

**ORDINARY MEETING**

**OF**

**WELLINGTON CITY COUNCIL**

**AGENDA**

**Time:** 5.30pm  
**Date:** Wednesday, 17 December 2014  
**Venue:** Committee Room 1  
Ground Floor, Council Offices  
101 Wakefield Street  
Wellington

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**MEMBERSHIP**

Mayor Wade-Brown

Councillor Ahipene-Mercer  
Councillor Coughlan  
Councillor Eagle  
Councillor Foster  
Councillor Free  
Councillor Lee  
Councillor Lester

Councillor Marsh  
Councillor Pannett  
Councillor Peck  
Councillor Ritchie  
Councillor Sparrow  
Councillor Woolf  
Councillor Young

**Have your say!**

*You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 803-8334, emailing [public.participation@wcc.govt.nz](mailto:public.participation@wcc.govt.nz) or writing to Democratic Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number and the issue you would like to talk about.*

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## Questions

### 5. Public Excluded

Nil

## **1 Meeting Conduct**

### **1.1 Apologies**

The Chairperson invites notice from members of:

1. Leave of absence for future meetings of the Wellington City Council; or
2. Apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

### **1.2 Announcements by the Mayor**

### **1.3 Conflict of Interest Declarations**

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

### **1.4 Confirmation of Minutes**

The minutes of the meeting held on 5 November 2014 will be put to the Council for confirmation.

### **1.5 Items not on the Agenda**

The Chairperson will give notice of items not on the agenda as follows:

#### ***Matters Requiring Urgent Attention as Determined by Resolution of the Wellington City Council***

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

#### ***Minor Matters relating to the General Business of the Wellington City Council***

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

### **1.3 Public Participation**

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 3.23.3 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.



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### 3. General Business

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## **AMENDMENTS TO DELEGATIONS TO FACILITATE DECISIONS UNDER THE HOUSING ACCORDS AND SPECIAL HOUSING AREAS ACT**

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### **Purpose**

1. This report seeks Council's approval to amend the Terms of Reference (ToR) and Delegations for the 2013/16 Triennium as they relate to the Housing Accords and Special Housing Areas Act 2013 (HASHAA).

### **Summary**

2. The purpose of the recently enacted HASHAA is to increase land and housing supply in districts, including Wellington City, identified as having housing supply and affordability issues.
3. Wellington City Council has entered into a Housing Accord with the Minister of Housing as provided for by the HASHAA. This enables Council to recommend to the Minister the establishment of Special Housing Areas (SHAs) and qualifying development criteria. Developments within SHAs that meet the qualifying criteria can then be assessed under a streamlined HASHAA process rather than the RMA.
4. The first tranche of SHAs and qualifying criteria have been approved by Council and recommended to the Minister of Housing. In order to meet Council's obligations under the Housing Accord, and the legislative requirements under the HASHAA, a number of decisions need to be provided for in the Council's delegations. The specific decisions are as follows:
  - To recommend further SHAs and qualifying development criteria to the Minister of Housing, and to recommend the disestablishment of SHAs to the Minister of Housing.
  - To make decisions on limited notified resource consents
  - To appoint hearings commissioners to make decisions on limited notified resource consents
  - To terminate the housing accord
5. Delegations are recommended, along with amended wording to ensure that the decisions on delegations are appropriately reflected in the ToR.

### **Recommendation/s**

That the Council:

1. Receive the information.
2. Agree to delegate to the Transport and Urban Development Committee the power to recommend Special Housing Areas and qualifying development criteria, and the disestablishment of Special Housing Areas, to the Minister of Housing under the

Housing Accords and Special Housing Areas Act.

3. Agree to delegate to hearings commissioners on Council's approved list of hearings commissioners the functions, powers and duties to conduct HASHAA hearings on resource consent applications.
4. Note that all other HASHAA powers are delegated to the Chief Executive under the Chief Executive's delegations from Council dated 14 November 2013.
5. Agree to delegate to the Chair Regulatory Processes Committee the power to appoint hearings commissioners (including Councillors sitting as commissioners) to HASHAA hearings.
6. Agree that the power to terminate the Housing Accord be retained by Council.
7. Note that the amendments to the 2013/16 Terms of Reference that give effect to recommendations 2, 3, 5 and 6 are contained in paragraph 19 of this paper.

## **Background**

6. The HASHAA received Royal Assent on 13 September 2013. Its purpose is to enhance housing affordability by facilitating an increase in land and housing supply in districts identified as having housing supply and affordability issues. This includes Wellington City.
7. The HASHAA enables territorial authorities to enter into a Housing Accord with the Minister of Housing. The territorial authority may then recommend to the Minister the establishment of SHAs and qualifying development criteria. Developments within SHAs that meet the qualifying development criteria can then be assessed under a streamlined HASHAA process rather than the RMA.
8. At the Council meeting of 26 June 2014, Council agreed to enter into a Housing Accord with the Crown. The accord contains, among other things, ambitious housing targets requiring consents for 7,000 dwellings or sections over the next five years. Council has subsequently approved eight SHAs and associated qualifying development criteria to recommend to the Minister of Housing. A housing development incentives package for all SHAs was also agreed, as were criteria to guide the selection of future SHAs.
9. The SHAs and qualifying development criteria have been gazetted on 20 November 2014, and will be declared via Order in Council prior to Christmas. Council needs to ensure that appropriate processes are in place in advance of receiving applications, as well as for identifying future SHAs and qualifying development criteria.

## **Discussion**

10. A number of decisions need to be made by Council in order to meet Council's obligations under the Housing Accord, and comply with the legislative framework introduced by the HASHAA. Changes are required to Council's ToR to ensure that these decisions can be made efficiently and at the appropriate level within Council.
11. The Terms of Reference for Council's Transport and Urban Development Committee state that the committee will have responsibility for development control. This is achieved via the Committee's oversight of the District Plan. "Housing affordability/housing accord" is also listed as a responsibility of the Committee. Given these synergies, and the Committee's policy setting role, it is considered that the key policy decisions pertaining to the identification of SHAs, and the qualifying development criteria within these, should appropriately sit with the Transport and Urban Development Committee.



12. Under the HASHAA, SHAs are ultimately declared by the Governor General by Order in Council made on the Recommendation of the Minister of Housing. The Minister's recommendation in turn must be informed by a recommendation from the Council. SHAs may similarly be revoked by Order in Council on the Minister's recommendation.
13. The Minister can make such a recommendation only if Wellington City ceases to be a scheduled region or district under HASHAA, or the Minister must be satisfied that the SHA no longer meets prescribed criteria. While the HASHAA provides no guidance on Council's role in the disestablishment process, it is logical that Council, if seeking to disestablish an SHA, would make a recommendation to the Minister and provide evidence to satisfy the Minister that the prescribed criteria no longer apply.
14. To facilitate the decisions under paragraphs 11 and 12 above, amendments are required to the delegations as per the above recommendations.
15. The process for considering development applications under the HASHAA is similar to the RMA, and it is proposed that the decision making process mirrors the delegations in place for the RMA.
16. The Council has delegated all persons on its list of approved hearings commissioners the delegations required to conduct and determine RMA hearings. The list comprises persons with wide ranging expertise relating to planning and associated disciplines and is approved by the Regulatory Processes Committee. It is considered appropriate that hearings commissioners for HASHAA applications are appointed from the existing list. As the existing delegations process relates solely to the RMA, a further delegation process is required to extend the process to applications notified under the HASHAA.
17. The Chair of the Regulatory Processes Committee is authorised to appoint commissioners for Resource Management hearings. It is recommended that an identical process under HASHAA is appropriate.
18. Both the HASHAA and the Housing Accord itself prescribe specific processes and requirements that must be met prior to termination. It is considered appropriate that this power should be retained by Council and the recommendations and proposed changes to the ToR reflect this.

### **Amendments to the 2013/16 Terms of Reference**

19. The delegations proposed in this paper would be recorded in the 2013/16 Terms of Reference as follows:
  1. As a consequence of recommendation 2 the Transport and Urban Development Committee's Terms of Reference in Section 3.4 will be amended to include the following wording:
    4. *to make the following decisions in respect of the Housing Accords and Special Housing Areas Act:*
      - 4.1 *to recommend to the Minister of Housing Special Housing Areas and criteria for qualifying developments*
      - 4.2 *to recommend to the Minister of Housing that any Special Housing Area(s) be disestablished*
  2. As a consequence of recommendation 3, the record of the delegation to hearings commissioners agreed by Council on 14 November 2013 (contained in section 8 of the ToR) will be amended to read as follows (additions underlined):

**RESOURCE MANAGEMENT DELEGATIONS**

1. *Under the Chief Executive delegations (see Section 7) the Chief Executive has been delegated all powers and authorities under the Resource Management Act 1991 and Housing Accords and Special Housing Areas Act 2013 except:
  - 1.1 *the powers retained by Council or its Committees (see section 1.2 paragraph (h) and section 3.4 paragraphs 2, 3 and 4).*
  - 1.2 *the functions, powers and duties to conduct RMA hearings on resource consent applications, designations, heritage orders and fee objections – which have been delegated to those persons on Council’s approved list of Hearings Commissioners.*
  - 1.3 *the functions, powers and duties to conduct HASHAA hearings on resource consent applications - which have been delegated to those persons on the Council’s approved list of Hearings Commissioners.**
3. As a consequence of recommendation 5, Section 1.7 Role Specific Delegations will be amended to include the following wording (additions underlined):

*The Chair Regulatory Processes Committee is authorised to appoint Councillors (sitting as hearings commssioners) and/or independent commissioners to hearings panels for Resource Management and Housing Accords and Special Housing Area Act hearings provided that...*
4. As a consequence of recommendation 6, Council’s Terms of Reference in section 1.2 will be amended to include the following additional wording:
  - (l) to terminate the Housing Accord.

**Attachments**

Nil

Author	Andy Christofferson, Manager Best Practice
Authoriser	Sally Dossor, Director Governance

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

Implementation of the Wellington City Housing Accord aligns with Council's Wellington Towards 2040 Smart Capital and Economic Growth Strategy.

### **Treaty of Waitangi considerations**

There are no known implications.

### **Financial implications**

There are no known implications.

### **Policy and legislative implications**

The recommended changes to the ToR are necessary to ensure legislative compliance with the HASHAA.

### **Risks / legal**

There are no known risks and legal implications.

### **Climate Change impact and considerations**

There are no known implications.

### **Communications Plan**

A 27 August 2014 paper to the Governance, Finance and Planning Committee has outlined the completed consultation and proposed communications relating to the Housing Accord. The recommended ToR changes are highly technical in nature and no additional communications are proposed.



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## **GRANTING OF CCO EXEMPTION TO WELLINGTON RURAL FIRE AUTHORITY UNDER SECTION 7(4) OF THE LOCAL GOVERNMENT ACT 2002**

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### **Purpose**

1. This report seeks Council's approval for the exemption to the Wellington Rural Fire Authority (WRFA) from the definition of 'council controlled organisation' (CCO) under section 7(4) of the Local Government Act 2002 (LGA2002)

### **Summary**

2. An entity meets the definition of a CCO when the number of local authority representatives reaches more than 50% of the Board. This situation would arise at the WRFA's Annual General Meeting but could also arise in extraordinary meetings.
3. As the WRFA could be deemed to be a CCO it would be subject to the prescribed monitoring regime set out in the LGA2002. However, section 7 of the LGA2002 allows the Council to exempt a small organisation taking the following matters into account:
  - The nature and scope of the activities provided by the organisation; and
  - The costs and benefits, if an exemption is granted, to the local authority, the council-controlled organisation, and the community.
4. The exemption is required to be granted by resolution of the Council and must be reviewed every three years.

### **Recommendation/s**

That the Council:

1. Receive the information.
2. Agree, in accordance with the provisions of section 7 the Local Government Act 2002 to treat the Wellington Rural Fire Authority (WRFA) as an exempted organisation for the purposes of section 6(4)(i) of the LGA2002.

### **Background**

5. The WRFA is established under the Forest and Rural Fires Act 1977 as a body corporate. The Wellington Rural Fire District is managed by the Wellington Rural Fire Authority (the Authority), as gazetted on 13 June 2013 (no. 74, p. 1980).
6. The WRFA governance is via a committee of seven members. The committee is established to administer the Wellington Rural Fire District. In addition to the provisions contained within the Forest and Rural Fires Regulations the detailed rules by which the business of the committee is conducted are provided for in the constitution and the committee rules documentation.
7. The five member authorities can only appoint three members onto the committee, and as such do not have voting control on the committee. While the five councils are not shareholders of the entity (there are no actual shareholders provided for under the Forest and Rural Fires Act), the five councils do provide most of the funding and so at

an AGM each have a vote. Therefore, under section 6(1)(a)(i) of the LGA2002 the WRFA meets the definition of a CCO.

8. The Forest and Rural Fires Regulations 2005 provides a detailed framework for how a Rural Fire Committee must function under the Forest and Rural Fires Act 1977. This includes provisions around making appointments, the governance committee role and function, disclosure of interests, provisions for sub-committees, financial provisions and reporting confidentiality of information, etc.
9. The CCO monitoring regime required by the LGA2002 would create additional layers of planning, reporting and accountability including formal statements of intent and more detailed six monthly and annual reporting against financial and non-financial targets.
10. These and other requirements under Part 5 of the LGA2002 and the Public Audit Act 2001 would impose significant compliance costs for a small entity such as the WRFA. The effect on the community of the WRFA being exempt from the CCO requirements would be minimal.
11. In order for this exemption to extend to the rules under the LGA2002, Council must resolve to grant the WRFA an exemption from the definition of CCO under section 7(3) – (7) of the LGA2002, which provides for such an exemption after taking into consideration:
  - the nature and scope of the activities provided by the organisation and
  - the costs and benefits to the local authority, the council-controlled organisation and the community.
12. The benefits of exemption for the WRFA will be there will be no requirement :
  - a) to produce an annual Statement of Intent, incorporating measures by which the Council can assess the achievement of its objectives;
  - b) to submit to the Council (and make public) a half yearly or annual report on its operations; and
  - c) to submit its annual report for audit by an auditor appointed by the Auditor-General.
13. Being exempted from these requirements will relieve the WRFA of a significant additional administrative and cost burden.
14. The benefits of exemption for the Council will be there will be no requirement:
  - a) to set the Council's key performance objectives for the entity (which have not been considered); and
  - b) to monitor the performance of the entity to evaluate its contribution to the achievement of the Council's strategic aims and outcomes (which, even if relevant, is small).
15. The exemption must be reviewed every three years and can be revoked at any time.

### **Options**

16. The alternative to granting an exemption would be to require the WRFA to meet the obligations of a CCO. This would see the WRFA staff producing a statement of intent, KPI and financial reporting in the respective formats of each of the five member councils. The Board members unanimously agree this would require significant additional resourcing over and above those needed to meet the reporting requirements of the Fire Service Commission (via the National Rural Fire Authority).

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**Next Actions**

17. No further actions are required prior to a review of the exemption in three years.

**Attachments**

Nil

Author	Paul Glennie, Team Leader Strategic Planning
Authoriser	Anthony Wilson, Chief Asset Officer

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

As rural fire service levels and delivery are not impacted by this decision there has been no consultation undertaken beyond communications within the respective member organisations.

### **Treaty of Waitangi considerations**

There are no Treaty of Waitangi implications from this decision

### **Financial implications**

The financial impacts from this decision mean there is a reduced need for additional resources to be required for reporting functions in the foreseeable future.

### **Policy and legislative implications**

This approach is consistent with Council policies and practices regarding rural fire management

### **Risks / legal**

There are no foreseeable risks or legal implication from this decision.

### **Climate Change impact and considerations**

N/A

### **Communications Plan**

N/A



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## 4. Committee Reports

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# REPORT OF THE TRANSPORT AND URBAN DEVELOPMENT COMMITTEE MEETING OF 3 DECEMBER 2014

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Item 4.1

**Members:** Mayor Wade-Brown, Councillor Coughlan, Councillor Foster (Chair),  
Councillor Lee, Councillor Lester, Councillor Pannett, Councillor Woolf,  
Councillor Young.

**The Committee recommends:**

### DANGEROUS INSANITARY AND AFFECTED BUILDINGS POLICY

#### Recommendation

That Council:

1. Adopt the Dangerous Insanitary and Affected Buildings Policy as attached as Attachment 1.

#### Attachments

Attachment 1. Dangerous Insanitary and Affected Buildings Policy

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**DANGEROUS INSANITARY and AFFECTED BUILDINGS  
POLICY**

**DECEMBER 2014**

1. INTRODUCTION
2. POLICY OBJECTIVES
3. POLICY PRINCIPLES
4. PRIORITIES
5. HERITAGE BUILDINGS
6. GENERAL APPLICATION
7. RECORD KEEPING

## **1. INTRODUCTION**

This policy was developed in response to requirements set out in the Building Act 2004 (BA04).

This policy has a tenure of five years from the adoption date before it must be reviewed.

This policy was developed using the special consultative procedure under the Local Government Act 2002 which included discussion with principal Council stakeholders, principal external stakeholders, adjacent territorial authorities, the Greater Wellington Regional Council, and the public.

Amendments to this policy must also be made in accordance with the special consultative procedure.

## **2. POLICY OBJECTIVES**

The policy's objective is to discharge BA04 responsibilities for dangerous, insanitary and affected buildings. The policy indicates the Council's general approach and its priorities in performing its functions in relation to dangerous, insanitary and affected buildings. The policy also expressly deals with the performance of those functions in relation to buildings that are also heritage buildings.

It is the building owner's responsibility to ensure that buildings comply with the BA04 requirements. The Council can give no assurance or guarantee that any building is safe or sanitary at any time. The Council's responsibility is to ensure that when dangerous or insanitary conditions are found, the danger is reduced or removed and the owner takes action to prevent the building from remaining dangerous or insanitary. Where an owner fails to take steps to address the dangerous or insanitary state of a building, the Council may exercise its powers to take those steps on the owner's behalf and to seek to recover any resulting costs from the owner.

This policy applies to all buildings, even if a building consent, code compliance certificate or other form of certificate (such as a certificate of acceptance or a certificate for public use) has been issued previously. This is because, the current use and/or maintenance of the building, events affecting building performance (such as fire or natural hazard events), or the state of nearby buildings can all impact on the health and safety of building occupants.

## **3. POLICY PRINCIPLES**

This policy has been developed considering the purpose and principles of the BA04 which, amongst other things, seek to ensure that:

- people who use buildings can do so safely without endangering their health
- people who use a building can escape from the building if it is on fire.

## **4. PRIORITIES**

The Council will respond promptly to a complaint about a building and will inspect the building to assess its dangerous or insanitary status. The assessment will determine whether immediate or urgent action is necessary, and confirm if the building is or is not dangerous or insanitary. If an immediate response is needed, Section 129 of the BA04 gives the Council options to take action.

In general, 10 days is a minimum period for any danger to be removed or the insanitary conditions to be fixed – unless the situation requires immediate rectification.

## **5. HERITAGE BUILDINGS**

The Council's Heritage Policy 2010, its District Plan and section 6 (f) of the Resource Management Act 1991 (RMA) reflect that historic heritage is a matter of national importance. Those documents collectively anticipate that work on a heritage building will be done in a manner that protects its heritage values.

Except in emergencies where demolition constitutes emergency works under sections 330 and 330A of the RMA, heritage buildings in Wellington City cannot be demolished without Resource Consent. These emergency works can be done where any sudden event means that a building is likely to cause loss of life, injury or serious property damage (for example, if a building wholly or partially collapses).

The owner(s) of a heritage building that is identified as dangerous or insanitary should consult with Council's heritage advisors when developing a scheme of works to address the building's dangerous or insanitary aspects.

The BAO4 requires that if a building is registered under the Historic Places Act 1993 (HPA) we send a copy of any notice issued under section 124 of the BAO4 to Heritage New Zealand (HNZ).

If demolition is proposed to a building that was constructed before 1900, the archaeological provisions of the HPA apply. Seek advice from the HNZ on any other permission required under the HPA.

## **6. GENERAL APPLICATION**

The Council's general approach is outlined below:

### **1. Detect**

When a complaint is received or a Council officer observes a potentially dangerous or insanitary condition:

- the event is recorded on the Council's databases
- the building records are searched if time allows
- an inspection is arranged.

### **2. Assess**

The building is assessed to determine:

- if there has been any illegal building work and/or an unauthorised change of use
- the standard of maintenance of specified systems for fire safety, water supply and other systems
- the state of repair of the building structure, services and passive fire protection
- the safety level offered by the building compared to any relevant "acceptable solution"<sup>1</sup>.

A decision as to whether the building is dangerous or insanitary, and if dangerous or insanitary whether any other buildings should consequently be regarded as affected buildings, is made by an authorised Council officer who may obtain expert advice

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<sup>1</sup> An acceptable solution is a document issued by the Ministry of Business, Innovation and Employment as one way of compliance with the Building Code.

where appropriate and options to reduce or remove the danger or to fix the insanitary conditions are explored.

### **3. Act**

When a building is determined to be dangerous and/or insanitary, the Council will contact the building owner or their agent to discuss remedial options. In some cases the urgency of the situation may not allow the Council to contact the building owner.

The building owner can agree to complete the work within a specified time, otherwise the Council can issue a notice to require the work be done to reduce or remove the danger or to fix the insanitary conditions.

If there is immediate danger to building users, the Council can arrange the work to remove the danger or fix the insanitary conditions and recover costs from the owner.

When a building (Building A) is determined to be dangerous, the Council will contact the owner/s of any adjacent, adjoining or nearby building (Building B) i.e. an 'affected building' as defined in section 121A of the BA04. The Council will provide the Building B owner with a copy of any notice issued for Building A under section 124(2)(c) or (d) of the BA04. The Council will also provide the Building B owner with information relating to the Council's monitoring and enforcement actions in relation to Building A. The Council may, at its discretion, exercise any of its powers under section 124(2)(a), (b) or (d) in relation to Building B.

### **4. Monitor**

The building will be re-inspected to confirm the required actions have been completed or a written notice has been complied with.

### **5. Enforce**

If dangerous or insanitary conditions continue, the Council will issue further notices requiring the owner to carry out the remedial work.

Continued failure to comply with a notice can lead to prosecution or an infringement notice being served.

Another option is the Council arranges the work and recovers the costs from the building owner, in accordance with the process set out in section 126 of the BA04.

Where immediate danger to the safety of people is likely, or immediate action is necessary to fix insanitary conditions, the Council's Chief Executive may exercise his or her discretion to issue a warrant under section 129 of the BA04.

### **7. RECORD KEEPING ON THE LIM**

The following information will be recorded on the Land Information Memorandum (LIM) for a property:

- where dangerous and insanitary conditions, or affected building status, are confirmed but not resolved
- any outstanding written notice under section 124(2) of the BA04, along with explanatory information of the BA04's requirements.

Information is not included on a LIM when dangerous or insanitary conditions, and affected building status, have been resolved. Note information about those matters may still be made available in response to a request for information in accordance with the Local Government Official Information and Meetings Act 1987.



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## **REPORT OF THE ENVIRONMENT COMMITTEE MEETING OF 27 NOVEMBER 2014**

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**Members:** Mayor Wade-Brown, Councillor Ahipene-Mercer, Councillor Foster, Councillor Free, Councillor Lee, Councillor Pannett (Chair), Councillor Ritchie, Councillor Sparrow.

### **The Committee recommends:**

#### **AMENDMENTS TO THE TRADING IN PUBLIC PLACES POLICY: REPORT ON CONSULTATION AND FINAL PROPOSALS**

#### **Recommendations**

That Council:

1. Adopt the further amended Trading in Public Places Policy in Attachment 1 (that reflects this Committee's decision on 27 November 2014).
2. Delegate Council officers with the power to take all actions necessary to negotiate and issue licences in relation to open spaces and land classified as Reserve (under the Reserves Act 1977), as agreed to by this Committee on 6 August 2014.
3. Note that Council has the discretion to revisit the adoption of changes relating to functions, events and guided tours in the future.

#### **CHARLES PLIMMER BEQUEST FORWARD PROGRAMME**

#### **Recommendations**

That Council:

1. Approves use of the Charles Plimmer funding as set out below and includes in the 2015-2025 LTP as follows:
  - a. \$650,000 to part fund the development of the Children's Garden, Wellington Botanic Garden in 2015/2016 to supplement Charles Plimmer Bequest funding of \$750,000 approved in March 2012
  - b. \$50,000 in 2017/2018 and \$600,000 in 2018/2019 for the redevelopment of Newlands Park
2. Agree in principle that the forecast distributed funds of up to \$2 million by 2025 be used for a suitable project as part of the proposed heritage park on Watts Peninsula and that officers will report back with a detailed funding proposal once governance and management arrangements for the proposed park are completed .

#### **Attachments**

Attachment 1. Trading in Public Places Policy

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## TRADING IN PUBLIC PLACES POLICY – PROPOSED FINAL TEXT

\*Proposed text added by officers before 27 November 2014 is shown in blue.  
Proposed deleted text by officers shown as ~~crossed-out~~.

\*Text deleted in accordance with Committee recommendations on 27 November 2014 is shown in ~~red-deleted~~.

### 1. Definitions

**Commercial** – means ‘business activity’, i.e. an undertaking carried on for pecuniary gain or reward.

~~Commercial guided tours – groups managed by a guide for commercial purposes on public spaces for recreation, education or interpretation. For example, walking, mountain biking, horse trekking and cemetery tours.~~

~~Commercial functions / events – commercial events that have exclusive use of a land area for up to 6 days at any one time.~~

**The Council** - The Wellington City Council or any committee or elected member of the Council or officer authorised to exercise authority of the Council.

**Hawker** - Trading from a vehicle and only stopping long enough to sell to a customer.

~~Non-Commercial guided tours – same definition as for commercial guided tours except for a tour to qualify as a “non-commercial guided tour”, the organisations running the tour must be:~~

- ~~• an incorporated society or trust~~
- ~~• a registered charity~~
- ~~• a voluntary organisation that does not make financial profits from running guided tours beyond supporting the organisation’s activities run by volunteers, or~~
- ~~• Council volunteers.~~

**Open Air Market** - Any outdoor place, accessible to the public, where goods are offered for sale, which usually consists of several merchandise stalls grouped together.

**Organised commercial group fitness activities** –commercial fitness training activities. For example:

- Gym sessions or circuit training (with or without equipment)
- Bootcamps
- Boxing and pad training
- Organised aerobic activity.

~~Permit – written permission to carry out an event / function that does not require an interest in land.~~

**Public Place** - Any road, street, footpath, court, alley, square, pedestrian mall, lane or access-way of a public nature open to or used by the public as of right and every



place to which the public have access and every reserve, park, domain, beach, foreshore and recreational ground within the City, subject to the provisions of the Reserves Act 1977.

**Recreation Equipment** - Any equipment used for recreational purposes such as kayaks, canoes, boats, surf boards, bicycles, roller blades, or scooters.

**Reserve** – means an area of land classified under the Reserves Act 1977 or managed under other legislation (such as a Wellington Town Belt Act).

**Reserve Management Plan** – means an adopted management plan for any park, reserve or other type of open space under the Reserves Act 1977 or under other legislation (such as a Wellington Town Belt Act).

**Retail Kiosk** - A small, permanent structure used to sell goods such as newspapers, magazines or confectionary items.

**Temporary Retail** - Any stand, stall, tent, mobile shop, vehicle, vessel or other and Food Stalls setup from which goods and / or food are sold that is open in a temporary nature and removed when not in use. Note that 'Temporary' has a different meaning for Town Belt land<sup>1</sup>.

**Trading** - The act of selling or trading, or offering to sell or trade, goods or services, with or without use of a vehicle.

## **2. Introduction**

Trading in public places can add to the character, vibrancy, visitor experience and safety of the city. It is important however to control trading activities in public places to ensure appropriate standards of health, safety, pedestrian priority and visual amenity are maintained. It is also important to consider the potential impacts on established businesses when determining where street vending activities can occur.

## **3. Objectives**

The policy is to ensure that the public trading activities in Wellington City make public places more safe, lively and attractive without inhibiting the safety and efficiency of pedestrian movement. The Policy guides:

- the granting of licences or permits for trading in public places (if applicable)
- the types of trading that are allowed
- conditions for
  - \_ health and safety
  - \_ pedestrian access
  - \_ consideration of established businesses.

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<sup>1</sup> Refer to the Wellington Town Belt Act – Section 5 'Interpretation', at [www.legislation.govt.nz](http://www.legislation.govt.nz)

#### 4. Principles of the Policy

The following principles shall apply when considering trading activities in public places:

- The Council's decision to license and/or encourage trading in public places is reflective of its strategic vision for the city.
- Pedestrian priority should be enhanced to facilitate more efficient and safe walking routes in Wellington and to encourage more people to walk as their primary transport mode where possible.
- Wellington streetscapes and public places should be vibrant, safe and attractive.
- Wellington public places should provide opportunities for pedestrians to participate in the public environment - leisure, retail, recreation and entertainment.
- Businesses, groups and individuals that are permitted to use public places for trading activities are responsible for managing those activities in accordance with Council guidelines.
- Private trading activities that introduce changes to paving or street furniture (e.g. barriers) for amenity purposes will generally not be permitted.
- Trading activities should add to the city's vibrancy, improve public safety and strengthen the existing function of areas.
- The effects on existing businesses will be taken into account.
- Fees shall be set on a cost-recovery basis, **unless specifically stated otherwise for individual activities**. Licence holders or other permitted activities should not be unfairly advantaged over established businesses that have rent or rates overheads.

#### 5. Scope of activities

The Trading in Public Places Policy provides guidelines for allowing the following trading activities on streets and public places:

- temporary retail and food stalls
- retail kiosks
- recreational equipment hire
- hawking
- open air markets
- ~~commercial functions / events~~
- ~~organised commercial group fitness activities~~

• ~~commercial guided tours~~

For the above activities, relevant governing frameworks (i.e. Reserves Management Plans, local area frameworks agreed to by the Council, relevant legislation (including Bylaws) and District Plans) would take precedence over this TPPP, in the event of any inconsistencies between this TPPP and relevant governing frameworks.

## **6. Where is trading in public places allowed?**

The Council will **permit and/or** grant licences against certain guidelines for trading in public places as an activity that will bring life and atmosphere to locations in the city as well as enhance the experience of certain areas. Factors that could be considered when determining locations for street vending activities include whether:

- the location
  - works well with the rest of the city
  - is highly visible
  - is easily accessible
  - has low activity levels and/or less than desired public safety
  - is consistent with relevant governing frameworks (i.e. Reserves Management Plans, local area frameworks agreed to by the Council, relevant legislation (including Bylaws) and District Plans)
- trading activities
  - do not disrupt safe and efficient pedestrian flows
  - support or enhance the existing function of the location
    - do not negatively effect locations designated as scenic areas or quiet open space.

~~The Wellington Waterfront Limited is responsible for approving trading activities along the land designated as the 'Waterfront'. Wellington City Council will require Wellington Waterfront Limited to provide an open air market on the waterfront.~~

The Council manages the waterfront under the Wellington Waterfront Framework and the design guidelines and protocols previously established by Wellington Waterfront Limited.

## **7. Temporary Retail and Food Stalls, Retail Kiosks and Recreational Equipment Hire**

The Council reserves the right to grant licences for temporary retail and food stalls, recreational equipment hire and retail kiosks in public locations throughout the city.

The Council will charge a fee for the licence. Licences are non-transferable and can be revoked at anytime due to non-compliance. The licence must be displayed to the public at all times.

The Council is responsible for identifying and agreeing any potential kiosk locations and designs and the terms of individual leases.

### ***7.1 Type of commercial goods allowed***

The type of goods that are allowed at temporary retail and food stalls, and kiosks, include handcrafted items, art, prepared food for consumption by the public, and produce such as fruit, vegetables, and flowers.

The Council wants to reinforce the image of Wellington as a creative capital by supporting vendors that sell art, photography and handcrafted items. The goods for a temporary retail stall must be approved by the Council during the application process. Licences may be revoked if goods are sold that are not consistent with what was approved by the Council.

Recreational equipment hire may also be licensed in public places, contingent on the above guidelines being adhered to.

### ***7.2 Health and Safety Regulations***

Temporary stalls selling fresh produce must obtain a certificate of registration under Regulation 4 of the Food Hygiene Regulations 1974. The stall operator must pay the prescribed Council fee for a certificate of registration. Stalls must comply with relevant food safety and hygiene regulations. Stall operators that do not comply with food safety and hygiene regulations will have their certificate of registration and their temporary retail stall license revoked.

### ***7.3 Times of operation and licence duration***

The times of operation will be stated in the licence as will the duration of the licence. Stall holders that operate outside the times outlined in the licence may have their licence revoked.

### ***7.4 Stall appearance and storage***

The Council must approve the appearance of the stall. A photograph or a detailed sketch of the stall must be included in the application for a temporary retail stall. The stall must maintain high standards of appearance at all times. No changes may be made to the stall without prior approval.

The stall operator must be in attendance at all times.

Stalls are generally not permitted to be stored on site overnight and must be removed from the public place when not in use. The Council may revoke the stall licence if the licence holder does not keep the stall appearance tidy and safe to the satisfaction of the Council.

The trading area should be left clean and tidy to the satisfaction of the Council and all rubbish must be properly disposed of. No rubbish should be stored in public view during operating hours. No goods are permitted to be stored outside a kiosk when not in use.

The operator must keep noise to reasonable levels to the satisfaction to the Council.

### **7.5 Application process**

The application for a temporary retail stall licence must include:

- detailed information of the type of goods to be sold (the Council may request to see the goods)
- the proposed days and hours of operations
- a photograph or detailed sketch of the vending stall
- the application fee
- evidence of public liability insurance
- information required for food hygiene and safety registration

### **8. Hawking**

The Council permits hawking outside the Central Business District as defined in the District Plan.

Hawkers selling food must obtain a certificate of registration under Regulation 4 of the Food Hygiene Regulations 1974. Hawkiers selling food must comply with food safety and hygiene regulations. Food-selling hawkiers that do not comply with food safety and hygiene regulations will have their certificate of registration revoked. Hawkiers must pay the prescribed Council fee for a certificate of registration.

Trading from a fixed location is not permitted.

Hawkiers must properly dispose of their rubbish. The operator must keep noise to reasonable levels to the satisfaction of the Council.

### **9. Open Air Markets**

The Council may license the establishment of open air markets on public places on a case-by-case basis, taking into account the nature of the public place and the potential effect on existing businesses. Individuals or groups must receive licensed permission from the Council to operate an open air market in a public place. Licence conditions may include:

- identifying the type of goods that can be sold at the market
- ensuring adequate space for pedestrians
- allocating set hours and days for operation
- identifying issues relating to storage.

Any group or individual interested in establishing an open air market on public land should contact the Council.

Stall holders in open air markets, on public or private land, where food is sold, need to obtain a certificate of registration under Regulation 4 of the Food Hygiene Regulations 1974.

#### ~~10. Commercial functions / events~~

~~Organisers of commercial functions / events must apply for permits for exclusive use of a land area. Bonds may be required on a case by case basis to cover risks of damage.~~

~~Details needed in the application include contact details, the type, date and time of event, number of people attending and special requirements. Organisers would also need to confirm that they have appropriate systems for managing health and safety under the Health and Safety in Employment Act and agree to any other conditions, such as those prescribed by Reserve Management Plans.~~

~~Council-sponsored events under the Events Policy – i.e. iconic, regional or community events e.g. Island Bay Festival may be discounted or free.~~

#### 10. Organised commercial group fitness activities

Organisers of commercial outdoor fitness groups and exercise classes must abide by the Code of Conduct annexed to this policy. Otherwise, the Council may take legal action to prevent the fitness trainer or exercise class using Council spaces.

Permission for these activities does not generally need to be approved by the Council. Note, however, that if the activity is proposed on a sports-field, then approval will be required and fees will need to be paid as per the standard booking fees and conditions for sports-field use.

#### ~~12. Guided tours~~

~~Organisers of commercial guided tours taking place within Reserve areas throughout the city must apply for licences to Council officers in the Council Business Unit that administers parks and open spaces and pay relevant fees (at levels equal to or below cost-recovery). Organisers of non-commercial guided tours (as defined by this policy) must obtain permission to run their activities, but are exempt from licensing.~~

##### ~~12.1 Licence conditions~~

~~Organisers of guided tours must have systems in place to manage safety and comply with the Health and Safety in Employment Act and its Regulations, including having public liability insurance.~~

~~Guided tour operators also need to:~~

- ~~— prevent damage to public spaces~~
- ~~— report any damage or safety hazards to the Council immediately on 499 4444~~
- ~~— not restrict access to other people who want to use a given public space~~

- ~~— comply with any Reserves Management Plans covering the area where a tour takes place (Council will advise on this)~~
- ~~— meet health and safety standards~~
- ~~— provide a quality experience for visitors~~
- ~~— comply with any other conditions that may be set as part of the permit, including any guidelines that the Council provides with the permit.~~

#### 12.2 Application process

The application for a commercial guided tour operator licence must include:

- ~~— company name~~
- ~~— likely size of tour~~
- ~~— nature of tour – e.g. walking, mountain bike training, horse riding~~
- ~~— where and when the tour will take place~~
- ~~— approximate frequency that it would take place~~
- ~~— evidence of public liability insurance.~~

### 11. Fees, Monitoring and Enforcement

Fees, unless specifically stated otherwise for individual activities, will be set in alignment with the Council's revenue and financing policy which requires that the costs of this policy will be fully recovered from licence fees. Licence Fees are expected to include the costs of:

- licensing/permitting
- monitoring and enforcement
- administration
- additional resources that the applicant requests or expects from the Council – such as Council providing higher than normal levels of service on a particular space, extra facilities, equipment hire or extra maintenance.

The Council reserves the right to charge a rent for occupancy of public spaces in addition to the licence fee. Such a rent would be assessed by the value of the location and to ensure that businesses on private property are not unfairly disadvantaged.

The licence/permit applicant must pay the full licence-prescribed fee and have all the required permits before the licence/permit will be issued.

The Council will monitor trading activities in public places regularly to ensure that traders are complying with their licence, permit or Code of Conduct conditions, and that no unauthorised trading is occurring in public places.

The Council reserves the right to revoke licences, permits or leases for non-compliance issues. The standard protocol for non-compliance is as follows:

1. if a trader does not comply with the conditions of this policy, the Council will verbally notify the trader of the issue
2. if the problem persists, the Council will provide a written warning to that trader identifying the issue(s) and required remedy
3. if the business continues to infringe, the Council will consider revoking the permit, licence or lease, and take any other steps to prevent the trading on Council land.

Individuals or groups that trade on footpaths or other public spaces without a pavement licence will be asked to remove their material and cease with the trading activity. The Council will issue a written warning to the person. If the infringement persists, the Council will reserve the right to confiscate the stall setup or trading material pursuant to sections 163 and 164 of the Local Government Act, 2002, and under part 1.15.1 of the Wellington Consolidated Bylaw: any authorised servant of the Council may pull down, remove or alter any work, material or thing erected or being in contravention of any provision of this bylaw.

The Council may dispose of confiscated property pursuant to section 168 of the Local Government Act, 2002.

### Annex - Code of Conduct for Fitness Training on Wellington City Council's managed open spaces

\*This Code of Conduct has been endorsed by the Exercise Association of New Zealand and has been informed by Auckland City Council's Code of Conduct

The Council wants to promote active and healthy lifestyles and provide opportunities for people to engage in physical exercise on its parks and other open spaces. Outdoor group exercise classes where participants are motivated to achieve fitness goals are supported by the Council.

Fitness Trainers are not required to obtain landowner approval by way of a concession or booking to operate on the Council's spaces. They are however expected to operate in a manner that minimises:

- damage to open space values and assets,
- conflict with other open space users, and
- negative impacts on adjoining landowners and businesses.

This Code of Conduct outlines the Council's expectations in relation to how Fitness Trainers should conduct their activities on open space in respect to other open space users, health and safety aspects, use of fitness training equipment, parking, promotional material, public liability and the response to complaints.

If a complaint is received about a Fitness Trainer, the relevant Council business unit will contact the Fitness Trainer to:

- a) follow up on any breach of the Code of Conduct with a warning,



- b) invoice the Fitness Trainer for the cost of remediation works, if the complaint relates to damage to the park or park facilities, and /or
- c) assess whether the activity is appropriate for the area, and if necessary, determine alternate site options with the Fitness Trainer.

If significant complaints are received about a Fitness Trainer, the relevant Council business unit will issue a further warning and may take legal action to prevent the fitness trainer or exercise class using Council spaces.

The Council encourages you to be receptive and adaptable at all times to the needs of all park users and to cooperate with and provide information to Council staff upon request to assist with the effective management of our open spaces.

#### General rules

1. Fitness training activities can operate in accordance with this code of conduct in any open spaces other than those spaces restricted in accordance with a Reserve Management Plan, or those spaces that are otherwise specifically excluded from fitness activities, or where and when other users have paid for exclusive use. Note that if the activity is proposed on a sports field then approval and fees will need to be paid as per the standard fees and conditions for sports field use.
2. Fitness training activities should generally be conducted between 5am and 10pm.
3. Any one fitness training session must have a maximum of 30 participants and last for a maximum of 90 minutes.
4. At all times the Fitness Trainer must conduct the fitness training activities in a manner that does not adversely affect the park, any other open space user(s) and local neighbours or businesses.
5. The Fitness Trainer does not have exclusive use of any area at any time. This means the Fitness Trainer can only use any area while a session is in use, can not set up any semi-permanent space, and must take all equipment away from any open space when a session is not in-progress. The Council may, at its discretion, instruct a fitness trainer to relocate their activity.
6. The Fitness Trainer must:
  - a) Conduct themselves in an orderly and considerate manner and must comply with the Council's noise control guidelines and ensure any noise created during the training shall not unduly impact on other users or nearby residential properties.
  - b) Not use obscene or intimidating language.

- c) Manage the training to minimise wear and tear on grassed areas (this includes avoiding wet and boggy areas, rotating activity within an area and / or alternating activities, if more than one).
  - d) Not cause damage to grass or intentionally mark it permanently (such as through scraping ground or paint).
  - e) Ensure participants do not step on, or walk on, or in any other way inappropriately use the Council's furniture, structures, public art works, shrines or memorials.
  - f) Ensure that any exercise equipment brought on to the park does not create any hazard or obstruction to park users.
  - g) Ensure training activities do not dominate, monopolise and/or obstruct any stairways or pathways and that their participants run in single file when running in narrow areas.
  - h) Ensure that training activities do not interfere with any other Council pre-approved or booked activities, including but not limited to: functions, special events or sporting activities.
  - i) Ensure the natural features, animals, plants or historic resources within the park are not interfered with, removed, damaged or endangered.
  - j) Ensure any area used is left clean after each period of use and/or in the same condition it was at the commencement of use.
  - k) Inspect the area used for any hazards before each session and take appropriate action to remove hazard or alter session if required, and
  - l) Notify the Council on 499 4444 of any hazards / issues / park maintenance on or in the vicinity of the area which may constitute a danger to the public or the environment or require the Council's attention.
7. The Fitness Trainer's conduct should at all times reflect best industry practice and the operator shall ensure they and their employees comply with all relevant statutes, regulations, by-laws, the District Plan, and with any operative Reserves Management Plan and relevant open spaces policies or plans.
8. The Fitness Trainer shall cover the costs of any damage caused to the Council's assets and/or any cleaning required as a result of the training activity.

#### **Health and Safety**

9. The Fitness Trainer must ensure they:
- a) Have a First Aid Kit and Cellphone.

- b) Have a policy to deal with extreme weather (such as snow, lightning, or temperatures over 35 degrees celsius).
- c) Satisfy all occupational health and safety legislation and regulations. It is recommended that all trainers be level 2 First Aid qualified, and have appropriate plans in place to deal with emergency situations.

#### **Fitness Training Equipment**

- 10. Any equipment brought on to the park must be portable by an individual by hand and free standing at all times (ie equipment must not be pegged into the ground or hung from trees).
- 11. The following equipment is expressly prohibited on the park:
  - a) large gym equipment or anything that attaches to any park fixture or trees, (for example, weight benches, weight stacks, stationary bikes, punching/boxing bags, treadmills, steppers), and
  - b) whistles and megaphones.
- 12. Small equipment not attached to any park fixture or trees is permitted (for example, small plastic cones, speed ladders or hand-held boxing mitts).

#### **Vehicles**

- 13. All vehicles belonging to or directly associated with the operator must use only designated car park facilities on the park unless otherwise agreed with the relevant Council business unit.

#### **Promotional material**

- 14. The Fitness Trainer shall ensure that, where appropriate, all advertising material produced promoting their training activity shall specify that it is being carried out on a park.
- 15. The Fitness Trainer shall not erect any advertising material such as signs, 'A' frames or banners on the park. The exception to this is a single sign that indicates a session is in-progress, within 15 minutes either side of any fitness session.
- 16. Any signs indicating that a session is in-progress must be free-standing, not attached to any park fixture or trees, and not block public access to different spaces.
- 17. The Council reserves the right to restrict the handing out of promotional material such as flyers and brochures, should Council officers consider that such actions by fitness trainers or operators are not kept to reasonable levels.

#### **Public Liability**

18. The Council shall not be responsible for any property of the operator its employees or participants that may be left on the park or for any loss of any property.
19. The Council shall not be liable for and does not accept any responsibility for indirect or consequential loss to the operator due to any natural disaster, vandalism, sabotage, fire or exposure to the elements, except where such damage or interference is caused by any wilful act by or negligence on the part of the Council, its employees, agents or contractors.
20. It is recommended the Fitness Trainer takes out an appropriate level of public liability insurance against liability for loss, damage or injury arising out of conducting their fitness training activity.

#### **Recommended Professional Registration**

21. Registration with the New Zealand Register of Exercise Professionals at the personal trainer (contractor) level is recommended as a way of ensuring all industry standards are met.

#### **Identification**

22. The Fitness Trainer shall wear visible identification at all times with the name and contact details of the responsible manager / operator of the fitness activity.

#### **Complaints**

23. If a complaint is received in the first instance Council officers will work with the Fitness Trainer to review whether the issue can be addressed through changes to how the fitness training is undertaken. The Fitness Trainer will be responsible for the cost of any remediation works, if the complaint relates to damage to the park or park facilities. The Fitness Trainer may be requested to relocate their fitness training activity to a more suitable location on the park or to an alternate park.
24. If further significant complaints are received about an operator, the Council may take legal action to prevent the fitness trainer or exercise class using Council spaces.

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**REPORT OF THE ENVIRONMENT COMMITTEE MEETING OF 16  
DECEMBER 2014**

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**Members:** Mayor Wade-Brown, Councillor Ahipene-Mercer, Councillor Foster,  
Councillor Free, Councillor Lee, Councillor Pannett (Chair), Councillor  
Ritchie, Councillor Sparrow.

**RESERVE NAMING - LEONIE GILL PATHWAY**

To be circulated

**Attachments**

Nil



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## **REPORT OF THE REGULATORY PROCESSES COMMITTEE MEETING OF 27 NOVEMBER 2014**

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**Members:** Mayor Wade-Brown, Councillor Ahipene-Mercer (Chair), Councillor Foster, Councillor Lee, Councillor Pannett, Councillor Sparrow.

### **The Committee recommends:**

#### **PROPOSED ROAD STOPPING – LAND ADJACENT TO 114 TE ANAU ROAD, HATAITAI**

### **Recommendations**

That Council:

1. Recommend to the Council that it:
  - a. Agree that approximately 190m<sup>2</sup> of unformed legal road land at the intersection of Te Anau Road and Kio Road, Hataitai (the **Land**), adjoining 114 Te Anau Road, Hataitai (Pt Lot 15 DP7425, CFR WN384/27) is not required for a public work.
  - b. Authorise Council officers to undertake a section 40 Public Works Act 1981 (**PWA**) report to identify whether the Land must be offered back to its former owner or their successors, or whether exemptions from offer back apply.
  - c. Delegate to the Chief Executive Officer the power to either offer the Land back to its former owner(s) or their successor(s), or to approve the exercise of exemptions from offer back under section 40(2), 40(3), or 40(4) PWA (if appropriate).
  - d. Authorise Council officers to initiate the road stopping process for the Land in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.
  - e. Delegate to the Chief Executive Officer the power to formally approve the road stopping, issue all relevant public notices, declare the Land stopped, negotiate the terms of sale or exchange, impose any reasonable covenants, enter into an agreement in respect of the Land, and conclude all matters in relation to this transaction.

#### **PROPOSED ROAD STOPPING – LAND ADJACENT TO 114 TE ANAU ROAD, HATAITAI**

### **Recommendation/s**

That Council:

1. Recommend to the Council that it:
  - a. Agree that approximately 190m<sup>2</sup> of unformed legal road land at the intersection of Te Anau Road and Kio Road, Hataitai (the **Land**), adjoining 114 Te Anau Road, Hataitai (Pt Lot 15 DP7425, CFR WN384/27) is not required for a public work.
  - b. Authorise Council officers to undertake a section 40 Public Works Act 1981 (**PWA**) report to identify whether the Land must be offered back to its former owner or their successors, or whether exemptions from offer back apply.

**Item 4.4**

- c. Delegate to the Chief Executive Officer the power to either offer the Land back to its former owner(s) or their successor(s), or to approve the exercise of exemptions from offer back under section 40(2), 40(3), or 40(4) PWA (if appropriate).
- d. Authorise Council officers to initiate the road stopping process for the Land in accordance with Section 342 and the Tenth Schedule of the Local Government Act 1974.
- e. Delegate to the Chief Executive Officer the power to formally approve the road stopping, issue all relevant public notices, declare the Land stopped, negotiate the terms of sale or exchange, impose any reasonable covenants, enter into an agreement in respect of the Land, and conclude all matters in relation to this transaction.

**Attachments**

Nil