

I hereby give notice that an ordinary meeting of the Regulatory Committee will be held on:

Date: Thursday, 1 December 2016
Time: 9.30am
Meeting Room: Room 1, Level 26
Venue: 135 Albert St
Auckland

Regulatory Committee

OPEN AGENDA

MEMBERSHIP

Chairperson Cr Linda Cooper, JP
Deputy Chairperson Cr Wayne Walker
Members Cr Fa'anana Efeso Collins
Cr Richard Hills
Cr Daniel Newman, JP
IMSB Member Liane Ngamane
Cr Dick Quax
Cr Sharon Stewart, QSM
IMSB Member David Taipari
Cr John Watson

Ex-officio Mayor Hon Phil Goff, JP
Deputy Mayor Bill Cashmore

(Quorum 5 members)

Tam White
Senior Governance Advisor

25 November 2016

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TERMS OF REFERENCE

Responsibilities

The committee is responsible for regulatory hearings (required by relevant legislation) on behalf of the council. The committee is responsible for appointing independent commissioners to carry out the council's functions or delegating the appointment power (as set out in the committee's policy). The committee is responsible for regulatory policy and bylaws. Where the committee's powers are recommendatory, the committee or the appointee will provide recommendations to the relevant decision-maker.

The committee's key responsibilities include:

- decision-making (including through a hearings process) under the Resource Management Act 1991 and related legislation
- hearing and determining objections under the Dog Control Act 1996
- decision-making under the Sale and Supply of Alcohol Act 2012
- hearing and determining matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002 (this cannot be sub-delegated)
- hearing and determining matters arising under bylaws
- receiving recommendations from officers and appointing independent hearings commissioners to a pool of commissioners who will be available to make decisions on matters as directed by the Regulatory Committee
- receiving recommendations from officers and deciding who should make a decision on any particular matter including who should sit as hearings commissioners in any particular hearing
- monitoring the performance of regulatory decision-making
- where decisions are appealed or where the committee decides that the council itself should appeal a decision, directing the conduct of any such appeals
- considering and making recommendations to the Governing Body regarding the regulatory and bylaw delegations (including to Local Boards)
- regulatory fees and charges
- recommend bylaws to Governing Body for consultation and adoption
- appointing hearings panels for bylaw matters
- review local board and Auckland water organisation proposed bylaws and recommend to Governing Body
- set regulatory policy and controls, including performing the delegations made by the Governing Body to the former Regulatory and Bylaws Committee, under resolution GB/2012/157 in relation to dogs and GB/2014/121 in relation to alcohol.
- engage with local boards on bylaw development and review
- adopting or amending a policy or policies and making any necessary sub-delegations relating to any of the above areas of responsibility to provide guidance and transparency to those involved.

Not all decisions under the Resource Management Act 1991 and other enactments require a hearing to be held and the term “decision-making” is used to encompass a range of decision-making processes including through a hearing. “Decision-making” includes, but is not limited to, decisions in relation to applications for resource consent, plan changes, notices of requirement, objections, existing use right certificates and certificates of compliance and also includes all necessary related decision-making.

In adopting a policy or policies and making any sub-delegations, the committee must ensure that it retains oversight of decision-making under the Resource Management Act 1991 and that it provides for councillors to be involved in decision-making in appropriate circumstances.

For the avoidance of doubt, these delegations confirm the existing delegations (contained in the chief executive’s Delegations Register) to hearings commissioners and staff relating to decision-making under the RMA and other enactments mentioned below but limits those delegations by requiring them to be exercised as directed by the Regulatory Committee.

Relevant legislation includes but is not limited to:

All Bylaws

Biosecurity Act 1993

Building Act 2004

Dog Control Act 1996

Fencing of Swimming Pools Act 1987

Gambling Act 2003; Land Transport Act 1998

Health Act 1956

Local Government Act 1974

Local Government Act 2002

Local Government (Auckland Council Act) 2009

Resource Management Act 1991

Sale and Supply of Alcohol Act 2012

Waste Minimisation Act 2008

Maritime Transport Act 1994

Related Regulations

Powers

- (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 limited to making a recommendation only.

- (ii) Power to establish subcommittees.

Exclusion of the public – who needs to leave the meeting

Members of the public

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

Those who are not members of the public

General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

Independent Māori Statutory Board

- Members of the Independent Māori Statutory Board who are appointed members of the committee remain.
- Independent Māori Statutory Board members and staff remain if this is necessary in order for them to perform their role.

Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Other staff who need to because of their role may remain.

Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

Council Controlled Organisations

- Representatives of a Council Controlled Organisation can remain only if required to for discussion of a matter relevant to the Council Controlled Organisation.

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1 Apologies

Apologies from Cr E Collins and Mayor P Goff have been received.

2 Declaration of Interest

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.

3 Confirmation of Minutes

There are no minutes for confirmation.

4 Petitions

At the close of the agenda no requests to present petitions had been received.

5 Public Input

Standing Order 7.7 provides for Public Input. Applications to speak must be made to the Democracy Advisor, in writing, no later than **one (1) clear working day** prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30) minutes** is allocated to the period for public input with **five (5) minutes** speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

6 Local Board Input

Standing Order 6.2 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5) minutes** during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **one (1) day's** notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 6.1 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
 - (i) The reason why the item is not on the agenda; and
 - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

8 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

Regulatory Committee 2016-2019

File No.: CP2016/23705

Purpose

1. For the Chair to introduce the scope of work of the Regulatory Committee for the 2016-2019 term.

Executive summary

2. This is an opportunity for the Chair to present an oral or written report. A written report was not available when the agenda went to print.

Recommendation/s

The recommendations will be provided in the comprehensive report if relevant.

Attachments

There are no attachments for this report.

Signatories

Author	Tam White - Senior Governance Advisor
Authoriser	Penny Pirrit - Director Regulatory Services

Consenting Made Easy (CME) change programme - Overview

File No.: CP2016/23137

Purpose

1. To provide an overview of the Consenting Made Easy (CME) programme and its progress to date.

Executive summary

2. CME is an organisational change programme being led by the Regulatory Services Directorate that aims to transform the consenting experience for customers and staff. The key objective of CME is to deliver an easy, efficient, consistent and integrated consenting experience for our customers.
3. A presentation will be given at the committee meeting which will provide an overview of the CME programme and its progress to date.

Recommendation/s

That the Regulatory Committee:

- a) note the progress on the Consenting Made Easy (CME) programme of work.

Comments

4. CME aims to transform the consenting experience for customers and staff by delivering an easy, efficient, consistent and integrated consenting experience.
5. A customer led design phase was completed in 2015, which has informed the strategic vision and direction for the CME programme and clearly defined the key opportunities that need to be addressed.
6. The CME delivery team was established in February 2016 and includes staff from all areas of council that support the consenting process, including Auckland Transport and Watercare. There are four broad work streams:
 - New service offers tailored to customer needs
 - Business process redesign
 - Technology investment
 - People.
7. A customer engagement programme has been established as an integral part of CME to ensure that proposals and deliverables meet the needs of our customers.

Consideration

Local board views and implications

8. CME is an internal change programme that will deliver significant benefits for staff and customers. Local boards will be updated on progress through the local board chairs forum.
9. A separate process has been undertaken with local boards on their engagement role in the consenting process.

Māori impact statement

10. An effective regulatory system is responsive to Māori. It recognises the position of Mana Whenua in their role across the region and acknowledges the importance of their spiritual and cultural relationship with the land. The regulatory system also needs to support iwi as customers generally, in the delivery of papakaiaanga and other development projects. The CME programme recognises the need for Iwi to provide input as we define Council's future service offers and as such Maori stakeholders are included in the CME customer engagement programme.

Implementation

11. CME has completed an in-depth customer engagement phase (customer led design), defined the current state and defined the consenting service offers of the future. Work is underway on developing the building blocks essential to delivering the future state – this includes technology development, rolling out best practice process initiatives, redesigning a leaner and faster process and ensuring that our people have the right skills and capabilities to deliver the future service.
12. Pilot initiatives are underway to test the proposed future service offers and improvement initiatives will be progressively rolled out over the next 12 months until full implementation is achieved.

Attachments

There are no attachments for this report.

Signatories

Author	Tanya Stocks - Programme Director
Authoriser	Penny Pirrit - Director Regulatory Services

Customer Enabled Compliance update

File No.: CP2016/22906

Purpose

1. To provide an overview of the Customer Enabled Compliance (CEC) programme and its progress to date.

Executive summary

2. CEC is an organisational change programme being led by the Regulatory Services directorate. It aims to transform how compliance services are delivered for Aucklanders, ensuring that the interventions we undertake are informed by the risks to public safety and health, risks to the environment, and risks to building infrastructure.
3. A presentation will be given at the committee meeting which provides an overview of the CEC programme and its progress to date.

Recommendation/s

That the Regulatory Committee:

- a) note the Customer Enabled Compliance (CEC) programme and its progress to date.

Comments

Key drivers of change

4. Responding to compliance incidences in an efficient and effective manner is increasingly challenging:
 - Demand is increasing greater than the underlying population growth of the city; the nature of growth and how this is being accommodated in Auckland is generating greater volumes of request for service across noise control, animal management and building compliance.
 - Increased customer expectations to respond and resolve issues more quickly and easily. Customers are demanding more modern, convenient ways of interacting with Council.
 - Operational challenges and opportunities, including changing central government regulatory requirements that must be implemented, and the prospect of new technologies and integrated systems that will enable smarter ways of operating within the directorate.

Programme Framework

5. A stock take of the current operating model has been completed. This identified 'what we do', 'how we do it' and the key challenges and opportunities. In tandem the programme identified five core development goals and a suite of suggested initiatives that will deliver the transformational shifts. The result was the development of a framework comprising 5 work streams:
 - People
 - Improving the Customer Experience
 - Strengthening the Compliance Approach
 - Improving our Service Model
 - Working Smarter through technology

Consideration

Local board views and implications

6. CEC is an internal change programme that will deliver significant benefits for staff, customers and citizens. Local boards will be kept updated through the local board chairs forum.

Māori impact statement

7. A modern regulatory compliance system focused on addressing high risks and harms is responsive to Maori. Maori engage with the present regulatory compliance system as customers but importantly also as kaitiaki and as kaiarahi.
8. Engagement with Maori will be undertaken in conjunction with the Consenting Made Easy programme.

Implementation

Current work and next steps

9. Three phases of work span the next 12 months, concluding December 2017:
 - a) Phase 1: Foundation; activity is focused on designing and setting the service requirements. The work contributes to the design of the target operating model (blueprint) and the programme level business case (*near completion*).
 - b) Phase 2: Development; activity will be focused on development and testing through pilot projects, developing and embedding new capability and standardisation of activity.
 - c) Phase 3: Large scale service model change/transition; the emphasis be on scaling up the implementation of bigger system dependent changes, sustaining earlier change and realisation of efficiency benefits.

Attachments

There are no attachments for this report.

Signatories

Author	Grant Barnes - General Manager Licensing and Compliance Services
Authoriser	Penny Pirrit - Director Regulatory Services

Noting the urgent decisions of 14 October 2016 to appoint independent commissioners

File No.: CP2016/21743

Item 12

Purpose

1. To note a decision made under urgency to appoint commissioners to make decisions on an application by Panuku Development Auckland Limited for resource consent for the proposed development at 198-202 and 214-222 Dominion Road and 113 and 117 Valley Road, Mount Eden.
2. To note a decision made under urgency to appoint commissioners to determine outline plans and an application for resource consents lodged by Watercare Services Limited for the Warkworth and Snells Beach/Algies Bay Wastewater Treatment Plant (WWTP) Reconsenting Project.

Executive summary

198-202 and 214-222 Dominion Road and 113 and 117 Valley Road, Mount Eden

3. Leigh McGregor and Richard Knott were appointed to determine the notification of resource consent and determine the application if it proceeded without the need for notification. Leigh McGregor (chair), Richard Knott, Justine Bray and Rebecca Skidmore were appointed to hear and determine the application if it proceeded with notice and/or a hearing was required.
4. The appointment decision was made under urgency as the matter needed a determination.

Warkworth and Snell Beach/Algies Bay Wastewater Treatment Plan (WWTP) Reconsenting Project

5. Greg Hill (chair), Alan Pattle and Bill Kapea were appointed to hear submissions and determine the publicly-notified application.
6. The appointment decision was made under urgency as the matter was waiting to be set down for hearing.

Appointment Decisions

7. The appointment decisions were made under urgency under Section 2 and 5.1.1 of the Hearings Committee policy and terms of reference. The matters needed to be considered prior to the Governing Body meeting on 1 November 2016 to meet statutory timeframes.
8. The appointment decisions were made under delegation by Hearings Committee Chairperson Cr Linda Cooper, Deputy Chairperson Cr Penny Webster and Independent Maori Statutory Board member Glenn Wilcox on 14 October 2016.

Recommendation/s

That the Regulatory Committee:

- a) note the appointment decision made on 14 October 2016 relating to the application for a proposed development at 198-202 and 214-222 Dominion Road and 113 and 117 Valley Road, Mount Eden.
- b) note the appointment decision made on 14 October 2016 relating to the application for resource consents under section 104 of the Resource Management Act 1991 (RMA) and any changes in respect of the outline plans under section 176A of the RMA for the Warkworth and Snells Beach/Algies Bay Wastewater Treatment Plan (WWTP) Reconsenting Project.

Attachments

Item 12

No.	Title	Page
A 	Appointment of independent commissioners: Application for resource consents - Proposed multi-level mixed-use development at 198-202 and 214-222 Dominion Road and 113 and 117 Valley Road, Mount Eden <i>(Under Separate Cover)</i>	
B 	Appointment of independent commissioners to determine outline plans and an application for resource consent lodged by Watercare Services Limited for the Warkworth and Snells Beach/Algies Bay Wastewater Treatment Plan (WWTP) Reconsenting Project <i>(Under Separate Cover)</i>	

Signatories

Author	Tam White - Advisor - Governance Support
Authoriser	Penny Pirrit - Director Regulatory Services

Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Regulatory Committee:

- a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each 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 follows.

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 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Resource Consent Appeals: Status Report 1 December 2016

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, the report contains information that could compromise the council in undertaking without prejudice negotiations of these appeals that are before the Environment Court.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

C2 New resource consent appeal: McDowell and Others v Auckland Council - Proposed Auckland International College boarding facility at 37 Heaphy Street, Blockhouse Bay

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, the report contains information relating to an Environment Court appeal and the disclosure of information may prejudice the council's position in regards to negotiations and the potential settlement of the appeal.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

C3 Update on Resource Consent Appeal: Ahuareka Trustees (No. 2) Limited v Auckland Council

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, the report contains confidential and legally privileged information regarding Council's position on this appeal.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

C4 Noting the urgent decision of 14 October 2016: Kvest Investments Partners Groups v Auckland Council

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, the report contains information that could compromise the council in undertaking without prejudice negotiations of this appeal that is before the Environment Court.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

C5 Noting the urgent decisions of 10 November 2016 - Resource Consent Appeal: Pierau v Auckland Council - 186 Atkins Road, Tomarata, Rodney (ENV-2016 AKL-174) and Resource Consent Appeal: Butterbee Childcare Ltd v Auckland Council - 159 Victoria Road, Devonport (ENV-2016 AKL-182)

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, the report contains information that could compromise the council in undertaking without prejudice negotiations of this appeal that is before the Environment Court.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.