vector Limited at a price to be fixed by a registered valuer's valuation.

Report prepared by: Maurice Hieatt, Solicitor and Denis Sheard, Legal Services Manager.



12 ACQUISITION OF LAND FOR ROAD IN HENDERSON VALLEY ROAD, HENDERSON

PURPOSE OF THE REPORT

A3

The purpose of this report is to seek Council's approval for the acquisition of two small parcels of land for road situated at 19, and 8 to 14 Henderson Valley Road, Henderson. These parcels are shown in the diagram attached at page A3.

BACKGROUND

The construction of a roundabout at the intersection of Smythe Road and Henderson Valley Road has been approved by Council as part of the 2004/2005 Annual Plan process.

This work is required as part of the Council's programme of road safety improvements in the area.

With construction of the proposed pedestrian link bridge from the Waitakere Central Civic Centre site over railway land to Rainside Avenue, soon to occur, the number of pedestrians crossing the intersection is expected to substantially increase, requiring the implementation of appropriate safety improvements.

The Transport Assets Section has concluded, however, that a roundabout will not adequately meet the safety needs of pedestrians at the intersection, so a signalised intersection option has been chosen. This option will actually require less land area than would have been required for a roundabout.

Triangular parcels of land are required from the Henderson High School (27m²) and the owners of Hooper Machinery Limited (26m²) to accommodate the proposed new kerblines and footpath alignments.

STRATEGIC CONTEXT

Safety for pedestrians and vehicles is a key objective under the urban villages strategy. This is reiterated in the transport strategy and provision is made for safety improvements in accordance with this, such as the proposed improvements at Henderson Valley Road and Smythe Road intersection. Provision is also made for land to be purchased where this is necessary to achieve the road improvements.

ISSUES

The acquisition of the triangular pieces of land will allow Council to widen the corners of Henderson Valley and Smythe Roads, thus providing a wider sweep for vehicles to make a left turn. This land will also make provision for a new footpath behind the realigned kerb.

To proceed, the proposed acquisition, being under the Public Works Act 1981 requires the approval of Council. If this approval is obtained then a registered valuer's valuation of the two parcels of land will be obtained. This will enable the negotiation of the compensation figures and eventually the signing of agreements with all parties. After the payment of compensation the land may be taken by Gazette Notice.

The landowners of the two affected properties will be approached regarding the proposed acquisitions and it is considered that the discussions to be held with these parties will be more than adequate to comply with the consultation requirements of the Local Government Act 2002.

RESOURCES

Funds for the purchase of the land and the construction of the intersection works have been provided in the 2004/2005 Annual Plan under Roundabout at Waitakere Central.

CONCLUSION

The purchase of land in Henderson Valley Road, Henderson, is required for the construction of the improvements at the Henderson Valley and Smythe Roads intersection provided for in the 2004/2005 Annual Plan. Accordingly, it is recommended that authority be given for the acquisition of said land.

RECOMMENDATIONS

1. That the Acquisition Of Land For Road In Henderson Valley Road, Henderson, report be received.
2. That those parts of the properties at 19 and 8 to 14 Henderson Valley Road, Henderson shown on the diagram attached at page A3 be acquired by Council for road under the Public Works Act 1981.
3. That the Chief Executive be authorised to sign all documents necessary to complete the acquisition.

Report prepared by: Paul McDaid, Project Engineer.

A3



13 **BYLAW REVIEW UNDER THE LOCAL GOVERNMENT ACT 2002**

PURPOSE OF THE REPORT

The purpose of this report is to inform the Council as to the Bylaw Review Programme which must be completed as required by the Local Government Act 2002 prior to 30 June 2008 and the steps taken to date to design and implement the review programme, and to make recommendations to facilitate conduct of the review programme for consideration by Council.

STATUTORY BACKGROUND

A4-A9

The statutory background to this report is contained in a number of sections in Local Government Act 2002. Copies of the relevant sections are attached at pages A4 to A9.

The starting point is Section 158 Local Government Act 2002 which sets out the need to review bylaws made under the Local Government Act 1974 and which remain in force under Section 293 Local Government Act 2002. The review must be completed by 30 June 2008. If a bylaw made under Local Government Act 1974 is reviewed and confirmed then it does not need to be reviewed again for 10 years. If a bylaw made under Local Government Act 1974 is reviewed and revoked, and a new bylaw is made under Local Government Act 2002 the new bylaw must be reviewed within five (5) years, but following that review will not need to be reviewed for a further 10 years. A bylaw which is not reviewed within the time limits set out in Section 158 will cease to have effect two (2) years after the date on which the review should have occurred (Section 160). The net effect of these provisions is that there needs to be a continuing programme of review once this initial review is completed.

Section 159 Local Government Act 2002 requires that a review of a bylaw must take the form of a reconsideration of matters set out in Section 155, using the special consultative procedure set out in Section 83. Before turning to Section 155, however, it is important to consider the effect of the general bylaw making powers under Section 145 to 148 generally and Section 145 in particular. Previously, Local Government Act 1974 contained a long list of matters in respect of which a bylaw could be made. Under Local Government Act 2002 the result is the much "simpler" provisions of Section 145. The difficulty with the wording of Section 145, however, is the measure of uncertainty which has arisen relating to the scope of those powers. There are some activities which have been traditionally controlled under Local Government Act 1974 which might not so conveniently fall into the matters set out in Section 145 Local Government Act 2002. One example which comes to mind is a bylaw regulating amusement galleries and internet cafés where there is concern that such facilities become a refuge for school truants during the school day. A bylaw which attempts to address that problem does not appear to be addressing a "nuisance" or "offensive behaviour in public places" nor does it seem necessarily to be "protecting, promoting, and maintaining public health and safety". Another area where Section 145 falls short is in relation to soliciting for prostitution. The Prostitution Law Reform Act is silent on this issue. Manukau proposes to address the problems in its district from these activities by a seeking a local Act of Parliament.

In this background, Section 155 Local Government Act 2002 requires that the process of making a bylaw or reviewing a bylaw, must first determine the nature of the perceived problem, then determine whether a bylaw is the most appropriate way to address the perceived problem and then decide what is the most appropriate form of bylaw and whether there are implications under the New Zealand Bill of Rights Act 1990. Matters which have traditionally been dealt with by a bylaw in some districts e.g. public library membership or behaviour in public swimming pools will struggle to meet the threshold requirement of being the most appropriate way to address the problem. The days when a Local Authority could, with a minimum of detailed options analysis and public consultation, adopt a bylaw one (1) month and confirm that adoption by Special Order the following month are gone. The new bylaw-making and review process under Local Government Act 2002 means it is harder to put in place a bylaw which will withstand challenge, and is a process which will consume more resources at both a staff level and at a political level.

Clearly, the legislative intention is to discourage frivolous bylaw-making. That may not be a bad thing. There will, however, be occasions where Council wishes to act quickly to address a problem perceived by the community. There is greater potential under Local Government Act 2002 for there to be a mismatch between community expectations as to what it may do to fix the perceived problem and what Council can lawfully deliver and the speed with which a remedy can be delivered. Equally clearly the review programme is intended to ensure that bylaws on the books remain appropriate in ever changing social and legal environments and are not outdated. Reading the Council's bylaws one quickly gets the impression that they are a bit dated and in need of general review anyway. The review process should be holistic so that it produces a simple format, common drafting style and consistent approach. The review process will inevitably result in a reduction of the number and detail of the bylaws once the rigour of Section 155 Local Government Act 2002 is applied to each bylaw, and then to each clause of the bylaw.

WAITAKERE CITY'S BYLAWS

A10

Attached at page A10 is a list of the current Waitakere City Council Bylaws divided into five classes for convenience of analysis: Protecting the Public from Nuisance, Health & Safety, Maintenance of Public Order, Miscellaneous, and Redundant. The first three classes roughly replicate the requirements of Section 145(a), (b) and (c) Local Government Act 2002. In addition to these existing bylaws, there are currently in the pipeline proposals for an amendment to the Amusement Galleries Bylaw, an amendment to the Hygienic Operation of Massage Facilities Bylaw (addressing consequential matters arising from the Prostitution Law Reform Act), a new Waste Bylaw and a Speed Limits Bylaw required to be implemented as a consequence of the repeal of the Transport Act 1962 with effect from 1 July 2005.

The list of bylaws has four columns:

- The first column deals with enforcement actions taken by the Council. No attempt has been made to audit or update the information, but it is useful to indicate those bylaws which get the most "use".
- Two columns headed "05" and "06" which is the initial assessment made by officers as to the timing of review of the relevant bylaws.
- A final column headed "Repeal" indicating those bylaws which at first blush seem most likely to be repealed and not replaced as a consequence of the review process.

PROPOSED REVIEW PROGRAMME

In 2003 the Chief Executive's Forum established a Regional Bylaw Working Party which meets on average every two (2) months to discuss matters related to bylaws generally, the particular Review Programmes being undertaken by councils in the Auckland region and the opportunities for mutual co-operation and cost sharing. There already have been some regional initiatives, for example in relation to the recent Dog Control policies and bylaws, and there has been close co-operation and discussion of matters such as prostitution and liquor and gambling policies. The Bylaw Working Party, however, has not, to date, been able to identify any other bylaw issue where regional co-operation would be both cost effective but remains a very effective and useful forum for discussion of matters of common interest. One thing that has emerged with clarity from discussions within the working party is that a two (2) year programme for completion of bylaw review is typical of the sort of timeframes being considered by other councils in the Region. This is a longer period of time than that envisaged when Council first considered the issue of bylaw review in 2003.

Officers are mindful that Councillors are heavily involved in the first 6 months of each year in matters related to the Annual Plan and/or the Long Term Council Community Plan. This year Councillors will also be involved with the Speed Limits Bylaw which is unlikely to be contentious, the proposed Waste Bylaw which will be contentious, perhaps a Prostitution Bylaw or something related to the sex industry generally, as well as those other matters requiring attention within that period such as the Metropolitan Urban Limit and Waitakere Ranges Protection. It is likely that Councillors will have a similar heavy work programme in the first six (6) months of 2006, particularly due to the Long Term Council Community Plan.

In that background it is therefore suggested that the Bylaw Review Programme proceed on the basis that the first half of the year be devoted to issues and options analysis, and preparation work in respect of those bylaws on the programme for that year, with the second half of the year being utilised for the Special Consultative procedure, hearings and final decision-making. This recommendation also arises in part out of the timeframes necessary to implement a new bylaw proposal, or bylaw review, using the Special Consultative Procedure which can be demonstrated as follows:

ACTION	TIMEFRAME
Problem and option identification and options analysis is a bylaw the way to deal with the issue?	Preparation time and Council decision
Approve draft Bylaw and Statement of Proposal for Special Consultative Procedure (SCP)	+ 2 months
Hearing of submissions	+4 months
Bylaw adopted (if necessary incorporating submissions from the SCP)	+6 months

Finally it is noted that this work programme is scheduled to be completed by 31 December 2006 which is 18 months before the five (5) year final expiry date (and 3½ years before the final expiry date of bylaws pursuant to Section 160 Local Government Act 2002). There is therefore scope for an extended programme for particular bylaws which may prove contentious or especially difficult.

STAFF RESOURCES AND BUDGET

It is proposed that the major part of staff resources required to implement the review project will be provided from the Legal Services Unit. Specialist assistance will, however, be required from those units of the Council with specific responsibility for the particular bylaws. The Bylaw Review Programme will be driven from Legal Services Unit to ensure rigour and consistency in relation to policy decision-making, record keeping and drafting.

The 2004/2005 budget already includes an allowance of \$50,000 project funding to resource this review work. A staff member has been designated to lead this project and also to provide additional support to claims management workloads arising out of the Weathertight Home issues.

COUNCILLOR RESOURCES

In the same way that a substantial body of work such as this can consume considerable staff time and budget resources, the same is true of Councillor time. As Councillors are aware, under clause 32(1) of Schedule 7, the Council is unable to delegate "the power to make a bylaw". Clause 32(2) then provides that it is in order to delegate "the power to do anything precedent to the exercise" of the power to make a bylaw "(after consultation with the committee ...)". On a liberal view of this clause it would be in order to delegate everything to a committee, except the final decision. The alternative view is that issues, options and bylaw form analysis is such a critical part of any bylaw review or bylaw-making process that there should be full Council oversight at the critical stages of that process : to approve the issue and option analysis; to approve the draft bylaw and statement of proposal; to adopt the bylaw (after receiving details of and recommendations on any submissions received). It is considered that the alternative view is to be preferred, adopting a precautionary approach. It is, however, administratively more efficient for the reports leading to those resolutions to be considered by a Standing Committee, especially where all Councillors are members of that Standing Committee, before recommendation to the full Council for final consideration and decision.

Under the delegations adopted by Council on 28 October 2004 responsibility for bylaws review and a range of other regulatory matters in respect of which bylaws have been made, was delegated to the Planning and Regulatory Committee. Included within this delegation are "liquor", "prostitution" and "gambling". It is noted, however, that the Hearings Committee has delegations for hearing of a range of matters including hearings in respect of gambling venue policies and any bylaw made pursuant to the Prostitution Law Reform Act 2003. This creates a measure of uncertainty as the respective roles of these committees. It is noted that a Subcommittee of the Hearings Committee has responsibility for exemptions under the Fencing of Swimming Pools Act, and given recent activity on that front it is likely that the Councillor members of the Hearings Committee may be kept relatively busy with exemption application hearings over the next 12 months or so. It is therefore, mooted whether the Hearings Committee would have excess capacity to hear submissions arising on bylaw review.

In that background, and given the complex analysis that needs to be undertaken as part of the review process, it is appropriate to recommend that the Planning and Regulatory Committee be given clear responsibility for reviewing the analysis which will underlie the review of each bylaw, for reviewing any draft bylaws, for hearing any submissions on the bylaw under the review process and making recommendations to the Council at each stage. There may even be a case to argue that the Planning and Regulatory Committee should establish a subcommittee, or subcommittees for the purpose of bylaw review and analysis, and the hearing of submissions, but that is a matter which the Planning and Regulatory Committee can decide for itself when it considers the proposed bylaw programme in more detail and establishes the review priority for the 2005 and 2006 years. It is therefore sensible that a power of sub-delegation be expressly conferred to allow the Planning and Regulatory Committee to deal with the review in the most efficient manner possible.

RECOMMENDATIONS

1. That the Bylaw Review Programme report be received.
2. That the draft timeline for the Bylaw Review Programme, to be completed by December 2006, be approved in principle.
3. That the Planning and Regulatory Committee be directed to review and finalise the Bylaw Review Programme and to consider, and to make recommendations upon, all reports in respect of the Review Programme prior to those reports coming to Council for final deliberation and decision.
4. That the Planning and Regulatory Committee be delegated:
 - authority to hear and consider, and make recommendations in respect of submissions received as part of the Bylaw Review Programme;
 - authority to delegate all or any matter under Recommendations 3 and 4(a) above to a subcommittee, or subcommittees, of Councillors appointed by resolution of the Planning and Regulatory Committee, noting that any subcommittee so appointing must be comprised only of Councillors and have a minimum of three (3) members, and that if the Chairperson of the Planning and Regulatory Committee is a member of a subcommittee that person will Chair the subcommittee, but otherwise the Chairperson of the subcommittee will be the person named by the Planning and Regulatory Committee at the time of appointment, or elected by the members of the subcommittee at their first meeting.

Report prepared by: Denis Sheard, Legal Services Manager.



14 **COUNCIL APPOINTMENT TO NORTHERN AND WESTERN SECTORS AGREEMENT WORKING PARTY**

PURPOSE OF THE REPORT

The purpose of this report is to enable Council to consider an appointment to the Northern and Western Sectors Agreement Working Party.

BACKGROUND

The Northern and Western Sectors Agreement Working Party is established as part of processes under the Regional Growth Strategy. The Northern and Western Sectors Agreement is a key part of the Growth Strategy, and Waitakere City Council, North Shore City Council, Rodney District Council and Auckland Regional Council are party to it.

At its meeting held on Wednesday, 24 November 2004, Council considered a number of further appointments to external and ad hoc bodies. The Northern and Western Sector (or North West Sector as formerly known last Council term) Agreement Working Party being under review was not covered in that report.

On Wednesday, 17 November 2004 Council resolved to work with the North Shore City Council, Rodney District Council and the Auckland Regional Council to review the Northern and Western Sectors Agreement on the following basis:

- “a. Council to advocate and seek support for the proposed amendment to the Metropolitan Urban Limit location and associated sequencing of land releases within the northern part of Waitakere City, as outlined within the report and as set out in Appendices 12, 13, 14 and 16 in the “Waitakere’s Growth and Transportation Integration Programme - A Response to the Local Government (Auckland) Amendment Act 2004: Supporting Draft Technical Reports”;*
- b. The review to be completed within twelve months of changes notified through the Local Government (Auckland) Amendment Act 2004.”*

2078/2004

Council is thus now requested to make an appointment on to this Working Party as set out below:

Organisation	Aim/Purpose/Role	Meetings	Appointed by 2001-2004 Council	<u>Proposed nominee for 2004-2007 Council</u>
Northern and Western Sectors Agreement Working Party	To review the Northern and Western Sectors Agreement with the Rodney District Council and the Auckland Regional Council for the next twelve months	Bi-monthly	Cr Nash Cr Russell	Cr Stone Alternate: Cr Hulse

RECOMMENDATIONS

1. That the Council Appointment To Northern and Western Sectors Agreement Working Party report be received.
2. That Councillor Stone be appointed to the Northern and Western Sectors Agreement Working Party, with Councillor Hulse as the alternate representative.

Report prepared by: Audrey Chan, Committee Secretary.

HV O'Rourke
CHIEF EXECUTIVE



PART E - CONFIDENTIAL ITEMS

- 15 **RODNEY DISTRICT COUNCIL RESPONSE TO LOCAL GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004**
- 16 **SHARED SERVICES REFUSE COLLECTION**
- 17 **PROPOSED MEMORANDUM OF UNDERSTANDING WITH AMP CAPITAL INVESTORS (NZ) LIMITED**

These items will be considered in the Confidential Supplement of the agenda, and have been circulated to members separately with this agenda.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of the proceedings of this meeting, namely, Rodney District Council Response to Local Government (Auckland) Amendment Act 2004, Shared Services Refuse Collection and Proposed Memorandum of Understanding with AMP Capital Investors (NZ) Limited.

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

General subject of the matters to be considered.	Reason for passing this resolution in relation to the matters.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"> • Rodney District Council Response to Local Government (Auckland) Amendment Act 2004; • Shared Services Refuse Collection 	<p>The withholding of information is necessary in order to:</p> <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). • enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; 	<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>

<ul style="list-style-type: none">Proposed Memorandum of Understanding with AMP Capital Investors (NZ) Limited;	<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);	
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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 Sections 7(2)(h) and (i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- The reports contain information which if released could affect the Council's negotiations.*



PART F - STANDING COMMITTEE REPORTS

18 CITY DEVELOPMENT COMMITTEE

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 2 DECEMBER 2004

MATTERS CONSIDERED

*1-4
Part F*

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 1 to 4 in the supplement labelled Part F.

Your Committee Recommends:

That the report of the Meeting of the City Development Committee held on Thursday, 2 December 2004 be received.

PA Hulse

CHAIRPERSON



19 FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 6 DECEMBER 2004

1. ROAD STOPPING AND SALE OF LAND AT SCENIC DRIVE NORTH, SWANSON

Your Committee Recommends:

1. That the part of Scenic Drive North, Swanson adjacent to No.1234 as defined in the agenda be stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and that interested parties be informed of the statutory process.
2. That after the land ceases to be road it be sold to the owners of 1234 Scenic Drive North because due to its size, shape and situation it could not be expected to be sold to any person who did not own adjoining land.

2. LEASE OF PATUROA BAY HALL

Your Committee Recommends:

That the Chief Executive be given authority to negotiate and execute a lease with the Paturoa Bay Residents & Ratepayers Association (Titirangi Beach) Incorporated for the footprint of the Paturoa Hall under section 45 of the Public Works Act 1981

3 OTHER MATTERS CONSIDERED

5-14
Part F
Page ___
Part E

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 5 to 14 in the supplement labelled Part F and the public excluded minutes attached at page ___ of the confidential supplement labelled Part E.

Your Committee Recommends:

That the report of the Meeting of the Finance and Operational Performance Committee held on Monday, 6 December 2004 be received.

JM Clews, QSO, JP
CHAIRPERSON



20 PLANNING AND REGULATORY COMMITTEE

YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 7 DECEMBER 2004

1. WASTE BYLAW DETERMINATION REPORT

Your Committee Recommends:

That a Waste Bylaw is the most appropriate mechanism for achieving Council's stated objectives of provision of information, revenue for waste minimisation, and incentives for behavioural change.

2. PROPOSED PLAN CHANGE 2 - RE-IDENTIFICATION OF LAND FROM LIVING ENVIRONMENT AND HARBOURVIEW SOUTH SPECIAL AREA TO OPEN SPACE ENVIRONMENT AND MARAE SPECIAL AREA

Your Committee Recommends:

That a workshop be held early in 2005 to fully debate Council's position on the Harbourview Marae.

3. OTHER MATTERS CONSIDERED

15-20
Part F
Page ___
Part E

Your Committee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages 15 to 20 in the supplement labelled Part F and the public excluded minutes attached at page ___ of the confidential supplement labelled Part E..

Your Committee Recommends:

That the report of the Meeting of the Planning and Regulatory Committee held on Tuesday, 7 December 2004 be received.

VS Neeson, JP
CHAIRPERSON



PART G - PRESENTATION - ROYAL FOREST AND BIRD PROTECTION SOCIETY

This presentation will take place at 7.00 pm.

Ken Catt from the Royal Forest and Bird Protection Society will make a PowerPoint presentation on Biosphere Reserves.



PART H - PROCEDURAL MATTERS

21 QUESTIONS

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



22 NOTICES OF MOTION

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



23 CLOSING PRAYER

