I hereby give notice that an ordinary meeting of the Hibiscus and Bays Local Board will be held on:

**Date:** Wednesday, 20 June 2018  
**Time:** 04:30pm  
**Meeting Room:** Council Chamber  
**Venue:** Orewa Service Centre  
50 Centreway Road  
Orewa

---

**Hibiscus and Bays Local Board**  
**OPEN ADDENDUM AGENDA**

---

**MEMBERSHIP**

- **Chairperson**  
  Julia Parfitt, JP  
- **Deputy Chairperson**  
  Janet Fitzgerald, JP  
- **Members**  
  Chris Bettany  
  David Cooper  
  Gary Holmes  
  Caitlin Watson  
  Vicki Watson  
  Mike Williamson

(Quorum 4 members)

---

Vivienne Sullivan  
Local Board Democracy Advisor

18 June 2018

Contact Telephone: (09) 427 3317  
Email: vivienne.sullivan@aucklandcouncil.govt.nz  
Website: www.aucklandcouncil.govt.nz

---

**Note:**  
The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
<table>
<thead>
<tr>
<th>ITEM</th>
<th>TABLE OF CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>Gulf Harbour Marina</td>
<td>5</td>
</tr>
</tbody>
</table>
Te take mō te pūrongo / Purpose of the report

1. To seek the Hibiscus and Bays Local Board’s endorsement for the recommendation to the Finance and Performance Committee that Auckland Council (as part of the same transaction):
   a) sells the freehold interest in the Marina land (Lots 1-6) to the current lessee; and
   b) acquires the lease rights in respect of the Hammerhead land (Lots 7-9) from the current lessee; and
   c) transfers the existing Yacht Club land and building currently located on a portion of the Marina land (Lot 6) to Auckland Council subject to the completion of the necessary statutory process.

Whakarāpopototanga matua / Executive summary

2. The Gulf Harbour marina is located in Hobbs Bay near the eastern end of the Whangaparaoa Peninsula.

3. In 1977 the Rodney County Council (Gulf Harbour) Vesting and Empowering Act was passed by Parliament to enable the construction of the marina. The marina was completed in 1988 and leases granted to Gulf Harbour Limited for Lots 1 to 6 (known as the marina land) in 1989 (refer Attachment A). The leases have rights of renewal to 2088. The balance of the land holdings (Lots 7-9) known as the Hammerhead land was to be subdivided at a later date and leased to the marina operator Gulf Harbour Limited on similar terms.

4. In the interim, council has developed the Hammerhead land (Lots 7-9) to provide significant community improvements including ferry terminal, car and boat parking, and boat launching ramp with breakwater. The marina operation has changed ownership with Gulf Harbour Limited succeeded by Gulf Harbour Investments Limited.

5. Auckland Council considers the Hammerhead land (Lots 7-9) to be of significant strategic importance as a recreational resource for passive and active recreational activities.

6. Auckland Transport anticipate commencing the upgrade of the ferry terminal facilities at Gulf Harbour within the next two to three years, subject to funding, and highlight the sensitivity to ferry service patronage should car parking charges be introduced by the marina operator as a result of the subdivision progressing.

7. In 2011, Auckland Council Property Limited, together with Auckland Council and Auckland Transport, investigated a number of options as to how it could achieve the best outcome for Auckland Council with respect to securing ongoing community access to the land. These were presented to the councils Strategy and Finance Committee in September 2012.

8. The Strategy and Finance Committee resolved that Auckland Council Property Limited should negotiate an agreement that sought Gulf Harbour Investments Limited to relinquish its lessee’s interest in the Hammerhead land (Lots 7-9). This would be part of a transaction that involves the council selling to Gulf Harbour Investments Limited the underlying freehold interest (lesser’s interest) in the Marina land (Lots 1-6) subject to iwi engagement and a further report to the committee.

9. Iwi consultation was completed in line with the resolution. However, agreement on commercial terms could not be reached between the parties. As a result, sale of the councils interest in the Marina land (Lots 1-6) was put on hold.
10. In 2016, Panuku Development Auckland commenced the subdivision of the Hammerhead land (Lots 7-9) in accordance with the Development Licence and relevant Court decisions. The subdivision consent was granted with the implementation subsequently put on hold as council and Auckland Transport reconfirmed the strategic importance of securing the Hammerhead land (Lots 7-9).

11. To obtain control over the Hammerhead land (Lots 7-9) and to achieve council’s strategic transport and community objectives, Panuku Development Auckland considers that a non-contestable process negotiating directly with Gulf Harbour Investments Limited to be the most effective approach. An open market process / public sale of the marina land (Lots 1-6) will not achieve the acquisition of Gulf Harbour Investments Limited’s interests in the Hammerhead Land (Lots 7-9) if Gulf Harbour Investments Limited are not successful in acquiring the marina land (Lots 1-6).


13. Panuku Development Auckland undertook three public information sessions to inform the public of the proposal.

14. The public information sessions were attended by approximately 230 people, many of whom attended all three sessions. Those who opposed the proposal to sell of the marina land (Lots 1-6) were in agreement that the council should acquire the lessee’s interest in the Hammerhead land (Lots 7-9) by exploring financial mechanisms that do not include the sale of the marina land (Lots 1-6) to fund the acquisition. The opposition largely comprised Gulf Harbour marina berth holders.

15. There are a number of stakeholders including ferry users, recreational boat users and the general public in support of the current proposal highlighting the importance of retaining public access to the boat ramp, the recreational area and the ferry service.

16. If an agreement is not reached, council will be required to implement the subdivision consent in line with the Court decision, putting long term free access to the Hammerhead land (Lots 7-9) and the ferry terminal at risk.

Ngā tūtohunga / Recommendation/s
That the Hibiscus and Bays Local Board:

a) endorse the recommendation to the Finance and Performance Committee that (as part of the same transaction):

(i) Auckland Council sells the freehold interest in the Marina land (Lots 1-6) to the current lessee

(ii) Auckland Council acquire the lease rights in respect of the Hammerhead land (Lots 7-9) from the current lessee

(iii) The existing Yacht Club leased land and the building currently located on a portion of the Marina land (Lot 6) be transferred to Auckland Council subject to the completion of the necessary statutory process.

Horopaki / Context
17. The Gulf Harbour marina is located in Hobbs Bay near the eastern end of the Whangaparaoa Peninsula. The land is zoned Coastal- Marina, Gulf Harbour marina Sub-Precincts A and B under the Auckland Unitary Plan. It comprises 1052 marina berths, boat storage facilities, marine activity workshops, the Gulf Harbour Yacht club car and boat parking areas, a café and a marina management office. The land to the north has been developed with mid-rise apartment blocks and ground floor retail activities.
18. The parcel of land at the south-eastern end of the marina is referred to as the Hammerhead land (Lots 7-9) and provides car and boat parking, a boat ramp and grassed areas. The freehold title is owned by Auckland Council but is subject to a development licence and a subdivision that was granted in May 2016.

19. In 1977 the Rodney County Council (Gulf Harbour) Vesting and Empowering Act (Empowering Act) was passed by Parliament to enable the construction of the marina. The Act vested the seabed at Hobbs Bay in the former Rodney County Council and authorised the council to grant licences for the construction of the marina and leases in respect of the reclaimed land. It also permitted public access to all parts of the marina with the exception of any buildings on the land.

20. The development comprising reclamation of Hobbs Bay and construction of the marina was completed in 1988. Long term leases were entered into with Gulf Harbour Investments Limited (GHIL) for all the reclaimed area. The original leases for the marina land (Lots 1-6) were entered into in June 1989 for a five year term, with three five year rights of renewal terms, to be followed by four rights of renewal for 20 year terms. Effectively the land parcels are leased to 2088.

21. Rodney County Council entered into a development licence with Gulf Harbour Limited which has been succeeded by GHIL. The development licence included the requirement for council to subdivide the Hammerhead land (Lots 7-9) and grant leases for the three subdivided lots to GHIL.

22. Council’s ownership tenure of the Gulf Harbour Marina has a complicated legal history. Council has incurred significant litigation costs to protect its position on the nature and scope of GHIL development rights on the Hammerhead land (Lots 7-9).

23. In order to clarify its rights under the development licence, GHIL sought a declaration from the High Court to determine the extent to which it is permitted to develop the Hammerhead land under the development licence and future lease. The High Court and Court of Appeal found that council has a duty, imposed by the development licence, to subdivide the land in accordance with the development licence. Any future development on the land by GHIL is governed by the overall marina plan, unless variations are consented between the parties.

Tātaritanga me ngā tohutohu / Analysis and advice

Council Group concerns:

24. Auckland Transport (AT) has concerns around the subdivision and the impact of the proposed subdivision on the use of the passenger ferry connecting Gulf Harbour to Auckland city. The level of development in the Gulf Harbour area is significant with an additional 2000 homes estimated to be completed in Fairway Bay and Red Beach by the end of 2019. The residential development growth in Gulf Harbour and the Whangaparaoa Peninsula means that the ferry is an important component for the transport network. AT currently leases a berth, Pier Z36 from GHIL, which is accessed from the Hammerhead land. AT and the local community are concerned that any development by GHIL of the Hammerhead land restricting the current free, uninterrupted access will compromise the continued use and expansion of the ferry service. This would affect the viability of the Gulf Harbour ferry service and restrict further expansion to later nights and weekends, and also increase road traffic congestion on Whangaparaoa Road.

25. The Hammerhead land (Lots 7-9) is of strategic importance as a recreational resource for passive and active recreational activities. To date, there has been an informal arrangement with respect to the utilisation of the Hammerhead land with members of the public and tourists enjoying free use of these facilities due to the delay in completing the subdivision. However, should GHIL exercise its rights under the subdivision, on completion the ground rights to this land will be leased to a third party. The public space, the road servicing the ferry terminal and the patron and car and boat trailer parking will be in question as the designated public road and access stops at the boundary of the Hammerhead land (Lots 7-
9). The public will continue to have the ability to walk and drive over the land, but no parking rights. A ferry terminal without parking would not be appropriate

Work completed to date:

26. The future of the Hammerhead land (Lots 7-9) is a long standing issue. In 2011, Auckland Council Property Limited (ACPL) commenced discussions with GHIL following GHIL’s approach to acquire council’s interests in the Marina land (Lots 1-6) and the relinquishment of its interests in the Hammerhead land (Lots 7-9) with a cash differential.

27. ACPL considered a number of options to secure long term council control for the community and transport uses, notwithstanding the council’s obligations under the lease of the land.

28. The evaluation of the options concluded that there was little likelihood of a successful outcome on all options except selling the council’s interest over the marina land (Lots 1-6) and acquiring the GHIL's interest in respect of the Hammerhead land (Lots 7-9) for various reasons. These include cost to council and limited outcomes for council.

29. In September 2012, ACPL outlined the cost and benefits of each of the options and sought direction from council’s Strategy and Finance Committee. The committee resolved that ACPL negotiate the surrender of the GHIL lease rights over the Hammerhead land (Lots 7-9). This would be part of a transaction that included the sale of the council’s lessor’s interest in the marina land (Lots 1-6), subject to iwi consultation being completed and any negotiations undertaken being reported back to the committee.

30. In 2013, the negotiations ceased as an agreement on commercial terms could not be reached. However, GHIL confirmed its interest in the marina land (Lots 1-6) and its offer to relinquish its interest in the Hammerhead land (Lots 7-9) remains on the table.

31. In May 2016, as a result of the non-successful negotiation, the subdivision consent process commenced in line with the court decision. However, this is currently on hold as Auckland Council has since reconfirmed the importance of controlling the Hammerhead land (Lots 7-9) as a recreational resource for passive and active recreational activities, with an expectation that the boat launching facility will require an extension in the near future.

32. AT propose upgrading its ferry terminal facilities within the next two years subject to funding. It continues to highlight the sensitivity of its ferry service patronage should car parking charges be introduced and continued access to the terminal through the Hammerhead land (Lots 7-9).

33. Panuku Development Auckland (Panuku) considers that an open market / public sale of the marina land (Lots 1-6) will not ensure long term council control over the Hammerhead land (Lots 7-9) for the community and transport purposes outlined in this report (notwithstanding the council’s lease obligations) if GHIL are not successful in acquiring the marina land (Lots 1-6).

34. A compulsory acquisition process though the Public Works Act 1981 was contemplated by Panuku. However, there is no budget for the acquisition of the land or any injurious affection costs. There is no single or overall public work contemplated for the Hammerhead land (Lots7-9). A material sum of money would be required. Therefore on balance, given the lack of budget and the legal tests required to be met, Panuku considers that the best option to pursue is a negotiated settlement. This type of transaction also releases funds that can be reinvested into the area for boat harbour purposes.

35. Accordingly, a non-contestable process negotiating directly with GHIL would be the most effective approach to ensure council secures control over the Hammerhead land (Lots 7-9) for community and transport uses.

36. In early 2017, Panuku and council officers reopened communications with GHIL with a view to concluding the negotiations referenced in the 2012 Strategy and Finance Committee resolution under the right terms and conditions.
37. Given that Panuku must negotiate within the constraints of the existing lease and development licence these negotiations have been approached with caution.

38. Panuku undertook three public information sessions to inform the public of the proposal.

39. The public information sessions were undertaken in May 2018 and were attended by approximately 230 people (many of whom attended more than one session) including elected members (ward councillors and representatives from the local board) over the three days. The community and stakeholders were invited to the sessions using a number of different mechanisms/tools. These included direct email, advertisements in the Rodney Times, rolling Auckland-wide Neighbourly adverts, the Panuku website, Facebook page and its twitter feed, and posters and display boards on display around Gulf Harbour.

40. Panuku, Auckland Transport and Auckland Council staff presented information about the proposal and answered questions. Feedback was also received via email through Panuku’s website. Feedback themes could be grouped into the following:

<table>
<thead>
<tr>
<th>Theme</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use of Public Works Act</td>
<td>Strong preference for the use of public Works Act to acquire the Hammerhead land (lots 7 – 9)</td>
</tr>
</tbody>
</table>
| Exploring other options | a) Buying the current lessee out of the lease  
                          b) Sale of lots 1 – 4 and keeping lots 5,6 and the Hammerhead land  
                          c) Potential sale of lots 1 – 2 to berth holders  
                          d) Consider open market process  
                          e) Use of the Empowering Act to retain the Hammerhead land |
| Concerns              | f) Residential development  
                          g) Access to parking when the land is freehold  
                          h) Potential development on lots 7 – 9 under the development licence  
                          i) Confusion over different company names that appear in lease agreements  
                          j) Future of the Gulf Harbour Yacht Club  
                          k) Public access to the Hammerhead land if the sale is completed |
| Public Transport      | l) Improvement to bus and ferry services  
                          m) Possible relocation of the ferry  
                          n) Improvement to parking for ferry users |
| Auckland Council      | o) Placemaking opportunities  
                          p) Retention of open public space  
                          q) Safeguarding car parking and recreation areas on the Hammerhead land |
41. Those who opposed the proposal to the sale of the marina land (Lots 1-6) were in agreement that the council should acquire the lessee’s interest in the Hammerhead land (Lots 7-9) exploring financial mechanisms that do not include the sale of the marina land (Lots 1-6) to fund the acquisition. The opposition largely comprised Gulf Harbour marina berth holders.

42. There were a number of affected parties including ferry users, recreational boat users and the general public that supported the proposal highlighting the importance of retaining public access and the ferry service.

**Benefits to council of securing this deal:**

43. Security of access to the recreational areas, thus enabling the community to maintain its social, economic and cultural wellbeing;

44. AT will benefit from retention of the strategic location of the current ferry terminal which allows for a more effective ferry operation;

45. The extension of the current transport facilities will provide for the patronage forecast in line with existing residential development in the surrounding area;

46. Auckland Council secures capital receipts through this land exchange which it otherwise would not have access to;

47. Auckland Council does not need a budget to acquire the Hammerhead land as the value is released from the marina land (Lots 1-6)

48. Enables Auckland Council to undertake improved long term strategic planning for the area.

**Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views**

**Local Board:**

49. The Hibiscus and Bays Local Board identified the long-term protection of the Hammerhead land (Lots 7-9) for reserve purposes as a critical priority in its Local Board Plan 2011-2014. ACPL staff had previously informed the local board of the complicated ownership issues as well as councils desire to secure the land for strategic transport and open space purposes.

50. In early 2018, Panuku, Auckland Council and AT officers attended a workshop to inform the local board of the proposal and the intention to hold public information sessions. Officers attended a further workshop in June 2018 to advise the local board of the outcome of the public information sessions. Officers will attend the local board’s June business meeting at which the local board will formally provide its views on the proposal.

**The Berth Holders Association**

51. The Gulf Harbour Berth Holders Association was consulted with in 2012. At that time, it had expressed an interest in the future of the Marina land (Lots 1-6) including an interest in purchasing Lots 1 and 2 (the car parking sites). Auckland Council’s then Chief Executive Officer advised the Berth Holders Association that its views would be taken into account before council formally approves any land sale and acknowledged its interest in potentially purchasing a portion of the land.

52. In May 2018, Panuku heard the views of the Berth Holders Association which largely remains unchanged from 2012. Panuku has considered the Berth Holders Association interest in purchasing Lots 1 and 2 (the car parking sites). The carpark is an inherent part of the marina. The current lessee/ marina operator also holds the licenses over the marina berths. The sale of council’s interest in Lots 1 and 2 to the Berth Holders Association would potentially have a negative impact on the future operation of the marina as parking, marina activity and access to the berths cannot be separated.
Gulf Harbour Yacht Club

53. The Gulf Harbour Yacht Club currently leases a portion of Lot 6 from GHIL. This lease expires in July 2018, and unless terminated or renewed earlier, will revert to a monthly lease until a final decision on the current proposal has been reached.

54. If the proposal as presented is approved, GHIL has agreed to transfer ownership of that portion of land currently leased to the Gulf Harbour Yacht Club on Lot 6 to Auckland Council. This will enable Auckland Council to deal directly with the yacht club to issue a new lease in due course.

55. It will be necessary to follow the statutory processes to separate the leased portion of Lot 6 into a new title or to be joined to the attached Lot 7. A decision on the most effective and efficient method has not yet been made.

56. The yacht club has indicated it would be happy with this arrangement.

Tauākī whakaaweawe Māori / Māori impact statement

57. ACPL sought the views of iwi on the proposal as requested by the Strategy and Finance Committee in 2012. Albeit a number of conversations and written correspondence were exchanged, no formal feedback was received.

58. Panuku has completed further consultation with mana whenua to ensure any potential mana whenua views are understood and can be acted upon if necessary prior to the completion of negotiations. Ngāi Tai ki Tamaki, Ngāti Maru, Tamatera, Ngāti Whanaunga, Te Akitai, Patukirikiri, Te Runanga o Ngāti Whataua, Ngāti Manuhiri, Ngāti Wai, Ngāti Whataua o Kaipara were contacted. Ngāti Manuhiri and Ngāti Maru have requested further discussions with Panuku about the proposal. Officers are currently liaising with both mana whenua groups to meet and discuss the proposal further.

Ngā ritenga ā-pūtea / Financial implications

59. Currently, the revenue from the commercial leases on the marina land (Lots 1-6) contributes to the corporate consolidated fund along with rates and other fees and charges. This revenue is then spent across a number of areas. These include transport, water, parks, community and lifestyle, environmental management and regulation, economic and cultural development, Auckland development, governance and support.

60. AT currently lease a berth from the marina operator to provide the ferry service, this cost and cost of maintaining the boat ramp and existing land and facilities on the Hammerhead land is financed through the corporate consolidated fund.

61. AT currently lease the existing berth Z36 that facilitates the ferry service from the existing lessee GHIL. This lease term expires in 2028. As part of the current proposal, AT would seek to extend this lease term through to 2088 and lease a further two adjoining berths Z34 and Z35 for the same term. This would allow AT to extend the ferry service and enhance the existing ferry terminal.

62. Should the Finance and Performance Committee approve the current proposal to protect the Hammerhead land at Gulf Harbour, council must comply with the Empowering Act. The Act states that the proceeds of sale must be used for a purpose which is consistent with the purpose of the original vesting – in this case boat harbour purposes. The funds will be ring-fenced and reinvested back into the former Rodney County area.

63. If the Finance and Performance Committee do not approve the proposal and an agreement is not reached, council will be required to implement the subdivision consent in line with the
Court decision, putting the long term access to the Hammerhead land (Lots 7-9) and the ferry terminal at risk.

Ngā raru tūpono / Risks

64. If an agreement is not reached, security of access to the recreational areas is at risk as the public space, the road servicing the ferry terminal and the patron parking will be in question as the designated public road and access stops at the boundary of the Hammerhead land.

Ngā koringa ā-muri / Next steps

65. Panuku will present a report to the Finance and Performance Committee at its July meeting with a recommendation to approve the proposal.

Ngā tāpirihanga / Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Gulf Harbour Marina</td>
<td>13</td>
</tr>
</tbody>
</table>

Ngā kaihaina / Signatories

<table>
<thead>
<tr>
<th>Authors</th>
<th>Marian Webb - Manager Portfolio Strategy, Panuku Development Auckland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>David Rankin - Chief Operating Officer, Panuku Development Auckland</td>
</tr>
<tr>
<td></td>
<td>Lesley Jenkins - Relationship Manager</td>
</tr>
</tbody>
</table>