



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, 24 November 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.

19 November 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, 24 NOVEMBER 2004  
COMMENCING AT 5.30 PM**

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**TABLE OF CONTENTS**

<b><u>ITEM</u></b>	<b><u>PAGE NO.</u></b>
<b>PART A - OPENING OF MEETING</b>	<b>1</b>
<b>1 OPENING PRAYER</b>	<b>1</b>
<b>2 APOLOGIES</b>	<b>1</b>
<b>3 CONFIRMATION OF MINUTES</b>	<b>1</b>
<b>4 URGENT BUSINESS</b>	<b>1</b>
<b>PART B - REPORT OF THE MAYOR</b>	<b>2</b>
<b>PART C - COMMUNITY BOARDS</b>	<b>2</b>
<b>5 NEW LYNN COMMUNITY BOARD</b>	<b>2</b>
<b>6 WAITAKERE COMMUNITY BOARD</b>	<b>2</b>
<b>7 MASSEY COMMUNITY BOARD</b>	<b>3</b>
<b>1. COMMUNITY BOARD APPOINTMENTS TO HEARINGS COMMITTEE</b>	<b>3</b>
<b>2. OTHER MATTERS CONSIDERED</b>	<b>3</b>
<b>8 HENDERSON COMMUNITY BOARD</b>	<b>3</b>
<b>PART D - REPORT OF THE CHIEF EXECUTIVE</b>	<b>4</b>
<b>9 NAMING OF UPPER HARBOUR CORRIDOR</b>	<b>4</b>
<b>10 FENCING OF SWIMMING POOLS ACT 1987</b>	<b>5</b>
<b>11 RESOURCE MANAGEMENT ACT "MAKING GOOD DECISIONS"</b>	<b>10</b>
<b>12 WAITAKERE ETHNIC BOARD</b>	<b>13</b>
<b>13 COMMUNITY WELLBEING FUND CHANGES TO ALLOCATION</b>	<b>15</b>
<b>14 FURTHER COUNCIL APPOINTMENTS</b>	<b>17</b>
<b>15 TE TAUMATA RUNANGA REPRESENTATION 2004-2007 TRI-ANNUAL TERM</b>	<b>24</b>
<b>16 WESTPARK MARINA - LOT 2 DP 195238 - 1576M<sup>2</sup></b>	<b>25</b>

<b>PART E - CONFIDENTIAL ITEM</b>	<b>29</b>
<b>PART F - STANDING COMMITTEE REPORTS</b>	<b>29</b>
<b>17 CITY DEVELOPMENT COMMITTEE</b>	<b>29</b>
<b>18 FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE</b>	<b>29</b>
<b>19 PLANNING AND REGULATORY COMMITTEE</b>	<b>30</b>
<b>PART G - PRESENTATION</b>	<b>30</b>
<b>There will be no presentations.</b>	<b>30</b>
<b>PART H - PROCEDURAL MATTERS</b>	<b>30</b>
<b>20 QUESTIONS</b>	<b>30</b>
<b>21 NOTICES OF MOTION</b>	<b>30</b>
<b>22 CLOSING PRAYER</b>	<b>31</b>

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE CIVIC CENTRE,  
6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,  
ON WEDNESDAY, 24 NOVEMBER 2004  
COMMENCING AT 5.30 PM**

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**PART A - OPENING OF MEETING**

**1 OPENING PRAYER**

Reverend Vavao Fetui from the Samoan Brethren Christian Assembly, Henderson, will say the Opening Prayer.



**2 APOLOGIES**



**3 CONFIRMATION OF MINUTES**

First Meeting of the 2004-2007 - Thursday, 28 October 2004

**RECOMMENDATION**

That the minutes of the First Meeting of the 2004-2007 of the Council held on Thursday, 28 October 2004, as circulated, be taken as read and now be confirmed.



**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 - COMMUNITY BOARDS**

### **5 NEW LYNN COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 8 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 First Meeting of the 2004-2007 New Lynn Community Board held on Monday, 8 November 2004 be received.

P van der Voort, JP  
**CHAIRPERSON**



### **6 WAITAKERE COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 9 NOVEMBER 2004**

#### **MATTERS CONSIDERED**

*12-20  
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 20 in the supplement labelled Part C.

#### **The Board Recommends:**

That the report of the First Meeting of the 2004-2007 Waitakere Community Board held on Tuesday, 9 November 2004 be received.

CA Shepherd, JP  
**CHAIRPERSON**



7 **MASSEY COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON WEDNESDAY, 10 NOVEMBER 2004**

1. **COMMUNITY BOARD APPOINTMENTS TO HEARINGS COMMITTEE**

**The Board Recommends:**

That each Community Board has two representatives participating on the Hearings Committee when issues pertaining to their Wards are to be considered, as the Board respectfully believes that two Members should be the minimum representation from each Community.

2. **OTHER MATTERS CONSIDERED**

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 21 to 30 in the supplement labelled Part C.

**The Board Recommends:**

That the report of the First Meeting of the 2004-2007 Massey Community Board held on Wednesday, 10 November 2004 be received.

JA Good

**CHAIRPERSON**



8 **HENDERSON COMMUNITY BOARD**

**THE BOARD SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 11 NOVEMBER 2004**

**MATTERS CONSIDERED**

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 21 to 42 in the supplement labelled Part C.

**The Board Recommends:**

That the report of the First Meeting of the 2004-2007 Henderson Community Board held on Thursday, 11 November 2004 be received.

EAG Grimmer, MNZM

**CHAIRPERSON**



21-30  
Part C

31-42  
Part C

## **PART D - REPORT OF THE CHIEF EXECUTIVE**

### **9 NAMING OF UPPER HARBOUR CORRIDOR**

#### **PURPOSE OF THE REPORT**

This report advises the Council and seeks feedback on Transit New Zealand's proposal to name the Upper Harbour Corridor *Ara Ngariki Motorway*.

#### **BACKGROUND**

Transit New Zealand sought suggestions from the Council for the naming of the Upper Harbour Corridor in late 2003 and early 2004.

#### **ISSUES**

On 31 March 2004 the Council resolved to recommend naming the corridor "Chris Timms Memorial Drive". This suggestion along with feedback provided by others including the Massey Community Board and the North Shore City Council was considered by the Transit Board at its meeting on 4 August 2004.

The Board has resolved to undertake consultation on the name *Ara Ngariki Motorway*. *Ara* translates to "path" and *Ngariki* was an ancient tribe located in this area.

The Board of Transit New Zealand has requested that this proposal be put before the Council and the views of the Council be reported back to the Board. The Board is consulting with this Council, North Shore City Council and relevant iwi groups for their views on the proposed name.

#### **RESOURCES**

There are no resources associated with considering this name proposal.

#### **CONCLUSION**

That Council advised the Board of Transit New Zealand of its views on the proposed name *Ara Ngariki Motorway* for the Upper Harbour Corridor.

#### **RECOMMENDATIONS**

1. That the Naming of Upper Harbour Corridor report be received.
2. That Council advise the Board of Transit New Zealand of its views on the proposed name *Ara Ngariki Motorway* for the Upper Harbour Corridor.

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



10 **FENCING OF SWIMMING POOLS ACT 1987**

**PURPOSE OF THE REPORT**

The purpose of this report is to brief Councillors in relation to the recent decision of Justice Randerson on the Fencing of Swimming Pools Act 1987 (FOSPA), the actions being taken as a consequence of the decision and to propose changes to the way in which the Council deals with applications for exemption under Section 6 Fencing Of Swimming Pools Act 1987.

**BACKGROUND**

This Council has been proactive in recent years in the inspection of swimming pools within the City and the enforcement of Fencing of Swimming Pools Act 1987 in a manner which has been seen in some quarters as conservative. The interpretations applied, however, have always had some basis in the language of Fencing of Swimming Pools Act 1987, guidelines published by the Department of Internal Affairs, determinations of the Building Industry Authority and the recommendations of the Water Safety Council.

At the commencement of the current programme in 2001 Council believed that there were approximately 1,500 swimming pools in the City. It was soon apparent that this number was inaccurate: there are approximately 4,200 pools in the City and the substantial majority of those pools did not have fences which complied with Fencing of Swimming Pools Act 1987 to one degree or another. By June 2003, very substantial progress had been made in locating and inspecting all pools within the City and encouraging compliance with the requirements of Fencing of Swimming Pools Act 1987. Not all attempts at persuasion were successful and there were around 200 prosecutions with the District Court in Henderson awaiting a hearing date.

Councillors will be aware of the publicity that then flowed from the activities of a group (which became known as the Pool Owners Action Group) which formed about this time around a nucleus of pool owners who were facing prosecution. Following a discussion of the issues raised by some of the defendants to these proceedings the decision was made to endeavour to clarify the law by use of declaratory judgment proceedings. The benefits of this approach were that the issues could be debated in a civil environment (so that the owner or owners who might have been "selected" for a test case argument would not have to defend their position at the risk of a conviction), the process would enable participation by other local authorities and Government agencies, and (since the language of Fencing of Swimming Pools Act 1987 was not easy and there was genuine scope for disagreement) the declaratory judgement proceedings provided a better forum in which the Council might ultimately be able to contribute to the costs of the parties who argued in favour of a more liberal approach. Finally, with declaration proceedings pending, Council could then reasonably justify postponing action on the outstanding prosecutions until a decision was available.

The application for declaratory judgment was heard on 2 August 2004. In addition to appearances for the notional defendants (Mr & Mrs Hickman and Mr & Mrs Spargo) appearances were made on behalf of Auckland City Council and Rodney District Council. Although served, the Department of Internal Affairs, the Government department with a responsibility for Fencing of Swimming Pools Act 1987, chose not to appear.

## THE DECISION

A1-A21

A copy of the decision of Randerson J delivered on 1 October 2004 is attached at pages A1 to A21. The overall assessment of the decision is that it is helpful. It clarifies some areas of difficulty and provides some useful guidance in other areas of difficulty which cannot be resolved short of legislative change. However, some issues remain unresolved.

The Judge refused to make the declarations which the Council had sought in the proceedings but reserved leave to the Council to apply for any formal declarations that it may require within 4 weeks of the decision. An application was filed with the Court seeking further time until 31 January 2005 to clarify what declarations, if any, might be required. At the date of preparation of this report no advice has been received as to the outcome of that application.

The key points which arise from the judgement are:

- (a) The immediate pool area which is to be enclosed by the fence 'will extend only so far as the surrounding area is used for activities or purposes carried on in conjunction with the use of the pool'; (paragraph 29(b) of the decision). There is nothing new in this.
- (b) The activities carried on in conjunction with the use of the pool are 'those activities or purposes which are closely connected, associated or combined with the use of the pool. There must be a sufficiently close nexus between the activity or purpose under use of the pool' (para. 29(e)). The activities do not have to be carried on exclusively with use of the pool. It does not matter that the particular activity can be carried on independently of the use of the pool (paragraph 30-32). The finding that exclusivity is not necessary requires a change in approach by the Council in relation to barbeque areas and pool furniture.
- (c) 'Examples of activities which are not usually to be regarded as being carried on in conjunction with the use of the pool include clotheslines, vegetable gardens, vehicle or pedestrian accessways, and planting for landscape purposes'. There is some difficulty with the phrase 'pedestrian accessways' where areas surrounding a pool may be used for activities in conjunction with the pool but also provide for access from one part of a house to another or from a house to a garage. In addition, the words 'planting for landscape purposes' are not particularly precise. The initial thinking, however, is that it refers to all other garden areas, other than vegetable gardens, but with a de minimus exception for minor areas of landscaped planting contained entirely within an immediate pool area (para 29(f)).
- (d) The fence must enclose the 'immediate pool area'. However, this area is not capable of precise definition in width and will vary depending 'on the circumstances of each case. The further away one moves from the edge of the pool, the less likely it will be that an associated activity or purpose can properly be said to be carried on "in conjunction with" the use of the pool and the less likely it is that the activity will be in sufficient proximity to the pool to be properly regarded as within the "immediate" pool area' (para 34). This passage demonstrates the inherent difficulties with the language of the statute. There will continue to be difficult cases where precise application of the statutory requirements may lead to differences of opinion between the Council on the one hand and the pool owner on the other. The most common area of conflict relates to the need or otherwise for a fence between the pool and doors in a house which open on to the pool area.

- (e) There is an unsatisfactory and inconsistent relationship between the requirements of the Building Code and the Schedule to Fencing of Swimming Pools Act 1987 which are unhelpful and legislative action is required to resolve those difficulties (para 50). It does, however, appear that where a building comprises the effective swimming pool fence and that building has sliding or bi-fold doors, the building owner can rely upon the Building Code to obviate the need for devices which automatically close and lock those doors if they are 'fitted with a locking device that, when properly operated, prevents the door from being readily opened by children under the age of six (6) years'.
- (f) 'The existence of the exemption power in Section 6 also indicates a Parliamentary intention to limit the scope of the 'immediate pool area' (para 29(a)). The exemption power in Section 6 also extends to decisions under clause 11 of the Schedule as to whether it is 'impossible, unreasonable, or in breach of any other Act, Regulation or Bylaw' for any gate or door where a building forms a part of a fence to comply with clauses 8 to 10 of the Schedule. The indication from this is that a conservative approach to these issues is also appropriate, but the exemptions regime in Fencing of Swimming Pools Act 1987 is the mechanism to resolve difficult cases.

### **CURRENT PROSECUTIONS**

In that background, Council staff are in the process of reviewing existing notices of prosecution to determine which of those notices:

- (a) are unlikely to succeed in the light of the decision. In those cases the notice of prosecution will be withdrawn and the owner notified.
- (b) are likely to result in conviction, i.e., the decision does not in any way affect the Council's original decision that the existing circumstances are not in compliance with the Act. These pool owners will be advised of the Council's decision and of their entitlement to seek an exemption should they so elect. A number of the notice of prosecutions currently before the Court do not involve issues directly related to the matters which are the subject of the decision.
- (c) where further consideration and discussion with the pool owner is necessary. Broadly speaking, these will be cases where the fence or building is some distance from the pool edge, there are number of doors opening on to the pool area or there are areas of landscaping or pedestrian accessways within the fenced area. It is possible that as a consequence of the decision, Council and pool owners will be able to reach agreement as to the appropriate work required to establish compliance with the Act. If there is disagreement, and there is still room for differences of opinion, the solution for an owner who disputes the Council's view of what is required will be to seek an exemption under Section 6 of the Act. An exemption can be granted if the matter of non-compliance will 'not significantly increase danger to young people'. There is no right of appeal from a decision on an exemption application.

## EXEMPTIONS

As previously noted Section 6 permits the Council to grant exemptions. Under Section 12 Fencing of Swimming Pools Act 1987 the Council may delegate the powers and functions under Section 6 and under clause 11 of the Schedule to a committee of the Council but may 'not delegate those powers and functions to any committee that has any members who are not members of the territorial authority or to any officer of the Authority'. Currently, exemptions under Fencing of Swimming Pools Act 1987 are delegated to the Hearings Committee. The Hearings Committee is constituted as 6 Councillors plus one Community Board Member from the relative Ward when issues pertaining to that Ward are being considered "except when the Committee is exercising powers under" Fencing of Swimming Pools Act 1987. A quorum for this Committee is four. Because this panel is a Committee of Council, it has been past practice to require notices of meetings, agenda reports, and formal resolutions are required to give effect to the requirements of both the Local Government Official Information & Meetings Act 1987 and Fencing of Swimming Pools Act 1987. Pool owners seeking an exemption have been required to pay an initial fee of \$300 plus the costs of the hearing. In those circumstances, it is not hard to imagine why there have been very few applications for exemption from Fencing of Swimming Pools Act 1987 in Waitakere City. It is therefore desirable that Council should reconsider its current arrangements for swimming pool exemptions with a view to adopting an alternative regime which offers a quicker cheaper and more certain way to dispose of applications for exemption. There may well be a measure of rough justice in the exemption process, since there is no right of appeal, but that was the mechanism inserted by Parliament into Fencing of Swimming Pools Act 1987 to assist with the mediation of outcomes which might be seen as illogical or unfair on a strict application of the requirements of Fencing Of Swimming Pools Act 1987.

A22 Under the Local Government Act 2002 'Committee' is defined to include a standing committee or any subcommittee of a standing committee. It is therefore suggested that the delegations to the Hearings Committee be amended to delete all references to the Fencing of Swimming Pools Act 1987 and that a Swimming Pool Exemption Committee be established, as a subcommittee of the Hearings Committee in accordance with the delegation attached at page A22. A subcommittee with a reduced size will find it easier to meet and to deal with pool exemptions on a relatively informal basis, quickly and efficiently. It is proposed that the Committee be Chaired by the Chairperson of the Hearings Committee with two Members of the Hearing Committee as the predominant members, all other members as alternates. It is anticipated that in the majority of cases, no formal hearing would be required. The Committee would receive a pro forma application from the pool owner, an officer's report with photographs of the relevant part of the pool fence and perhaps a recommended course of action. The Committee would then make a site inspection, discuss the matter with the pool owner and wherever possible make a decision on-site. Decisions would be recorded in minutes, as a formal resolution of the committee under delegated authority, and reported to the Hearings Committee on a monthly basis.

It is proposed that the charges for exemption applications under Fencing of Swimming Pools Act 1987 be amended to a fixed sum of \$250 GST inclusive. The proposed fee is set at a level which will not discourage applications, but will make frivolous applications uneconomic. There may be a flush of exemption applications in the early days of the new regime particularly as a consequence of resolutions to the current prosecutions, but it is anticipated that applications would diminish over time once the Committee's approach to applications became known.

Finally, there will be a need for a workshop of Councillors appointed to the Committee, and other interested Councillors, so that they are conversant with the issues that are likely to be confronted. This is not, however, an area where there can be a comprehensive predetermined policy approach. The decision makes clear that where the exemption application relates to the location of the pool fence and the boundaries of the immediate pool area, each application must be determined on a case by case basis.

## REGIONAL INITIATIVES

At their meeting on 5 November 2004, the Chief Executives' Forum resolved to establish a working party of all Councils in the Auckland Region to see whether or not there is a measure of uniformity of view as to the effects of the judgment and to attempt to develop a consistent regional approach to the enforcement of Fencing of Swimming Pools Act 1987 as a consequence of Justice Randerson's decision. This working party will also look at those parts of Fencing of Swimming Pools Act 1987 which are in need of amendment and make recommendation for change. The sponsor for this initiative is Harry O'Rourke. The first meeting of the Regional Working Party is scheduled to occur on 18 November 2004 and a verbal report of any progress made at that meeting can be made at the Council meeting.

## RECOMMENDATIONS

1. That the Fencing of the Swimming Pools Act 1987 report be received.
2. That the initiative of the Chief Executives' Forum to establish a Regional Working Party to seek to find a basis for a consistent regional approach to the application of the Fencing of Swimming Pools Act 1987 be supported.
3. That the Chief Executive be authorised, if appropriate in conjunction with the Chief Executives of other councils in the Auckland Region, to lobby the Government either directly or through Local Government New Zealand for a review of the law relating to the fencing of swimming pools and amendment of the Fencing of Swimming Pools Act 1987.
4. That the delegations to the Hearings Committee as approved by the Council on 28 October 2004 (Minute No.1889/2004) be amended by deletion of all references to the Fencing of Swimming Pools Act 1987.
- A22 5. That the Swimming Pool Exemption Committee be established and the powers, functions and authorities set out in the delegation attached at page A19 be delegated to that Committee.
6. That the Chairperson of the Hearings Committee, Chair the Swimming Pool Exemption Committee.
7. That two Councillor Members (to be named at the meeting) of the Hearings Committee, be Members of the Swimming Pool Exemption Committee.
8. That the other three Councillor Members of the Hearings Committee be the alternate Members of the Swimming Pool Exemption Committee.
9. That the fee for an application for exemption under Section 6 and clause 11 of the Schedule to the Fencing of Swimming Pools Act 1987 be set at \$250 GST inclusive.

Report prepared by: Denis Sheard, Legal Services Manager.



## 11 **RESOURCE MANAGEMENT ACT “MAKING GOOD DECISIONS”**

### **PURPOSE OF THE REPORT**

This report seeks Council support for the attendance of Elected Members at the “Making Good Decisions” training, assessment and certification programme for Resource Management Act Decision-Makers to be held in Auckland on 9 and 10 February 2005.

### **BACKGROUND**

The Ministry for the Environment, Local Government New Zealand and The University of Auckland have combined to develop and deliver a new programme to help Elected Members and independent commissioners make better decisions under the Resource Management Act (RMA).

The Making Good Decisions programme will provide RMA decision makers with the skills they need to run fair and effective resource consent, plan change and designation hearings, and to make informed decisions.

Registrations opened on 18 October and will close on 15 December this year. The first two-day workshops will be held in February and March 2005.

### **STRATEGIC CONTEXT**

Ensuring Elected Members know and understand their role and the parameters in which they can most effectively govern the City, will contribute to all five priorities and the nine platforms that make up the Community Outcomes that contain all the services and activities identified by the Council in its Long Term Council Community Plan.

### **ISSUES**

The programme was developed by the Ministry for the Environment and Local Government New Zealand, in consultation with stakeholders and professional bodies, including the New Zealand Planning Institute.

The programme will be delivered by the University of Auckland’s Centre for Continuing Education, which has assembled an experienced team of presenters, facilitators and tutors.

The Making Good Decisions programme will provide participants with the skills and knowledge to help them perform this critical decision-making role. Learning objectives range from the theoretical to the very practical. Among other things, the objectives include understanding:

- the various statutory tests;
- tangata whenua matters raised during a hearing;
- how the role of decision-maker differs from that of advisers (council staff and consultants);
- what is meant by a “fair process”;
- how to recognise bias and determine what to do;
- how chairpersons and committee members can best prepare for a hearing;
- how expert witnesses differ from advocates;
- techniques to frame open questions and to listen to responses;
- how ethical values and behaviour influence perceptions of a fair hearing;
- what to include in the reasons for decisions;
- how to draft enforceable decisions.

The decisions that Hearing Committee Members make on resource consent applications under the Resource Management Act 1991 (RMA) are very important. Lives, livelihoods and the environment are affected by these decisions.

The job demands legal, technical and interpersonal skills. This programme is focused on equipping people with the skills they need to run fair and effective hearings, and to make informed decisions.

### **WHAT IS IT ABOUT?**

The programme requires participants to attend a two-day workshop in February or March 2005 and to be assessed on their understanding of the material presented at those workshops. The workshops will provide for debate and the sharing of experience. They will involve a mix of presented material, open discussions, and mock-hearings.

Participants will be issued with a workbook that contains all the assessments and details the competencies that need to be achieved. The workbook also forms a valuable, permanent reference for decision-makers.

Successful graduates will be issued with a certificate, recognising their achievement of the competencies required to make good decisions. The certificate will remain valid for a period of three years, subject to attending an update seminar covering practice issues that arise over the intervening period.

Certificates will be reissued after the three year period, subject to attending a workshop and a reassessment of the Member's understanding of the key messages of the certification programme.

### **WHAT DOES IT COVER?**

The programme focuses on the legal, technical and practical skills that effective hearing committee members need. The programme covers the statutory framework within which decision-makers operate and presents solutions for dealing with practical issues such as distinguishing the role of decision-makers from those of their officers/managers, testing evidence, understanding the difference between professional evidence and advocacy and drafting clear, robust decisions.

### **WHO SHOULD ATTEND?**

The Ministry for the Environment advises that proposed amendments to the RMA will make certification under this programme mandatory for the Chairs of Hearings Committees within one year of enactment (at this stage expected to be June 2006) and within two years of enactment for the majority of hearings committees (by June 2007).

The Ministry also advises that there is broad support from all groups for this programme and making it a mandatory programme.

The 'Making Good Decisions' programme is the only 'certified' course. Other training sessions/programmes will not be able to be used as a basis for qualification under the proposed changes to the Resource Management Act 1991.

If no Councillors receive certification under this programme, and the changes to the Resource Management Act 1991 do go through, then they will not be able to sit on hearing panels unless it is with other 'certified' people (independent commissioners).

It is very important therefore that Councillors are enrolled on this course now if possible. Being at a workshop with other councillors and independent commissioners is also a good chance to share ideas and practices from other local authorities. The Ministry cannot guarantee when a new round of workshops etc will be run, as this will depend on numbers etc. Delay on this basis would be unwise.

A letter is currently being prepared for Minister Hobbs and Basil Morrison (Chairman of LGNZ) and will be forwarded to all local authorities in the next few days.

## **PRESENTERS AND FACILITATORS**

A team of experienced workshop presenters, facilitators and tutors have been appointed to run the programme. The team includes leading lawyers, planners, consultants, commissioners and other practitioners who are likely to be familiar to most.

The presenting team includes Alan Dormer, Simon Berry, Paula Hunter, Stephen Christensen, Ken Gimblett, John Maassen and Alistair Aburn, with Janet Crawford, Gay Pavelka and Karen Bell acting as facilitators, tutors and assessors.

## **RESOURCES**

The resources required (\$1406.25 inclusive of GST for full registration) are provided for in the budget. All Councillors appointed to the Hearing Committee and the Community Board Members appointed to participate in Hearings within their Ward should be offered the first opportunity. Those who cannot attend and Community Board alternates should be offered the opportunity to attend the next course proposed for Auckland.

## **CONCLUSION**

The attendance of all Council Hearing Committee representatives and Community Board appointees to the Hearings Committee on this programme will benefit them individually and the Council and Community Boards collectively as teams, as they deal with Hearings under the Resource Management Act.

## **RECOMMENDATIONS**

1. That the Resource Management Act "Making Good Decisions" report be received.
2. That Council approve the attendance of all Council Hearing Committee representatives and Community Board appointees to the Hearing Committee at the "Making Good Decisions" training, assessment and certification programme for Resource Management Act Decision-Makers to be held in Auckland on 9 and 10 February 2005.
3. That Council Hearing Committee Members who cannot attend this programme, and Community Board alternate appointees, be approved to attend the next programme scheduled for Auckland.

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



## 12 WAITAKERE ETHNIC BOARD

### PURPOSE OF THE REPORT

The purpose of this report is to table the final draft Community Partnership Agreement between Council and the Waitakere Ethnic Board for consideration and adoption.

### BACKGROUND

The Waitakere Ethnic Board emerged from the New Out West collaborative process in response to calls from ethnic communities for the establishment of a mandated ethnic advisory body for Waitakere City. The Waitakere Ethnic Board has sought to formalise its relationship with Waitakere City Council.

At its 8 July 2004 meeting, Council's City Development Committee resolved:

*"That a draft Memorandum of Understanding between Council and the Waitakere Ethnic Board be developed".*

1192/2004

At its 2 September 2004 meeting, Council's City Development Committee resolved:

*"That the draft Memorandum of Understanding between Council and the Waitakere Ethnic Board be approved as a draft for consultation with ethnic communities through the Waitakere Ethnic Board".*

*"That the Chief Executive be delegated the authority for signing off the final draft for consideration at a full Council meeting following the 2004 Local Body Election".*

1671/2004

### STRATEGIC CONTEXT

Waitakere City Council's vision as expressed in its Long Term Council Community Plan 2003 - 2013 is for a city that:

- celebrates and sustains its people;
- has a strong sustainable economic base;
- honours its environment; and
- builds on its cultures and heritage.

The new Local Government Act 2002 requires councils to engage with their communities and Waitakere City Council has made an early commitment to this in its Long Term Council Community Plan, aiming for a process of engagement with Waitakere's ethnic communities to be in place by 2004/2005.

### ISSUES

#### **Formalising the Relationship between Council and the Waitakere Ethnic Board**

As the consultation timeframe on the draft coincided with the 2004 Local Body election period, authority for signing off the final draft of the Community Partnership Agreement was delegated by the City Development Committee to the Chief Executive, Harry O'Rourke.

A23-A26

Following consultation with ethnic communities through the Ethnic Board, the final draft Community Partnership Agreement has been formally signed off by the Chief Executive for consideration of the full Council (copy attached at pages A23 to A26). The final draft remains essentially unchanged from the pre-consultation draft document.

It is anticipated that a formal signing ceremony will enable Council to include guests such as members of the Ethnic Board, Ministers, local members of Parliament and dignitaries from local embassies.

### **RESOURCES**

Budget is available to support ethnic liaison activities in the 2004/2005 Annual Plan and the Strategic Partnerships team has a dedicated staff resource to work on migrant and refugee issues.

It is expected that the process of developing a shared work programme will identify additional resource needs for consideration during the 2005/2006 Annual Plan process.

### **CONCLUSION**

A formal relationship with the Waitakere Ethnic Board will support Council's commitment in the Long Term Council Community Plan to having a process for engaging with ethnic communities in place and symbolise Council's commitment to working with the city's migrant and refugee communities in a meaningful way.

### **RECOMMENDATIONS**

1. That the Waitakere Ethnic Board report be received.
2. That the attached draft Community Partnership Agreement between Council and the Waitakere Ethnic Board be adopted.
3. That the Community Partnership Agreement be formally signed at a celebration to mark the event.
4. That a shared work programme be developed with the Waitakere Ethnic Board following the signing of the Community Partnership Agreement.

Report prepared by: Monica Sharma, Partnerships & Advocacy Leader: New Migrants.



## 13 COMMUNITY WELLBEING FUND CHANGES TO ALLOCATION

### PURPOSE OF THE REPORT

The purpose of the report is to increase the maximum amount that can be allocated for each application to the Community Wellbeing Fund Community Board allocation.

### BACKGROUND

In 1998 the Community Wellbeing Fund was set up; this replaced the previous Council's Social Programme Fund. An amount of around 50 cents per person (this equated to \$80,000) was set aside in the form of a grants fund to be distributed to groups engaged in a wide range of social service and community activities. This was split \$40,000 for groups that provided services citywide and \$40,000 to be allocated on a pro rata basis across each of the Wards for the Community Boards to distribute to groups that provided services mainly in one Community Board area.

At this time the size of grants ranged from a few hundred dollars to a maximum of \$5,000. Each year since 1998 the amount of applications have increased and the fund became unable to support grants up to the amount of \$5,000. In the 2003/2004 Annual Plan, the fund was increased to \$82,000 per annum and in May 2003 changes were made to reflect a more realistic figure that groups could expect to receive. These were:

- Applicants to the Citywide Fund up to \$3,000;
- Applicants to the Community Board Fund to an approximate amount of \$1,000.

In both the 2003 and 2004 funding round several of the Community Board allocations were undersubscribed. As a result, in the 2004 allocation process the following resolution was passed by the Massey Community Board.

*“That Massey Community Board recommends to the Council, that the Community Boards maximum allocation per application from the Community Wellbeing Fund, Community Board allocations be increased from \$1,000.00 to \$1,500.00”.*

1628/2004

This report is in response to the above resolution.

### STRATEGIC CONTEXT

The Community Wellbeing Fund aligns with Council's Community Assistance Policy with the goal of the Policy being to help strengthen the ability of local community groups to create a strong social base for Waitakere City and to meet local needs. In the Community Wellbeing Fund an applicant must meet one or more of the objectives from the Community Assistance Policy, which helps achieve this strategic goal.

### ISSUES

Although the citywide allocation of Community Wellbeing funding continues to be substantially oversubscribed, in both 2003 and 2004 three out of the four Community Board funding rounds were undersubscribed and the balance reallocated to the citywide allocation.

Prior to the 2003 funding round applicants could apply for up to \$5,000. A decision was made in May 2003 to amend the amounts that each applicant is eligible to apply for. This came about as a result of a workshop of Councillors and Community Board Members who met to look at the oversubscription of the fund. At this workshop a recommendation was made to amend the maximum amount that can be granted for the citywide fund from \$5,000 to \$3,000 and the maximum amount that can be granted from the Community Board allocation from \$5,000 to in general \$1,000.

In light of the under subscription of this fund since the change to \$1,000 occurred, it is now recommended that the maximum amount that an applicant can apply to the Community Wellbeing Fund Community Board allocation be set at \$1,500.

It is expected that this will resolve the problem of Community Board under subscription.

## **RESOURCES**

There are no additional financial or staffing resources required for officers to allocate this fund. The Community Assistance Administrator administers the process.

## **CONCLUSION**

From 1998 until 2002 there has been an annual amount of \$80,000 available to be distributed to community groups engaged in a wide range of social service and community activities. This was split \$40,000 for groups that provided services citywide and \$40,000 to be allocated on a pro rata basis across each of the Wards for the Community Boards to distribute to groups that provided services mainly in one Community Board area.

At this time the size of grants ranged from a few hundred dollars to a maximum of \$5,000. Each year since 1998 the amount of applications have increased and the fund became unable to support grants up to the amount of \$5,000. In May 2003 changes were made to reflect a more realistic figure that groups could expect to receive. These were:

- Applicants to the Citywide Fund up to \$3,000;
- Applicants to the Community Board Fund to an approximate amount of \$1,000.

In 2003 and 2004 three out of the four Community Wellbeing Community Board funding rounds were undersubscribed and the balance not allocated was transferred to the citywide allocation.

In light of the under subscription of this fund since the change to \$1,000 occurred it is now recommended that the maximum amount that an applicant can apply to the Community Wellbeing Fund Community Board allocation be \$1,500.

It is expected that this will resolve the problem of Community Board under subscription.

## **RECOMMENDATIONS**

1. That the Community Wellbeing Fund Changes to Allocation report be received.
2. That the Community Board's maximum allocation per application from the Community Wellbeing Fund be increased from \$1,000 to \$1,500 for Massey Community Board, and for, subject to their approval of Waitakere, Henderson and New Lynn Community Boards.

Report prepared by: Jan Brown, Community Assistance Administrator.



## 14 FURTHER COUNCIL APPOINTMENTS

### PURPOSE

The purpose of this report is to enable Council to consider a number of further appointments to external and other organisations.

### BACKGROUND

At its first meeting on 28 October 2004 after the election, Council determined a number of appointments.

#### Hauraki Gulf Forum

Councillor Peter Chan was appointed as the Council representative to the Hauraki Gulf Forum. Subsequently Council has received notification that the Auckland Regional Council also seeks appointment of an alternate to the Hauraki Gulf Forum. It is recommended that this be dealt with at this meeting.

#### Other Appointments

Further Council appointments to be made to external and other organisations have been discussed at a Councillors workshop and the nominees are set out as follows:

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	<u>Proposed for 2004-2007 Council</u>
Auckland Regional Sport and Recreation Strategy Group	To develop a regional strategy which all Territorial Local Authority's and sports trusts in the Auckland region support.	Monthly	1 (and one alternate)	Cr. Dallow  (Cr Russell alternate)	<b>Cr Dallow</b>  <b>(alternate: Cr Gilmour)</b>
Community Action on Youth and Drugs Steering Group	To provide support, advice and partnership to the staff and the projects undertaken.	Bi-monthly	1 (and one alternate)	Cr Presland	<b>Cr Gilmour</b>

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	Proposed for 2004-2007 Council
Crime Prevention Reference Group	<p>To assist Council to set the Strategic Direction: Determine the strategic direction, priorities and projects/activities; Oversee the planning and implementation processes for the programme; Monitor the achievements of projects/activities against performance indicators; Report to Ministry Of Health (through Council) on the performance of the contract, negotiate any variations.</p> <p>2. Advice – provision of: Professional and operational expertise; Data, analysis of information/data; Guidance on methods and processes; Problem-solving.</p> <p>3. Partnership: Facilitate the development of partnerships with statutory and community agencies and groups Explore and enable access to additional funding and resources</p>	Once every 2-3 months	2	Cr Hulse	<b>Cr Hulse Cr Chan</b>
EcoMatters Environmental Trust Board	To promote, develop, co-ordinate and facilitate environmental enhancement activities and opportunities.	Monthly	1	Cr Yates	<b>Cr Booth</b>
Friends of Waikumete Incorporated	Enhance image of Cemetery as more than a Cemetery but as a park for all; Encourage use by all; Encourage support for policies and plans for Cemetery; Enhance preservation & appreciation of historical, botanical, oral & pictorial aspects of Waikumete.	Monthly	1	Cr Presland	<b>Cr Cooper</b>
Glen Eden Community Centre Management	Management of the Glen Eden Community Centre.	Bi-monthly	1	Cr Clews	<b>Cr Clews</b>

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	<u>Proposed for 2004-2007 Council</u>
Glen Eden Railway Station Restoration Trust	To restore and provide for ongoing management of the Glen Eden Railway Station.	Monthly	1	Cr Stone	<b>Cr Stone</b>
Huia/Cornwallis Local Water Agenda Steering Group	To provide an overview and ensure effected community input to the assessment of Water Services for Huia and Cornwallis.	Quarterly	1	Cr Yates	<b>Cr Booth</b>
Keep Waitakere Beautiful	To create a beautiful, functional environment through community action and pride. The objective is to develop a programme of community volunteerism. KWB seeks to actively involve residents in the beautification of their community. This involvement includes tree planting, re-vegetation of stream sides, removal of illegally dumped rubbish and litter, and the removal of environmental weeds.	Monthly	1	Cr Brady	<b>Cr Neeson</b>
Lopdell House Society Incorporated Management	To develop and foster the practice of appreciation of art in Waitakere City with an emphasis on contemporary New Zealand art and all its creative diversity.	Monthly.	2	Cr Lawley Cr Presland	<b>Cr Lawley Cr Cooper</b>
Piha / Karekare Water Agenda Steering Group	To provide an overview and ensure effected community input to the Assessment of Water Services for Piha and Karekare.	Quarterly	1	Cr Lawley	<b>To be determined</b>
Project Manukau Community Liaison Group	Required by the Resource Consent for Watercare Services Limited Mangere Wastewater Treatment Plant.  The purpose of this group is to provide an overview of the ongoing operation of the Mangere Wastewater Treatment Plant and to provide a point of reference for any community concerns associated with the operation of this plant.	Three Monthly	1	Cr Lawley  (alternate: Cr Yates)	<b>Cr Corban</b>

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	Proposed for 2004-2007 Council
Ranui Action Project Incorporated	<p>The primary aim of the Ranui Action Project is to improve the health and wellbeing outcomes for the people of Ranui.</p> <p>The Project is a devolved funding pilot based on a community development approach; funding comes from the Ministry of Health and the Department of Child Youth and Family.</p>	Bi-monthly	2	Cr Fenton (Council) Cr Nash (MCB)	<b>Cr Cooper Cr Chan</b>
Safe Waitakere Alcohol Project	To reduce alcohol related harm and to promote safe alcohol environments in Waitakere City.	On needs basis – generally 2-3 times per year	1	Cr Hulse	<b>Cr Hulse</b>
Safe Waitakere Injury Prevention Board (SWIP)	To promote injury prevention in the city.	Either Monthly or Bi-Monthly	1	Cr Brady  Rae Clarke (deceased) Peter Chan (MCB)  P Northcroft & M Te Huia (TTR)	<b>Cr Gilmour</b>
Steering Group Shopping Trolleys in Streams	To provide an overview and monitor implementation of the Memorandum of Agreement with supermarkets and shopping trolley operators.	Every six months	1	Cr Brady	<b>To be determined</b>
Tag Out Trust	To enhance the Waitakere City's image and promote it as a clean green City by tackling graffiti through removal of graffiti, in fostering community attitudes to reduce graffiti, and developing a system of monitoring.	Monthly	1	Cr Battersby	<b>Cr Battersby</b>

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	Proposed for 2004-2007 Council
The Weedfree Waitakere Trust	<p>Raise and administer funds to undertake weed control regardless of landownership;</p> <p>Co-operate with all concerned parties (landowners, land occupiers, Auckland Regional Council, Waitakere City Council, Watercare);</p> <p>Educate/inform residents about weeds. Undertake research on methods of control/ eradication of weeds.</p>	Monthly	1	D J Goodley (Waitakere Community Board)	<b>Council to confirm this to be a Waitakere Community Board appointment</b>
Waikumete Chapel Restoration Trust	To receive and administer funds and other properties and to use them and the investment for the preservation, restoration and maintenance of the Waikumete Cemetery Chapel (known as "The Chapel of Faith in the Oaks"). For use including burial services, christenings, church services, weddings, and choir practice.	Bi-monthly	1	Cr Clews	<b>Cr Clews</b>
Waitakere Arts and Culture Development Trust	<p>To develop arts and cultural facilities and activity across the Waitakere City with an initial focus on the development of a broad-based arts and cultural centre at the Corban Estate.</p> <p>(Note: The Trust is seeking charitable status. When granted, it may not be appropriate at that stage for appointments to be made by Council).</p>	Monthly	2	Cr Stone Cr Nash	<b>Cr Stone Cr Clow</b>
Waitakere Central Community Arts Council	To deliver a wide range of arts activities to the community at a recreational level through classes, exhibitions, events and other appropriate activities.	Monthly	1	Cr Neeson  (alternate: Cr Brady)	<b>Cr Neeson  (alternate: Cr Lawley)</b>

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	<u>Proposed for 2004-2007 Council</u>
Waitakere Education Sector Trust (WEST)	<p>The Waitakere Education Sector Trust, launched in 2001, was established to provide a major vehicle for collaboration within and across the education sector in Waitakere City.</p> <p>It aims to develop and promote a strong and ongoing relationship between schools, local government, Maori, Ministry of Education, the community and other education stakeholders. Stemming from an initial partnership between the City Council and the Waitakere Area Principals Association.</p> <p>WEST now has representatives from a number of stakeholder groups and has the potential to develop into the key umbrella network for education in Waitakere City.</p>	Monthly	2	Cr Hoskin Cr Lawley	<p><b>Cr Cooper</b> <b>Cr Flaunty</b></p> <p><b>(alternate: Cr Chan)</b></p>
Waitakere Health Link	The Waitakere Health Link is an incorporated society set up to monitor the implementation of the Waitakere Health Plan, which was developed by a health planning group that was made up of local health care providers, council and the Waitakere community.	Monthly	1	Cr Fenton	<b>Cr Cooper</b>
Waitakere Quarry Consultative Committee	To meet obligations as set out under Quarry Management Plan (as included in District Plan). Informal meeting between Quarry Operators, Local Residents and Council.	As required – quarterly at most	1	Cr Yates	<b>Cr Corban</b>

Organisation	Aim/Purpose/ Role	Meetings Frequency	Councillors to be appointed	Appointed by 2001-2004 Council	<u>Proposed for 2004-2007 Council</u>
Western Districts Community Foundation	A charitable society to make donations and gifts to community organisations, including sports groups, cultural groups, and schools which make application to this society.	4 to 5 times per annum	1	Cr Nash	<b>Cr Dallow</b>
Sister Cities Ambassadors	To undertake duties pertaining to the development of the Waitakere Sister Cities relationship		2	(Cr Lawley was Council's nominee for election to Board of Sister Cities New Zealand Inc. She was elected.)	<b>Cr Chan Cr Booth</b>

## CONCLUSION

Council is requested to determine the above appointments. Further requests for Council appointment may arise on a need basis through the term of Council and will be addressed as required.

A number of other appointments will be referred to the appropriate Committees for consideration.

## RECOMMENDATIONS

1. That the Further Appointment of Councillors to External and other Organisations report be received.
2. That Council determine an alternate representative to the Hauraki Gulf Forum.
3. That Council determine further appointments to external and other organisations as set out above in the report, with nominations required for Piha/Karekare Water Agenda Steering Group and Steering Group Shopping Trolleys in Streams, the tenure of office of the appointments being effective until the end of Council's current term or until disestablishment of the organisation or group, whichever comes earlier.

Report prepared by: Audrey Chan, Committee Secretary.



15 **TE TAUMATA RUNANGA REPRESENTATION 2004-2007 TRI-ANNUAL TERM**

**PURPOSE OF THE REPORT**

The purpose of this report is to advise Council of the names of the representatives nominated by the various Maori groups and organisations to serve on Te Taumata Runanga Committee for 2004-2007.

**BACKGROUND**

At Council's October 2004 meeting, Council established Te Taumata Runanga as a Standing Committee of Council for the 2004 - 2007 term. Subsequently, key groups and organisations whose representatives make up the Committee have been invited to advise Council on their representation for Te Taumata Runanga for the new term. Responses from most organisations have now been received and this report advises Council of those representatives.

**ISSUES**

During the post-election period of the new Council's term, iwi and the Maori community of Waitakere City has an opportunity to undertake a selection process to determine Committee representation onto Te Taumata Runanga for the 2004-2007 term. Letters of advice have been received from most of the organisations. At the time of writing the report nominations are yet to be received from Kakariki Marae and Te Roopu Wahine Maori Toko I te Ora.

It is recommended that Council resolve to appoint the following members to Te Taumata Runanga for 2004-2007:

<b>Organisation</b>	<b>Representative</b>	<b>Alternate</b>
Hoani Waititi Marae	Fraser Delamere	Rev Judy Cooper
Kakariki Marae	To be advised	To be advised
Te Atatu	Mihi Te Huia	Melba Wellington
Te Kawerau A Maki	Te Warena Taua	Wayne Knox
Te Piringa Tahī O Te Maungarongo	Wiremu Hetaraka	Ada Lauese
Te Roopu Kaumataū O Waipareira	Poata Northcroft	Takangaroa Moanaroa
Te Rōpu Puawai o Waitakere	Kristina Parata	Theresa Tangihaere
Te Rōpu Wahine Maori Toko I Te Ora	To be advised	To be advised
Te Runanga O Ngati Whatua	Karen Wikiriwhi	Awa Hudson
Te Whanua O Waipareira Trust	Rawiri Waititi	Naida Glavish

The names of the representatives nominated by Kakariki Marae and Te Roopu Wahine Maori Toko I te Ora will either be advised verbally at the meeting or will be the subject of a further report to Council, once these names have been submitted to Council.

**RECOMMENDATIONS**

1. That Te Taumata Runanga Representation 2004 - 2007 Term Tri-Annual report be received.

2. That the following appointments be made to Te Taumata Runanga, namely:

Organisation	Representative	Alternate
Hoani Waititi Marae	Fraser Delamere	Rev Judy Cooper
Te Atatu	Mihi Te Huia	Melba Wellington
Te Kawerau A Maki	Te Warena Taua	Wayne Knox
Te Piringa Tahī O Te Maungarongo	Tyrone Raumati	Ada Lauese
Te Roopu Kaumataū O Waipareira	Poata Northcroft	Takangaroa Moanaroa
Te Rōpu Puawai o Waitakere	Kristina Parata	Theresa Tangihaere
Te Runanga O Ngati Whatua	Karen Wikiriwhi	Awa Hudson
Te Whanua O Waipareira Trust	Rawiri Waititi	Naida Glavish

3. That a further report be made to Council once the nominations for Kakariki Marae and Te Roopu Wahine Maori Toko I te Ora have been received.

Report prepared by: Ngareta Delamere, Committee Secretary.



## 16 WESTPARK MARINA - LOT 2 DP 195238 - 1576M<sup>2</sup>

### PURPOSE OF THE REPORT

The purpose of this report is to review the circumstances applicable to the public boat ramp at Westpark Marina consequent upon the decision to acquire, under the Public Works Act 1981, Lots 45 and 49 DP 211038 to provide boat trailer parking and for parking of associated vehicles in conjunction with the use of the ramp, and to present the option of acquisition of the current leasehold estate in Lot 2 DP 195238 from Westpark Marina Limited to secure full public ownership and/or to vest land as legal road as an extension to Clearwater Cove.

### BACKGROUND

*A27-A40* Westpark Marina Limited is the occupier of the particular lot, adjacent to the southern termination point of the marina access and service road, Clearwater Cove, under and in accordance with the terms of a registered lease No.D436243.7, copy attached at pages A27 to A40. The Lease has an initial expiry date, 26 September 2006, with successive rights of renewal for 21 year periods extending until a final termination date, 26 September 2084 (clause 25.1).

*A41-A44* The lessor, Waitakere Properties Limited, is a Council controlled trading organisation, acting as registered proprietor subject to a certain Declaration of Trust under which Council is the beneficial owner of the fee-simple estate. The land is comprised in Certificate of Title NA123B/558, copy attached at pages A41 to A42, and the related estate of leasehold is recorded in a separate Certificate of Title under Identifier 118665, copy attached at pages A43 to A44.

## CURRENT

A44 As a result of implementation of other development outcomes at the marina there is limited opportunity now to resolve boat trailer parking and the parking of associated vehicles making use of the public boat launching facility available from Lot 2 DP 195238. The acquisition of Lots 45 and 49 DP 211038, as shown on the plan attached at page A44, was assessed as the best interim option for that purpose, being situated in the immediate vicinity of the boat ramp and providing some limited additional land, 1117m<sup>2</sup>, for manoeuvring and parking. Accordingly, Council recently resolved that steps to complete acquisition of these lots be progressed now in accordance with the Public Works Act and the preliminary formal "notices of desire" to that end will have been served prior to this meeting.

The need for boat launching facilities has increased as urban development has intensified in the West over recent decades and the public ramp accessed from Lot 2 DP 195238 is one of the few available in the area. Peak use and demand at this location can be quite intensive and the manoeuvring and launching area easily becomes congested. Council has been clear previously that it wishes to see a public boat ramp maintained in the area.

With residential, commercial and other uses intensifying now the opportunity for continued use of the Clearwater Cove access road for trailer parking is increasingly constrained. A significant expenditure commitment has been made to reduce this problem by acquiring the remaining vacant land adjacent to Lot 2 DP 195238 for this purpose. However, concerns have been expressed regarding the basis upon which Lot 2 DP 195238 may be accessed, the poor condition of the manoeuvring area, the potential for a user charge to be levied, the opportunity for additional uses or alternative development to occur, and management/control.

## DECISION-MAKING

The alternative options appear to be as follows:

### 1. Status Quo

Clause 10 (the permitted use clause) provides as follows:

*"10. The Lessee will not use the said land other than for one or more of the purposes of shops, restaurants, car park, club premises or facilities, commercial or recreational amenities for the use and convenience of the general public as well as that of the boating public provided that the Lessee shall make proper provision as approved by the Lessor for the public and users of the marina adjoining the said land to have access to the said land*

*10.1 the said Lot 2 DP 195238 for the purposes of a car parking rigging/derigging area and public launching ramp, and,*

*10.2 the said Lot 16 DP 112480 for the purposes of foreshore pedestrian access,*

*upon such terms and conditions and subject to such rules and regulations and during such reasonable and practical hours in each case as the Lessor shall approve (such approval not to be unreasonably duly withheld) as the Lessee may from time to time prescribe to ensure the orderly secure and safe use of the said land for such purposes provided further that nothing in the preceding proviso shall prevent the development of the said land on a strata basis and the use of such strata (other than the ground level strata) for any of the other purposes herein specified as long as the ground level strata is reserved for the purpose specified in the preceding proviso."*

This lot has not been connected to any sanitary sewerage service and is not currently capable of normal built development, but there is a small temporary relocatable cabin-type structure placed on portion of the land, utilised as a clubroom/office/race day facility by the local community yacht club. Arrangements applicable to this use have not been ascertained at present.

A proposal for a commercial multi-tier boat stacker storage installation on this site has been investigated by Westpark Marina Ltd as one means to reduce vehicle and trailer movements at the marina. Any such structure, if situated other than on the northern boundary of the property would no doubt be considered unsightly and unacceptable to the adjoining residential property owners, even if otherwise permitted and economic. It would also potentially not provide for boat owners who do not wish to utilise the boat stack arrangements.

It is difficult to say if there is actual potential for further development on an economic basis consistent with the other provisions of clause 10.

Westpark Marina Ltd pays rates for Lot 2 in the normal manner. The current levy (which includes Lot 16 DP 110480) is \$5,206. The lessee is also presently liable for a nominal \$10 annual ground rent charged. This is subject to review to a market based rent with effect from September 2006. In context, given the constraints under clause 10, it is at least arguable whether in this instance any greater charge should be made upon review.

Westpark Marina Limited met the original construction cost of the boat ramp, and consistent with that and the related circumstances applicable, Council has previously acknowledged the entitlement to levy and collect a small charge from users to launch and retrieve. This has not exceeded \$10, paid through an honesty box system if users chose to comply, although occasionally collected directly on peak use occasions when marina security staff have been on hand to control and co-ordinate the area.

The status quo has historically meant that the marina operating company has not had any incentive to spend to money to upgrade the access and manoeuvring area which is situated beyond the legal road. Additionally, the present circumstances will no doubt encourage this entity to focus on managing the utilisation of this area in future on a commercial basis.

## **2. Vest as public road**

Acquisition of the leasehold estate from Westpark Marina Limited (either by agreement or under the provisions of the Public Works Act 1981) together with recall of the underlying fee simple estate from Waitakere Properties Limited could enable the land to be dedicated as public road.

Control and management would then be Council's responsibility.

No valuation assessment is currently held to determine an estimated acquisition cost, nor, if the area is to be formed and sealed to roading standards has the likely expenditure been ascertained (it is not intended to declare Lots 45 and 49 DP 211038 to be road).

The land would be removed from the rate Roll.

This option would provide for absolute protection of public access to the boat ramp.

### 3. Acquisition for public purposes, but retention as a private site

As above, but retention as a conventional allotment situated within the marina special area, and held in conjunction with Lots 45 and 49 DP 211038.

This option would also protect public access. A greater level of control is potentially available than if the land is attributed status as a public road, and the property would also remain subject to any bylaw provisions and would not be removed from the rate Roll.

Implementation/continuation of a charge trailer parking and launching regime, under Council's jurisdiction, to better regulate use and recover costs from users (rather than ratepayers) while still maintaining open public access could be facilitated if Council wished to pursue this option. Additionally, supplementary arrangements (such as currently apply with respect to the yacht club) would be less contentious than if the land had status as public road.

It is also reasonable to consider, given the size of the allotment and its location, that other possible modifications or supporting uses may commend in future. Therefore, greater flexibility may be maintained if the existing lease is terminated with retention of the area as a Council allotment (whether or not vested in Waitakere Properties Limited) rather than dedicated as road. In the interests of clarity around access, it is recommended that the allotment be returned to Council.

### CONCLUSION

Changes in circumstances, and ongoing development and an increase in activity at the marina has meant it is appropriate for Council to revisit the ownership and occupation entitlements in relation to Lot 2 DP 195238.

Option (3) may represent the best "way forward" at this point. Due to the use constraints under the current lease the costs of acquisition should not be significant. It is recommended that this option be canvassed with Westpark Marina Ltd now on the basis that if acquisition of the leasehold estate cannot be obtained by agreement in the near term the Chief Executive be authorised to initiate the formal acquisition steps under the Public Works Act.

### RECOMMENDATIONS

1. That the Westpark Marina - Lot 2 DP 195238 - 1576m<sup>2</sup> report be received.
2. That the Chief Executive be authorised to negotiate and/or enter into an agreement to acquire the leasehold estate in Lot 2 DP 195238 from Westpark Marina Ltd as outlined in Option (3), the interim source of funds to be the Strategic Land Acquisition Loan, to be reimbursed from capex within the 2005/2006 budget process.
3. That if a satisfactory outcome with respect to the negotiations undertaken is not achieved in the near term, that authority be given to the Chief Executive to sign any necessary notices in accordance with the Public Works Act to acquire the estate of leasehold under Memorandum of Lease No.D436245.7 for public works purposes to facilitate access to the public boat ramp, parking and manoeuvring and for the provisions of recreational amenities.

Report prepared by: Fraser Henderson, Manager, Strategic Projects.

HV O'Rourke  
**CHIEF EXECUTIVE**



**PART E - CONFIDENTIAL ITEM**

**PART F - STANDING COMMITTEE REPORTS**

**17 CITY DEVELOPMENT COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON THURSDAY, 11 NOVEMBER 2004**

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**MATTERS CONSIDERED**

*1-3  
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 3 in the supplement labelled Part F.

**Your Committee Recommends:**

That the report of the Meeting of the City Development Committee held on Thursday, 11 November 2004 be received.

PA Hulse  
**CHAIRPERSON**



**18 FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 15 NOVEMBER 2004**

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**MATTERS CONSIDERED**

*4-8  
Part F  
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 4 to 8 in the supplement labelled Part F and the public excluded minutes attached at page 1 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, 15 November 2004 be received.

JM Clews, QSO, JP  
**CHAIRPERSON**



19 **PLANNING AND REGULATORY COMMITTEE**

**YOUR COMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON TUESDAY, 16 NOVEMBER 2004**

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**MATTERS CONSIDERED**

9-11  
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 9 to 11 in the supplement labelled Part F.

**Your Committee Recommends:**

That the report of the Meeting of the Planning and Regulatory Committee held on Tuesday, 16 November 2004 be received.

VS Neeson, JP  
**CHAIRPERSON**



**PART G - PRESENTATION**

There will be no presentations.



**PART H - PROCEDURAL MATTERS**

20 **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.



21 **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.



22 **CLOSING PRAYER**

