



I hereby give notice that an ordinary meeting of the Governing Body will be held on:

Date: Thursday, 28 July 2016
Time: 9:30am
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Governing Body

OPEN ADDENDUM AGENDA

MEMBERSHIP

Mayor	Len Brown, JP	
Deputy Mayor	Penny Hulse	
Councillors	Cr Anae Arthur Anae	Cr Dick Quax
	Cr Cameron Brewer	Cr Sharon Stewart, QSM
	Cr Dr Cathy Casey	Cr Sir John Walker, KNZM, CBE
	Cr Bill Cashmore	Cr Wayne Walker
	Cr Ross Clow	Cr John Watson
	Cr Linda Cooper, JP	Cr Penny Webster
	Cr Chris Darby	Cr George Wood, CNZM
	Cr Alf Filipaina	
	Cr Hon Christine Fletcher, QSO	
	Cr Denise Krum	
	Cr Mike Lee	
	Cr Calum Penrose	

(Quorum 11 members)

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Democracy Advisor

27 July 2016

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Unitary Plan - process for considering the recommendations of the Independent Hearings Panel

File No.: CP2016/15754

Purpose

1. To confirm the process for considering the recommendations of the Independent Hearings Panel.

Executive summary

2. The process that has been proposed includes:
 - consideration of the panel's recommendations by the Auckland Development Committee
 - final decision by the Governing Body.
3. This report sets out issues that are relevant to the process.
4. The current committee structure and adopted terms of reference allow for either such a two-stage process or for the process to be conducted entirely by the Governing Body.
5. However, a two-stage process:
 - provides an opportunity for additional quality assurance (allows time for resolutions to be reviewed for robustness), after the recommended resolutions are received from the Auckland Development Committee
 - permits Independent Māori Statutory Board (IMSB) participation in the decision-making process.

Recommendation/s

That the Governing Body:

- a) confirm that the process for determining the recommendations of the Independent Hearings Panel is a two stage process comprising detailed consideration by the Auckland Development Committee, followed by final decision-making by the Governing Body.

Comments

Background

6. The process that has been proposed to date for dealing with the recommendations from the Independent Hearings Panel includes:
 - (i) detailed consideration by the Auckland Development Committee (a committee of the whole of the governing body)
 - (ii) final decision by the Governing Body.
7. This is the standard approach that Council has adopted for its major policy and planning processes. For example the Long Term Plans and Annual Plans were considered and debated through committees of the whole, with final adoption of the recommendations of the committee by the Governing Body.

8. Some councillors have queried this process and suggested the consideration should be conducted entirely by the Governing Body rather than through the Auckland Development Committee making recommendations to the Governing Body.
9. This report sets out some of the issues around this.

Committee structure and delegations

10. The mayor has the power to establish the committee structure. The Governing Body approves delegations to committees by adopting the Auckland Council Governing Body Terms of Reference document, which sets out the responsibilities of committees in line with the mayor's intentions. The delegated responsibilities have been purposely expressed in broad terms, rather than prescriptively, to avoid committees making decisions without proper delegation.
11. The Terms of Reference note that a committee might choose to not exercise a delegation if circumstances warrant this.

Responsibilities of the Auckland Development Committee and Governing Body

12. The Local Government (Auckland Transitional Provisions) Act 2010 provides that it is the Auckland Council that must decide whether to accept or reject each recommendation of the Hearings Panel. Auckland Council is defined to include a delegate acting on its behalf (i.e. the Governing Body can delegate these decisions).
13. The terms of reference for the Auckland Development Committee describe its responsibilities as:

"This committee will guide the physical development and growth of Auckland through a focus on land use planning, housing and the appropriate provision of infrastructure and strategic projects associated with these activities. Key responsibilities include:

- Unitary Plan
- etc"

14. The powers that the committee has in order to exercise its responsibilities are:
 - (i) *All powers necessary to perform the committee's responsibilities*

Except:

- (a) *powers that the Governing Body cannot delegate or has retained to itself (section 2)*
- (b) *where the committee's responsibility is explicitly limited to making a recommendation only*

15. The terms of reference for the Governing Body state that the Governing Body has retained to itself:

- (f) *Approval of the Unitary Plan*

16. This means that the terms of reference provide the Auckland Development Committee with wide responsibilities which encompass the Unitary Plan. This allows the Auckland Development Committee to consider the recommendations of the Independent Hearings Panel. However the committee does not have the power to approve the Unitary Plan – this is retained by the Governing Body.

One-stage or two-stage process

17. The Terms of Reference permit a two-stage process comprising detailed discussion by the Auckland Development Committee and final decision-making by the Governing Body or a one-stage process where discussion and decisions are entirely at Governing Body.
18. A two-stage decision-making process allows for:

- (i) an opportunity for staff to review the wording of the resolutions recommended by the committee to ensure they are robust (this will be an important quality assurance mechanism given the extent of the issues that the committee will be dealing with) and for the Governing Body meeting to make the final decisions
 - (ii) participation of IMSB members
 - (iii) an efficient process because the same discussion and debate that is held during the Auckland Development Committee meeting is unlikely to be repeated during the Governing Body meeting.
19. A one-stage process allows for:
- (i) discussion and decision-making at the one meeting, which may be more efficient than a two-stage process.
20. In order to ensure that the advantages of the two stage process are captured while minimising any duplication, the proposed process is as follows:
- The Auckland Development Committee will consider a set of recommendations related to a specific topic or group of topics. The committee will then determine a set of recommendations to the Governing Body on these issues and adjourn.
 - The Governing Body will then convene, after a short break, to adopt (or not) those recommendations.
 - The Auckland Development Committee will then reconvene to move onto the next set of IHP recommendations, and so on.
21. This process would ensure that the council moves through the IHP recommendations in an orderly manner approving each set of recommendation from ADC at the GB level while still fresh in councillors' minds.

Independent Māori Statutory Board

22. Under the Local Government (Auckland Council) Act 2009 (the Act) the IMSB has the purpose:
- “to assist the Auckland Council to make decisions, perform functions, and exercise powers by—*
- (a) *promoting cultural, economic, environmental, and social issues of significance for—*
 - (i) *mana whenua groups; and*
 - (ii) *mataawaka of Tamaki Makaurau; and*
 - (b) *ensuring that the Council acts in accordance with statutory provisions referring to the Treaty of Waitangi.”*
23. The IMSB has a role of making sure that the council does not overlook matters of significance and complies with statutory provisions relating to the Treaty of Waitangi. Under the Act the IMSB also has the obligation to
- “...appoint a maximum of 2 persons to sit as members on each of the Auckland Council’s committees that deal with the management and stewardship of natural and physical resources.”*
- The work of the Auckland Development Committee and the matter of the Unitary Plan are relevant to this.
24. Over the first two terms of Auckland Council the way in which the council and the IMSB work together has evolved to the point where IMSB members now participate both at the committee level (all committees of the whole and other relevant committees) and through many other council processes, for example, interview panels for CCO directors. Participation in the Unitary Plan process is very important to the IMSB and a change in process at this stage has the potential to significantly damage the relationship going forward.

Consideration

Local board views and implications

25. The consideration and determination of the recommendations of the Independent Hearings Panel lies with the governing body (and its committees). Local boards have had input into the process up to this point at various stages.

Māori impact statement

26. The implications relating to the statutory purpose of the IMSB in assisting the council with its decision-making are set out in the body of the report.

Implementation

27. Members of the governing body have already had electronic appointments that allow for Auckland Development Committee and Governing Body meetings, to ensure that all members have been notified of meetings.
28. Public notice of the meetings states that consideration of the panel's recommendations will be undertaken by the Auckland Development Committee and/or the governing body. This allows for a decision to be made either way at this meeting.

Attachments

There are no attachments for this report.

Signatories

Author	Phil Wilson – Governance Director
Authoriser	Stephen Town - Chief Executive