



**AGENDA FOR A MEETING OF THE COUNCIL (VARIOUS) TO BE HELD IN THE  
CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,  
ON WEDNESDAY, 17 MAY 2006 COMMENCING AT 9.30 AM**

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**1 APOLOGIES**



**2 URGENT BUSINESS**

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

- (i) the Council 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 Council may make a decision on a matter determined to be urgent.

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



**3 REVIEW OF WATERCARE SERVICES LIMITED OWNERSHIP AND OPERATING POWERS - UPDATE**

**PURPOSE OF THE REPORT**

The purpose of this report is to update Council on the resolutions passed at its meeting on Wednesday, 18 August 2004 relating to a Central Government led review of the ownership options for Watercare Services Limited and the review of the Auckland region's water and wastewater operating powers, and to seek endorsement that these resolutions remain valid.

**BACKGROUND**

In May 2004, the Minister of Local Government wrote to the Watercare Shareholders Representative Group indicating that his officials had begun work on the review of the remaining Auckland specific provisions of the Local Government Act 1974, including those relating to Watercare Services Limited. Specifically, the review was intended to look at ownership options for Watercare Services Limited, and the Auckland regions water and wastewater operating powers.

At its meeting on Wednesday, 18 August 2004, Council outlined its position on the ownership options for Watercare Services Limited, and the review of the Auckland regions water and wastewater operating powers.

In respect of the ownership options for Watercare Services Limited, the Council resolved:

- "1. That Waitakere City Council supports the retention of its shareholding in Watercare Services Limited and opposes any move by the government or any local authority to transfer the ownership and governance of Watercare to the Auckland Regional Council.
2. That the Council directs its two Watercare Shareholder's Representative Group members to articulate Waitakere city council's desire to retain its shareholding in Watercare services limited and to oppose any move to transfer the ownership and governance of Watercare Services Limited to the Auckland Regional Council."

1538/2004

In respect of the review of the Auckland Region's water and wastewater operating powers, the Council resolved:

- "i) That Auckland's local authorities should have broad powers in order to plan for the delivery of their wastewater services, consistent with those powers vested in local authorities throughout New Zealand, together with any special powers necessary to preserve Watercare's ability to operate effectively.
- ii) That Watercare's governance and reporting arrangements should be consistent with other council-controlled organisations, with the proviso that any special powers necessary to preserve Watercare's ability to operate effectively, be retained.
- iii) That the law require Watercare to retain ownership of assets needed to supply water and wastewater services to the region, to be retained in joint ownership by the territorial authorities in the region and to minimise prices consistent with the need to maintain and develop infrastructure to meet future needs and a sustainable future business which delivers a first class service".

1540/2004

The Council further resolved:

"That as a consequence of the above general principles the council further resolves:

- i) That Watercare be constituted as a regionally owned council-controlled organisation, with the proviso that members or employees of a local authority should be statutorily prohibited from appointment to the board of Watercare, given the regional focus and nature of the entity.
- ii) That the statutory prohibition on Watercare paying a dividend to its shareholders should be removed.  
  
It should be noted that Waitakere City Council will not necessarily agree to the distribution of a dividend as a general rule and will agree only when it contributes to the benefit of the community.
- iii) That the following statutory functions, currently set out in the Auckland Metropolitan Drainage Act 1960, should be preserved and set out in the Local Government Act 2002:
  - (a) Allowing Watercare to maintain, manage and protect its existing main sewerage system and treatment works.
  - (b) Allowing Watercare to maintain its power to carry out its wastewater functions, including the power to enter land to access the main sewerage system and to construct new main sewerage works.
  - (c) Allowing Watercare to construct, maintain and manage future main sewerage systems and treatment works.

- (d) *Giving Watercare sole right to control trade waste within its wastewater treatment plant catchments.*
- iv) *That the following statutory functions, currently set out in the Auckland Metropolitan Drainage Act are no longer required and should be repealed:*
  - (a) *Provisions constituting the Auckland Metropolitan Drainage Board.*
  - (b) *References to Watercare's sole right to construct, maintain and manage all sewers and drains.*
- v) *That Watercare continue to administer the Auckland Regional Council Trade Waste Bylaw 1991 for as long as that bylaw continues to apply, and agree that this is a useful means of efficiently managing the treatment of trade waste.*
- vi) *That Watercare's reporting requirements be transferred, currently set out in s707zzzs of the local government act 1974, to (where appropriate):*
  - (a) *The constitution.*
  - (b) *The Statement of Intent.*
  - (c) *The Local Government Act 2002.*

1541/2004

The Government review planned in 2004 was suspended and the Shareholders Representatives Group did not have an opportunity to present its regional views to Central Government. Recently, the Department of Internal Affairs indicated the Legislative review has recommenced and expects it to be completed at the end of 2006.

At last month's (April 2006) Shareholders Representatives Group meeting, discussion focussed on Auckland Regional Council's active lobbying for ownership of Watercare. As a result, the Shareholders Representatives Group elevated the Watercare ownership issue as a top priority. Within the near future, Shareholders Representatives Group plans to put forward a unified submission to Central Government on the legislative review and its views on ownership and governance of Watercare. The Shareholders Representatives Group has requested that all member Councils formally reconfirm their positions on the two issues at the next Shareholders Representatives Group meeting scheduled for the afternoon of 17 May 2006.

A1-A13

The respective agenda reports on ownership options for Watercare Services Limited and the review of the Auckland regions water and wastewater operating powers are attached at pages A1 to A13.

### **STRATEGIC CONTEXT**

The Council's strategic goal of sustainable management of the three waters, water supply, and wastewater and stormwater is integral to its relationship with Watercare and to its role on the Shareholders Representatives Group.

The Council has two major roles in connection with Watercare - one as shareholder/owner, the other as customer. The extent to which this Council can add strategic input to the governance of Watercare, through its ownership and governance role, heavily influences the extent to which it can supply retail services to the City's ratepayers that meet the Council's own strategic goals, and at the most efficient price possible.

## ISSUES

The Shareholders Representatives Group has requested that all member Councils formally reconfirm their positions on the respective issues of Watercare ownership and operating powers at the next meeting on 17 May 2006.

Officers have reviewed the previous agenda reports on ownership options and operating powers, and are of the view that the previous resolutions of Council remain valid.

## RESOURCES

Some budget exists within the 2005/2006 Annual Plan for review of governance issues. There is also a budget of \$15,000 for governance issues included in the draft Long Term Council Community Plan in respect of the 2006/2007 financial year. However, it is not known at this stage what if any external assistance will be required by this Council to respond to the Government review.

## CONCLUSION

There is no change in Council's rationale for passing the resolutions in 2004.

In particular, sustainable management of the Region's water, wastewater and stormwater services is a primary objective of this Council and any proposed governance structure should ensure that Local Authorities will have enough influence to facilitate this objective. Furthermore, Watercare is a Regional asset which operates for the benefit of the Region, rather than one city or district in particular. This Council's ability to influence Regional attitudes towards the management of water may be severely compromised if the governance role is removed and its relationship with Watercare is limited to that of customer/provider only.

## RECOMMENDATIONS

1. That the Review of Watercare Services Limited Ownership and Operating Powers - Update report be received.
2. That Council confirms that the following resolutions passed at its meeting on Wednesday, 18 August 2004 still represent this Council's position on ownership of Watercare Services Limited and its operating powers:
  - i) That Waitakere City Council supports the retention of its shareholding in Watercare Services Limited and opposes any move by the Government or any local authority to transfer the ownership and governance of Watercare Services Limited to the Auckland Regional Council.
  - ii) That the Council directs its two Watercare Shareholder's Representative Group members to articulate Waitakere City Council's desire to retain its shareholding in Watercare Services Limited and to oppose any move to transfer the ownership and governance of Watercare Services Limited to the Auckland Regional Council.
  - iii) That Auckland's local authorities should have broad powers in order to plan for the delivery of their wastewater services, consistent with those powers vested in local authorities throughout New Zealand, together with any special powers necessary to preserve Watercare Services Limited's ability to operate effectively.
  - iv) That Watercare Services Limited's governance and reporting arrangements should be consistent with other council-controlled organisations, with the proviso that any special powers necessary to preserve Watercare Service Limited's ability to operate effectively, be retained.

- v) That the law require Watercare Services Limited to retain ownership of assets needed to supply water and wastewater services to the region, to be retained in joint ownership by the territorial authorities in the region and to minimise prices consistent with the need to maintain and develop infrastructure to meet future needs and a sustainable future business which delivers a first class service.
- vi) That Watercare Services Limited be constituted as a Regionally owned council-controlled organisation, with the proviso that members or employees of a local authority should be statutorily prohibited from appointment to the Board of Watercare Services Limited, given the regional focus and nature of the entity.
- vii) That the statutory prohibition on Watercare Services Limited paying a dividend to its shareholders should be removed.
- It should be noted that Waitakere City Council will not necessarily agree to the distribution of a dividend as a general rule and will agree only when it contributes to the benefit of the community.
- vii) That the following statutory functions, currently set out in the Auckland Metropolitan Drainage Act 1960, should be preserved and set out in the Local Government Act 2002:
- Allowing Watercare Services Limited to maintain, manage and protect its existing main sewerage system and treatment works;
  - Allowing Watercare Services Limited to maintain its power to carry out its wastewater functions, including the power to enter land to access the main sewerage system and to construct new main sewerage works;
  - Allowing Watercare Services Limited to construct, maintain and manage future main sewerage systems and treatment works;
  - Giving Watercare Services Limited sole right to control trade waste within its wastewater treatment plant catchments.
- ix) That the following statutory functions, currently set out in the Auckland Metropolitan Drainage Act are no longer required and should be repealed:
- Provisions constituting the Auckland Metropolitan Drainage Board;
  - References to Watercare Services Limited's sole right to construct, maintain and manage all sewers and drains.
- x) That Watercare Services Limited continue to administer the Auckland Regional Council Trade Waste Bylaw 1991 for as long as that Bylaw continues to apply, and agree that this is a useful means of efficiently managing the treatment of trade waste.
- X1) That Watercare Services Limited's reporting requirements be transferred, currently set out in s707zzzs of the Local Government Act 1974, to (where appropriate):
- The constitution;
  - The Statement of Intent;
  - The Local Government Act 2002.

Report prepared by: Kingsha Changwai, Manager Assurance Services.



**PUBLIC EXCLUDED MATTER**

**4 PROPOSED ACQUISITION OF LAND**

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this Agenda.

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely, Proposed Acquisition of Land.

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

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
Proposed Acquisition of Land.	The withholding of information is necessary in order to: <ul style="list-style-type: none"> <li>• protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;</li> <li>• enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li> </ul>	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2)(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 report contains information which if released could affect the Council's negotiations.*

