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## Komiti Whakahaere ā-Ture / Regulatory Committee OPEN MINUTES

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Minutes of a meeting of the Regulatory Committee held in the Room 1, Level 26, 135 Albert St, Auckland on Thursday, 12 April 2018 at 9.32am.

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### PRESENT

<b>Deputy Chairperson</b>	Deputy Mayor Cr Bill Cashmore (presiding)	
<b>Members</b>	Cr Josephine Bartley	
	Cr Fa'anana Efeso Collins	
	Cr Richard Hills	
	Cr Daniel Newman, JP	From 9.37am, Item 9
	Cr Sharon Stewart, QSM	
	IMSB Chair David Taipari	
	Cr Wayne Walker	From 9.41am, Item 9 until 11.11am, Item 17
	Cr John Watson	From 9.45am, Item 9
	IMSB Member Glenn Wilcox	

### ABSENT

Chairperson Linda Cooper	
Cr Dick Quax	For leave of absence
Mayor Hon Phil Goff, CNZM, JP	

### ALSO PRESENT

Dr Cr Cathy Casey	
Cr Sir John Walker	From 1.45pm, Item: 15
Lemauga Lydia Sosene, Chair, Mangere-Otahuhu Local Board	

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## 1 Apologies

Resolution number REG/2018/18

MOVED by Deputy Chairperson BC Cashmore, seconded by Cr Cr Bartley:

**That the Regulatory Committee:**

- a) **accept the apologies from Chairperson L Cooper and Mayor P Goff for absence on Council business, Cr W Wayne early departure for of council business.**

**CARRIED**

## 2 Declaration of Interest

Cr Josephine Bartley declared an interest in Item 14: Request to Appoint an Independent Commissioner for Private Plan Change 9 to the Auckland Unitary Plan (Operative Part).

## 3 Confirmation of Minutes

Resolution number REG/2018/19

MOVED by Cr E Collins, seconded by Cr S Stewart:

**That the Regulatory Committee:**

- a) **confirm the ordinary minutes of its meeting, held on Thursday, 8 March 2018, including the confidential section, as a true and correct record.**

**CARRIED**

## 4 Petitions

There were no petitions.

## 5 Public Input

There was no public input.

## 6 Local Board Input

There was no local board input.

## 7 Extraordinary Business

There was no extraordinary business.

## 8 Notices of Motion

There were no notices of motion.

## 9 Public safety and nuisance bylaw review direction for any changes 2018

A PowerPoint presentation was provided by staff in support of the report.

Cr Casey tabled her letter to Auckland Transport in relation to parking on the berm for the committee's information.

Copies of the presentation and the tabled letter have been placed on the official minutes and are available on the Auckland Council website as minutes attachments.

*Cr D Newman entered the meeting at 9.37am.*

*Cr W Walker entered the meeting at 9.41am.*

*Cr J Watson entered the meeting at 9.45am.*

Note: changes to the original motion with the addition of a new clause b), was added with the agreement of the meeting.

Resolution number REG/2018/20

MOVED by Deputy Chairperson BC Cashmore, seconded by Member W Walker:

**That the Regulatory Committee:**

***As required by section 160(1) of the Local Government Act 2002***

- a) **determine that this bylaw is not the most appropriate way to address the following matters in public places:**
  - i) **damage to council property (clause 7(1)(a)) excluding damage within the road corridor**
  - ii) **damage from placing a structure, opening a drain or disturbing a surface (clause 7(1)(c))**
- b) **request staff provide clarification at the next meeting of the Regulatory Committee on the role of Auckland Transport in managing damage to council property within the road corridor**
- c) **determine that a bylaw is the most appropriate way to address the following matters in public places:**
  - i) **damage to a water course, storm water drain or channel (clause 7(1)(b))**
  - ii) **depositing, moving or removing rock, shingle, sand, vegetation, material or artefact (clause 7(1)(d))**
  - iii) **removing or damaging trees or vegetation (clause 7(1)(e))**
  - iv) **exemptions to maintaining the grass verge (clause 7(2)) and utility network operators (clause 7(3))**
  - v) **obstructions from materials or structures (clause 8(1)(a))**
  - vi) **obstructions from buildings, structures, or tents (clause 8(1)(b))**
  - vii) **obstructions from vegetation (clause 8(1)(c))**
  - viii) **obstructions from doors or gates (clause 8(1)(d))**
  - ix) **exemptions for temporary tents or structures for shade purposes (clause 8(2)).**
- d) **determine that the Auckland Council Public Safety and Nuisance Bylaw 2013 does not give rise to any unjustified implications under the New Zealand Bill of Rights Act 1990.**
- e) **determine that the Auckland Council Public Safety and Nuisance Bylaw 2013 is not the most appropriate form of bylaw.**

***As provided for in section 160(3) of the Local Government Act 2002***

- f) request a statement of proposal that amends the Auckland Council Public Safety and Nuisance Bylaw 2013 as detailed in Attachment A that:
  - i) revokes bylaw clauses about issues in (a)
  - ii) amends bylaw clauses about issues in (b)
  - iii) amends the general form of the bylaw as detailed in this report.

**CARRIED**

**Attachments**

- A 12 April 2018 Regulatory Committee Item 9: Public safety and nuisance bylaw review direction for any changes 2018 - presentation
- B 12 April 2018 Regulatory Committee: Public safety and nuisance bylaw -review direction for any changes 2018 - Cr Dr C Casey's letter to Auckland Transport.

**10 Findings of Health and Hygiene Bylaw 2013 Review**

*Cr Wayne Walker left the meeting at 10.44am.*

*Cr Wayne Walker returned to the meeting at 10.56am.*

A PowerPoint presentation was provided. A copy has been placed on the official minutes and is available on the Auckland Council website as minutes attachments.

Resolution number REG/2018/21

MOVED by IMSB Member G Wilcox, seconded by Member W Walker:

**That the Regulatory Committee:**

- a) endorse the findings in the “Health and Hygiene Bylaw 2013: 2018 Review Findings Report” (Attachment A), in particular that:
  - i) services that contact the body continue to pose health risks that require regulating
  - ii) the Health and Hygiene Bylaw 2013 has been effective in managing these risks, but it could be improved.
- b) request an options report responding to the findings in (a), towards completing the statutory review of the Auckland Council Health and Hygiene Bylaw 2013.

**CARRIED**

**Attachments**

- A 12 April 2018 Regulatory Committee Item 10: Findings of Health and Hygiene Bylaw 2013 Review - presentation

**11 Request to Appoint Hearings Panel for Notices of Requirement from Auckland International Airport.**

Resolution number REG/2018/22

MOVED by Member W Walker, seconded by Deputy Chairperson BC Cashmore:

**That the Regulatory Committee:**

- a) appoint three independent commissioners Alan Watson as Chair, Sheena Tepania and Michael Parsonson, to hear and make recommendations to the Requiring Authority on the Notices of Requirement from Auckland International Airport Limited for Designations 1100 and 1102 contained in the Auckland Unitary Plan (Operative in Part).

- b) appoint one Local Board member (Phelan Pirrie) to be part of the hearings panel to hear and make recommendations to the Requiring Authority on the Notices of Requirement from Auckland International Airport Limited for Designations 1100 and 1102 contained in the Auckland Unitary Plan (Operative in Part).
- c) delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearings panel (as contained in clauses a and b above) in the event that a member of the hearings panel is unavailable.

**CARRIED**

**12 Request to Appoint Independent Hearing Commissioners for Private Plan Change 8 to the Auckland Unitary Plan (Operative in part)**

Resolution number REG/2018/23

MOVED by Deputy Chairperson BC Cashmore, seconded by IMSB Member G Wilcox:

**That the Regulatory Committee:**

- a) appoint up to three independent commissioners, David Mead as Chair, Richard Knott and Trevor Mackie to hear submissions and make a decision on Private Plan Change 8 to the Auckland Unitary Plan (Operative in Part).
- b) delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearing panel in resolution a) in the event that a member of the hearing panel is unavailable.

**CARRIED**

**13 Request to Appoint Hearing Commissioners for Plan Change 11 (Three Kings Precinct ) to the Auckland Unitary Plan (Operative in Part)**

Resolution number REG/2018/24

MOVED by Cr D Newman, seconded by IMSB Member G Wilcox:

**That the Regulatory Committee:**

- a) appoint up to three independent commissioners, Philip Brown as Chair, Melean Absolum and William Kapea to hear submissions and make a decision on Plan Change 11 to the Auckland Unitary Plan (Operative in Part);
- b) delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearing panel in resolution a) in the event that a member of the hearings panel is unavailable.

**CARRIED**

**Precedence of Business**

Resolution number REG/2018/25

MOVED by Deputy Chairperson BC Cashmore, seconded by IMSB Member G Wilcox:

**That the Regulatory Committee:**

- a) agree that Item 17: Objection against a menacing dog classification – Jack, and Item 18: Objection against a menacing dog classification- Bree be accorded precedence at this time.

**CARRIED**

## 17 Objection against a Menacing Dog Classification - Jack

*Councillor W Walker left the meeting at 11.11am.*

The hearing commenced at 11.07am in relation to the objection by Ms R Maud to the menacing dog classification on her dog Jack.

Ms R Maud tabled further information in support of her objection and outlined the reasons for her objection to the classification and responded to questions from the committee.

A copy of the further information tabled has been placed on the official copy of the minutes and is available on the Auckland Council website as minutes attachments.

Staff were also in attendance and addressed the committee in support of the menacing dog classification report and responded to questions from the committee.

Ms R Maud was given the opportunity to reply to the matters raised by staff and provide the committee with any final comments.

The determination of the objection was made in the confidential section of the meeting.

The hearing concluded at 11.37am

### Attachments

- A 12 April 2018 Regulatory Committee Item 17: Objection against a Menacing Dog Classification - Jack : further information

## 18 Objection against a Menacing Dog Classification - Bree

*Cr R Hills left the meeting at 12.37 pm.*

The hearing commenced at 11.45am in relation to the objection by Ms K Pennell to the menacing dog classification on her dog Bree.

Mr J Kahukiwa, Corban Revell Lawyers, on behalf of Ms K Pennell, tabled further information and outlined the reasons for Ms K Pennell's objection to the classification and responded to questions from the committee.

Copies of the further information tabled have been placed on the official copy of the minutes and is available on the Auckland Council website as minutes attachments including A – affidavit of K Pennell, attachment B – legal submission of K Pennell and attachment C – The Veterinary Journal.

Staff were also in attendance and addressed the committee in support of the menacing dog classification report and responded to questions from the committee.

Mr J Kahukiwa, on behalf of Ms K Pennell, was given the opportunity to reply to the matters raised by staff and provide the committee with any final comments.

The determination of the objection was made in the confidential section of the meeting.

The hearing concluded at 12.55pm

### Attachments

- A 12 April 2018 Regulatory Committee Item 18: Objection against a Menacing Dog Classification - Bree - Affidavit of K Pennell
- B 12 April 2018 Regulatory Committee Item 18: Objection to a Menacing Dog Classification - Bree - legal submission of K Pennell
- C 12 April Regulatory Committee Item 18: Objection to a Menacing Dog Classification - Bree - The Veterinary Journal

## 20 Procedural motion to exclude the public

Resolution number REG/2018/26

MOVED by Deputy Chairperson BC Cashmore, seconded by IMSB Member G Wilcox:

**That the Regulatory Committee:**

- a) exclude the public from the following part(s) of the proceedings of this meeting.
- b) agree that Mr C Brown, Manager Regulatory Litigation be permitted to remain for Confidential Item 17: Objection against a menacing dog classification – Jack, and Item 18 Objection against a menacing dog classification- Bree, after the public has been excluded, because of his knowledge of regulatory processes which will help the Regulatory Committee in its decision-making.

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 Deliberations on objection against a Menacing Dog Classification - Jack

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 deliberations of the decision could compromise the council in undertaking without prejudice negotiations of this objection pursuant to section 33A of the Dog Control Act 1996	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 Deliberations on objection against a Menacing Dog Classification - Bree

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).	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.



	<b>In particular, the deliberations of the decision could compromise the council in undertaking without prejudice negotiations of this objection pursuant to section 33C of the Dog Control Act 1996</b>	
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The text of these resolutions was made available to the public who were present at the meeting and formed part of the minutes of the meeting.

**CARRIED**

12.55 pm The public was excluded.

Resolutions in relation to the confidential items are recorded in the confidential section of these minutes and are not publicly available.

1.31pm The public was re-admitted.

*Cr Richard Hills was not present when the public were re-admitted.*

**14 Request to Appoint an Independent Hearing Commissioner for Private Plan Change 9 to the Auckland Unitary Plan (Operative in Part)**

Cr Josephine Bartley declared an interested and took no part in discussion or voting on this matter.

Resolution number REG/2018/30

MOVED by IMSB Member G Wilcox, seconded by Deputy Chairperson BC Cashmore:

**That the Regulatory Committee:**

- a) **appoint independent commissioner Janine Bell to make a decision on Private Plan Change 9 to the Auckland Unitary Plan (Operative in Part).**
- b) **delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearing panel in resolution a) in the event that a member of the hearings panel is unavailable.**

**CARRIED**

**15 Compliance with the conditions of their alcohol licence by taverns having electronic gaming machines**

Resolution number REG/2018/31

MOVED by Cr E Collins, seconded by Cr Bartley:

**That the Regulatory Committee:**

- a) **note the actions being taken by alcohol licensing inspectors to ensure that taverns hosting electronic gaming machines (pokies) are complying with the conditions of their alcohol licence.**

**CARRIED**

**16 Regulatory Committee Summary of Information Items - 12 April 2018**

Resolution number REG/2018/32

MOVED by Deputy Chairperson BC Cashmore, seconded by Cr S Stewart:

**That the Regulatory Committee:**

- a) **receive the information report.**

**CARRIED**

**19 Consideration of Extraordinary Items**

There were no extraordinary items.

**RESTATEMENTS**

It was resolved while the public was excluded:

**C1 Deliberations on objection against a Menacing Dog Classification - Jack**

Resolution number REG/2018/27

MOVED by Deputy Chairperson BC Cashmore, seconded by IMSB Member G Wilcox:

That the Regulatory Committee:

- a) hear and determine the objection to the menacing dog classification by Ms R Maud pursuant to section 33A of the Dog Control Act 1996
- b) note that the Committee has considered the information provided in the agenda item and attachments, the evidence presented by Council Staff and the evidence presented by the Objector
- d) agree that the decision under c) not be restated in the open section of the minutes, but be made publicly available within 7 days.

**CARRIED**

**C2 Deliberations on objection against a Menacing Dog Classification – Bree**

Resolution number REG/2018/28

MOVED by Cr D Newman, seconded by Deputy Chairperson BC Cashmore:

That the Regulatory Committee:

- a) hear and determine the objection to the menacing dog classification by Ms Pennell pursuant to section 33C of the Dog Control Act 1996
- b) note that the Committee has considered the information provided in the agenda item and attachments, the evidence presented by Council Staff and the evidence presented by the Objector
- d) agree that the decision under c) not be restated in the open section of the minutes, but be made publicly available within 7 days.

**CARRIED**

1.53 pm

The Chairperson thanked Members for their attendance and attention to business and declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD  
AT A MEETING OF THE REGULATORY  
COMMITTEE HELD ON

**DATE:**.....

**CHAIRPERSON:**.....