

**AGENDA FOR AN EXTRAORDINARY MEETING OF THE FINANCE AND
OPERATIONAL PERFORMANCE COMMITTEE TO BE HELD IN THE
CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE
CITY, THURSDAY, 17 JUNE 2004, COMMENCING AT 9.00 AM.**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	APOLOGIES	1
2	NEGOTIATIONS ON THE TRANSFER OF AUCKLAND REGIONAL TRANSPORT NETWORK LIMITED	1
3	NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED ANNUAL GENERAL MEETING (APPOINTMENT OF PROXY)	5

AGENDA FOR AN EXTRAORDINARY MEETING OF THE FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, THURSDAY, 17 JUNE 2004, COMMENCING AT 9.00 AM.

1 APOLOGIES



2 NEGOTIATIONS ON THE TRANSFER OF AUCKLAND REGIONAL TRANSPORT NETWORK LIMITED

PURPOSE OF THE REPORT

This report seeks the Finance and Operational Performance Committee's endorsement of a process for the negotiation of a transfer of the Auckland Regional Transport Network Limited business to entities under the control of the Auckland Regional Council.

BACKGROUND

The Local Government (Auckland) Amendment Bill, in both its draft and reported back form, does not make provision for any transfer of Auckland Regional Transport Network Limited. The Select Committee did not accept the region's submission for relief from tax and consultation obligations in relation to a transfer.

The Government has expressed a view that in order to achieve an integrated transport system, it is desirable that Auckland Regional Transport Network Limited's assets come under the auspices of Auckland Regional Council, Auckland Regional Holdings Limited or Auckland Regional Transport Authority Limited.

The Government has also said that discussions should continue between government officials, the Auckland Regional Council and Auckland Regional Transport Network Limited's shareholders to reach agreement on how Auckland Regional Transport Network Limited's assets and functions are best managed in the future, with a view to incorporating appropriate provisions in the latter stages of the Bill's progress through the Select Committee and Parliament.

Government officials are preparing a cabinet paper which will recommend a supplementary order paper to introduce new clauses in the Bill which give relief from tax and consultation obligations in relation to a transfer of Auckland Regional Transport Network Limited.

Government officials have advised that Ministers require a written commitment from Auckland Regional Transport Network Limited shareholders to completing a transfer by 30 September 2005 in order to approve the supplementary order paper. Government officials have requested this commitment to be provided by 21 June 2004.

STRATEGIC CONTEXT

The Government is legislating changes in transport governance arrangements which will provide greater control to the Auckland Regional Council and better integration of passenger transport infrastructure and services.

ISSUES

Negotiations

Negotiations between the Auckland Regional Council and Auckland Regional Transport Network Limited Shareholders commenced under the guidance of the Auckland Regional Transport Network Limited Shareholders' Representative Group on 29 April 2004. The Auckland Regional Transport Network Limited Shareholders' Representative Group has recommended a negotiation process for adoption by shareholding Councils in accordance with protocols agreed between officers of the Auckland Regional Council and Auckland Regional Transport Network Limited Shareholders' Representative Group. These protocols are summarised below:

Overall Goal:

The overall goal is to ensure that any arrangements support the achievement of the best possible transport outcomes for the region and that Auckland Regional Transport Authority can perform its functions in an efficient and effective manner.

Stages:

1. Establish Protocols and communication.
2. Information to develop an understanding of Auckland Regional Transport Network Limited's business.
3. Negotiate a conditional agreement which would be subject to a due diligence investigation by the Auckland Regional Council and approval by the Auckland Regional Council and the shareholding Councils.
4. Detailed due diligence investigation and conditional agreement is confirmed or renegotiated.
5. Transfers are completed in accordance with a final agreement.

Protocols for negotiations:

- Conditional agreements and final agreements are to be formally approved by the Auckland Regional Council and Auckland Regional Transport Network Limited's shareholding Councils.
- Representatives in the negotiations are:
 - For the Auckland Regional Council - Peter Winder, Christine Perrins;
 - For the Auckland Regional Transport Network Limited shareholders - Grant Taylor, Dr Kathy Garden, Kevin Wright.
- The negotiations are to occur between Auckland Regional Transport Network Limited's shareholders, the Auckland Regional Council and to the extent necessary the Crown.
- The Auckland Regional Transport Network Limited shareholder representatives undertake to keep the Chairman and Chief Executive Officer of Auckland Regional Transport Network Limited informed and consult with them as required.

- Auckland Regional Transport Network Limited will be requested to supply information as directed by resolution of its shareholders. To the extent that such information is beyond that which is generally available to the public or is otherwise commercially sensitive, it shall be provided subject to a confidentiality agreement between Auckland Regional Transport Network Limited, its shareholders and the Auckland Regional Council.
- Throughout the negotiation process the representatives will be mindful of the need to ensure:
 - Minimum disruption is caused to the business and activities of Auckland Regional Transport Network Limited;
 - The intellectual capital of Auckland Regional Transport Network Limited is retained;
 - The employment rights and interests of Auckland Regional Transport Network Limited staff are respected.
- It is acknowledged that although North Shore City Council is not a shareholder in Auckland Regional Transport Network Limited, it has an interest in the negotiated agreement in respect of Auckland Regional Transport Network Limited's assets and functions. Within the constraints of confidentiality agreements North Shore City Council will be kept informed of any conditional agreement reached.
- Liaison with Government officials will be coordinated through the negotiating team.

The negotiations to date have identified the positions of the parties. These were reported to the Auckland Regional Transport Network Limited Shareholders' Representative Group on 11 June 2004 and the negotiation team was given guidance on the next steps in negotiating a conditional agreement.

Commitment to transfer by 30 September 2005

At its meeting on 11 June 2004, the Auckland Regional Transport Network Limited Shareholders' Representative Group considered the request by Ministers for a shareholder commitment to completing a transfer by 30 September 2005.

It was considered that the negotiations are well advanced, with a common desire to effect a transfer of assets and functions as soon as practicable. It was noted that the Local Government Auckland Amendment Bill, as reported back from the Select Committee recommended a revised transfer date of 1 January 2005 rather than 30 September 2004, by which assets will transfer from the Auckland Regional Council to Auckland Regional Transport Authority Limited. Ideally any transfer of Auckland Regional Transport Network Limited assets should occur at the same time as a transfer of assets from the Auckland Regional Council.

It was also discussed that in the event that assets are transferred to Auckland Regional Holdings Limited and Auckland Regional Transport Authority Limited, ferry facilities at Downtown Auckland and Half Moon Bay may be transferred to Auckland City Council and Manukau City Council respectively.

In order to enable tax and consultation relief provisions to be included in the Bill, the Auckland Regional Transport Network Limited Shareholders' Representative Group resolved:

- D. *That, subject to i) and ii) below being reviewed and confirmed as suitable by legal advisors, the Chairman of the Shareholders Representatives Group provide written confirmation to the Government that:*

- i) *Auckland Regional Transport Network Limited shareholders are committed to negotiating in good faith with the Auckland Regional Council to achieve the sale or transfer of the assets, liabilities and functions of Auckland Regional Transport Network Limited to Auckland Regional Transport Authority, Auckland Regional Holdings and any particular shareholder as agreed.*
- ii) *The Shareholders Representatives Group is committed to completing the implementation of the negotiated agreement no later than 30 September 2005.*

E. *That the shareholding Councils be requested to confirm resolution D.*

The Auckland Regional Transport Network Limited Shareholders' Representative Group requested legal advisors review the wording of the commitments noted above prior to the Chairman providing written confirmation to the Government. Legal advisers subsequently approved the wording of the commitments with a minor change to refer to a transfer of the Auckland Regional Transport Network Limited active subsidiaries and other assets on terms to be agreed between the relevant parties. This revised wording is set out in the recommendation of this report.

The benefit of Waitakere City Council providing this commitment is the ability to include provisions in the Local Government Auckland Amendment Bill to provide relief from tax and consultation obligations. These obligations would need to be met, if such relief is not included in the enacted legislation and the parties intend to make a transfer within the next 12 months.

The risk of providing this commitment is the pressure on the negotiations to make a transfer and within the 30 September 2005 deadline. However, the shareholding Councils retain the ability to approve any conditional agreement.

RESOURCES

Costs of meeting consultation obligations and any tax in relation to the transfer are not included in shareholding Council budgets and would need to be met out of Auckland Regional Transport Network Limited's paid up capital.

The Auckland Regional Transport Network Limited Shareholders' Representative Group's negotiation costs are being met out of the Auckland Regional Transport Network Limited Shareholders' Representative Group budget.

CONCLUSION

The protocols for the negotiation of a transfer of Auckland Regional Transport Network Limited's business and commitment to a 30 September 2005 deadline for completing the transfer are recommended to the shareholding Councils for approval.

RECOMMENDATIONS

1. That the Negotiations on the Transfer of Auckland Regional Transport Network Limited report be received.
2. That the process and protocols set out in this report for negotiating and determining how Auckland Regional Transport Network Limited's functions and assets are best owned and managed in the future be approved.

3. That Waitakere City Council's approval and commitment are given namely that the Chairman of the Auckland Regional Transport Network Limited Shareholders' Representative Group provide written confirmation to the Government that:
- i) Auckland Regional Transport Network Limited shareholders are committed to negotiating in good faith with the Auckland Regional Council to achieve the sale or transfer of the Auckland Regional Transport Network Limited active subsidiaries together with certain other assets, liabilities and functions of Auckland Regional Transport Network Limited to Auckland Regional Transport Authority, Auckland Regional Holdings and any particular shareholder, on terms to be agreed between the relevant parties in order to achieve better integration of passenger transport services and infrastructure.
 - ii) Auckland Regional Transport Network Limited Shareholders' Representative Group is committed to completing the implementation of the negotiated agreement no later than 30 September 2005.

Report prepared by: Kevin Wright, Manager: Transport Strategy.



3 NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED ANNUAL GENERAL MEETING (APPOINTMENT OF PROXY)

PURPOSE OF THE REPORT

To endorse the appointment of Council's Group Manager: Democracy & Support Services, Darryl Griffin, as proxy to represent Council's interests and vote on Council's behalf at the Annual General Meeting of the New Zealand Local Government Insurance Corporation Limited scheduled to be held in Wellington on Friday 25 June 2002.

BACKGROUND

The Annual General Meeting is scheduled to receive and adopt the Annual Report and Financial Statements of the above entity for the year ended 31 December 2003, and record the appointment of Auditor and to transact any other business properly brought before the meeting.

Mr Griffin is one of the six Directors, having held that position since June 2001. Accordingly, there is no expense to Council in Mr Griffin attending and acting as Council's representative on the basis outlined. The formal Notice of Meeting was only received on 1 June 2004, and the appointment of proxy is required under the Company's constitution to be lodged at the registered office of the company not less than 24 hours before the meeting commences. A report to the monthly meeting of the Finance and Operational Performance Committee missed the deadline for the 14 June 2004 meeting. The opportunity has arisen for the Committee to consider this matter at the Extraordinary meeting on 17 June 2004 instead of the Council considering the appointment retrospectively.

The Annual Report and Financial Statements will be circulated separately in due course for receipt at the July meeting of Council's Finance and Operational Performance Committee in the normal manner.

RECOMMENDATIONS

1. That the New Zealand Local Government Insurance Corporation Limited Annual General Meeting (Appointment of Proxy) report be received.
2. That the appointment of Darryl Griffin as Council's proxy at the Annual General Meeting of the New Zealand Local Government Insurance Corporation Limited be confirmed.

Report prepared by: Andrew Pollock, Director: Financial Services.

