Minutes of a meeting of the Regulatory Committee held in the Room 1, Level 26, 135 Albert St, Auckland on Tuesday, 23 June 2020 at 10.00am.

**PRESENT**

**Chairperson**
Cr Linda Cooper, JP

**Deputy Chairperson**
Cr Josephine Bartley

**Members**
Cr Dr Cathy Casey
Cr Fa’anana Efeso Collins
Cr Daniel Newman, JP
Cr Sharon Stewart, QSM
IMSB Chair David Taipari
Member Glenn Wilcox
Cr Paul Young

**Ex officio**
Deputy Mayor Cr Bill Cashmore

From 10.07am, Item 5
Until 11.56am

**ABSENT**
Cr Shane Henderson
Mayor Hon Phil Goff, CNZM, JP

From 12.48pm, Item 20
Until 2.22pm, Item C3

From 10.07am, Item 5
Until 11.56am
1 Apologies

Resolution number REG/2020/20

MOVED by Cr L Cooper, seconded by Cr P Young:

That the Regulatory Committee:

a) accept the apology from Cr E Collins and Cr Stewart for early departure, Mayor P Goff and Cr S Henderson for absence.

CARRIED

2 Declaration of Interest

There were no declarations of interest.

3 Confirmation of Minutes

Resolution number REG/2020/21

MOVED by Cr L Cooper, seconded by Cr C Casey:

That the Regulatory Committee:

a) confirm the ordinary minutes of its meeting, held on Tuesday, 17 March 2020, as a true and correct record.

CARRIED

4 Petitions

There were no petitions.

5 Public Input

Deputy Mayor BC Cashmore entered the meeting at 10.05 am.

5.1 Public Input - Alcohol Healthwatch Trust, Auckland Regional Public Health Services and Communities Against Alcohol Harm

Nathan Cowie and Dr Nicki Jackson, Alcohol Healthwatch Trust
James Yallop and Karen Phu, Auckland Regional Public Health Services
Trevor Wilson and Grant Hewison, Communities Against Alcohol Harm addressed the committee.

PowerPoint presentations were given. Copies have been placed on the official minutes and are available on the Auckland Council website as minutes attachments.

Resolution number REG/2020/22

MOVED by Cr L Cooper, seconded by Cr C Casey:

That the Regulatory Committee:

a) receive the presentations from Nathan Cowie and Dr Nicki Jackson - Alcohol Healthwatch Trust, James Yallop and Karen Phu - Auckland Regional Public Health Services, Trevor Wilson and Grant Hewison - Communities Against Alcohol Harm regarding Signage Bylaw 2015 Review, and thank them for their presentations and attendance.

CARRIED
6 Local Board Input

There was no local board input.

7 Extraordinary Business

There was no extraordinary business.

8 Approval to commence recruitment for independent resource management commissioners for the 2021-2023 term

Resolution number REG/2020/23

MOVED by IMSB Chair D Taipari, seconded by Cr J Bartley:

That the Regulatory Committee:

a) approve the recommended process for recruiting independent commissioners for 1 January 2021 to 31 December 2023
b) approve two pathways for commissioner recruitment which use robust assessment processes
c) approve using a selection panel to finalise a list of recommendations to the Regulatory Committee
d) appoint a selection panel comprising of Councillor Linda Cooper, and Independent Māori Statutory Board Chair David Taipari and any two of the following senior staff managers:
   i) General Manager Plans and Places (or their delegate)
   ii) General Manager Resource Consents (or their delegate)
   iii) General Manager Democracy Services (or their delegate)
   iv) Manager Public Law (or their delegate)

CARRIED

9 Appointment of Hearing Commissioners - Proposed Plan Change 36 - Open Space (2019) to the Auckland Unitary Plan (Operative in Part)

Note: changes to the original motion were incorporated under clause a) with the agreement of the meeting.

Resolution number REG/2020/24

MOVED by IMSB Chair D Taipari, seconded by Cr J Bartley:

That the Regulatory Committee:

a) appoint at least three independent commissioners, with expertise in open space, planning, transport and urban design to hear submissions and make
decisions on Proposed Plan Change 36 – Open Space (2019) to the Auckland Unitary Plan (Operative in Part), as follows:

i) Janine Bell – Chair  
ii) John Kirikiri  
iii) Ian Munro  

b) delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearing panel in clause a) in the event that a member of the panel is unavailable.

CARRIED

10 Request to Appoint Hearing Commissioners for Private Plan Change 37 (666 Great South Road, Ellerslie) to the Auckland Unitary Plan (Operative in Part)

Note: changes to the original motion were incorporated under clause a) with the agreement of the meeting.

Resolution number REG/2020/25

MOVED by IMSB Chair D Taipari, seconded by Cr L Cooper:

That the Regulatory Committee:

a) appoint two independent commissioners, with expertise in planning and transport to consider submissions and make decisions on Proposed Plan Change 37 to the Auckland Unitary Plan (Operative in Part), as follows:
   
   i) Richard Blakey – Chair  
   ii) David Mead  

b) delegate authority to the chairperson of the Regulatory Committee to make a replacement appointment in the event that the appointee in clause a) is unavailable.

CARRIED

11 Auckland Unitary Plan (Operative in Part) - Appointing hearing commissioners for Plan Change 39 - Change of zoning in Cadness Loop Reserve area, Northcote

Note: changes to the original motion were incorporated under clause a) with the agreement of the meeting.

Resolution number REG/2020/26

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

That the Regulatory Committee:

a) appoint one Independent Hearing Commissioner, with expertise in planning, to hear submissions and make the council’s decision on Plan Change 39 to the Auckland Unitary Plan (Operative in Part), as follows:
   
   i) Janine Bell  

b) delegate authority to the chairperson of the Regulatory Committee to make any replacement appointments to the Hearing Panel (as contained in clauses a) above) in the event that a member of the hearing panel is unavailable.

CARRIED
12  Request to appoint Hearing Commissioners for Plan Change 40 (Rezoning of land at Clayden Road, Warkworth)

Note: changes to the original motion were incorporated under clause a) with the agreement of the meeting.

Resolution number REG/2020/27

MOVED by Cr D Newman, seconded by Cr P Young:

That the Regulatory Committee:

a) appoint three independent commissioners, with expertise in planning, transport and stormwater to hear submissions and make decisions on (private) Plan Change 40 Warkworth – Clayden Road to the Auckland Unitary Plan (Operative in Part), as follows:

i) Bill Smith – Chair

ii) Bridget Gilbert

iii) Michael Parsonson

b) delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearing panel in clause a) in the event that a member of the panel is unavailable.

CARRIED

13  Request to appoint Hearing Commissioners for a joint hearing of Plan Change 42 (Auckland Regional Landfill - Wayby Valley) and the notified resource consent applications for the Auckland Regional Landfill

Note: changes to the original motion were incorporated under clause a) with the agreement of the meeting.

Resolution number REG/2020/28

MOVED by Cr L Cooper, seconded by IMSB Chair D Taipari:

That the Regulatory Committee:

a) appoint up to five independent commissioners, with knowledge and expertise in planning, Te Ao Maori, water quality/hydrology, terrestrial and aquatic ecology, and transport to hear submissions and make decisions in a joint hearing on Plan Change 42 (Private) Auckland Regional Landfill – Wayby Valley and the notified resource consent applications for the Auckland Regional Landfill, as follows:

i) Sheena Tepania – Chair

ii) Greg Hill

iii) Hugh Leersynder

iv) David Mead

v) Juliane Chetham

b) delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearing panel in clause a) in the event that a member of the panel is unavailable.

CARRIED
14 2020 Review of the Local Approved Products Policy 2015 (Psychoactive Substances)
Resolution number REG/2020/29
MOVED by Member G Wilcox, seconded by Cr E Collins:
That the Regulatory Committee:
  a) retain the Local Approved Products Policy 2015.

CARRIED

15 Findings of the Signage Bylaw 2015 Review
Note: changes to the original motion were incorporated adding a new clause d) with the agreement of the meeting.
Resolution number REG/2020/30
MOVED by Cr E Collins, seconded by Cr C Casey:
That the Regulatory Committee:
  b) request that Auckland Council and Auckland Transport staff, as delegated by their respective Chief Executive, jointly prepare a high-level options report about the regulatory framework for managing signs in Auckland, including to:
     i) combine all signage standards into a single bylaw or the Auckland Unitary Plan
     ii) combine signage standards from the Signage Bylaw 2015 and Election Signs Bylaw 2013 into a single bylaw
     iii) redistribute signage standards between the Signage Bylaw 2015 and Auckland Unitary Plan
  c) agree to any request from Auckland Transport to appoint two members of the Auckland Transport Board to the joint working group established by the Regulatory Committee in resolution REG/2020/3 to consider statutory options in response to findings from the review.
  d) request the high-level options report includes an effective option to specifically regulate signage related to off-licence alcohol stores to reduce community exposure to alcohol brand and retailer advertising in Auckland.

CARRIED

16 Navigation Safety Bylaw 2014 Review Options Report
Resolution number REG/2020/31
MOVED by IMSB Chair D Taipari, seconded by Cr C Casey:
That the Regulatory Committee:
  a) agree that a new bylaw is the most appropriate way to address navigation safety issues related to:
     i) personal floatation devices on recreational vessels
     ii) general navigation safety requirements
     iii) activities
     iv) operating requirements
v) licenses, permits and administrative matters
vi) large vessels
vii) specific restrictions in lanes, zones and areas
viii) tankers, hazardous cargoes, hazardous works, fuel oil transfers and dangerous materials
ix) pilot and pilot exempt master operations.

b) agree that a navigation safety bylaw is no longer required for the issuing of licenses for commercial vessels for hire reward.

c) request that staff as delegated by the Chief Executive prepare a Statement of Proposal that:
   i) makes a new navigation safety bylaw under the Maritime Transport Act 1994 and Local Government Act 2002
   ii) cover the matters detailed in the paragraph 22 table and Appendix 1 of Attachment A of the agenda report for the topics in (a) of this agenda report.

CARRIED

17 Water Supply and Wastewater Network Bylaw Review options
Resolution number REG/2020/32
MOVED by Member G Wilcox, seconded by IMSB Chair D Taipari:
That the Regulatory Committee:
   a) agree that improving the current Auckland Council Water Supply and Wastewater Network Bylaw 2015 by amending it (Option 2) is the most appropriate way option to respond to the statutory review findings endorsed by the Emergency Committee on 28 May 2020.
   b) request that Watercare staff as delegated by Watercare Chief Executive prepare a statement of proposal that amends the Auckland Council Water Supply and Wastewater Network Bylaw 2015 as detailed in Attachment A for Option 2 (improves the current Bylaw by amending it) of the agenda report.

CARRIED

18 Resource Consents: Quarterly Hearings Report 23 June 2020
Resolution number REG/2020/33
MOVED by Cr L Cooper, seconded by Cr C Casey:
That the Regulatory Committee:
   a) receive the Resource Consents: Quarterly Hearings Report 23 June 2020

CARRIED

The meeting adjourned at 11.56am until 12.31pm

Cr Dr C Casey and Deputy Mayor B Cashmore were not present.

Note: The chair accorded precedence to Item 20: Objection against a Menacing dog classification – Mr Cooke.
20 Objection against a Menacing Dog Classification - Mr Brian Cooke

Cr Dr C Casey returned to the meeting at 12.48pm

The hearing commenced at 12.25pm in relation to the objection against a menacing dog classification, pursuant to section 33A of the Dog Control Act 1996.

Mr Brian Cooke addressed the committee and outlined his reasons for the objection and responded to questions.

Council staff addressed the committee and outlined the classification and responded to questions.

Mr Brian Cooke was given the opportunity to reply to the matters raised by the council and provide the committee with your final comments.

The hearing concluded at 1.03pm.

19 s460 LGA report for stormwater and wastewater connections

The hearing commenced at 1.04pm in relation to the objection by the owners of 2 Wakeling Avenue, Te Atatu South, pursuant to section 460 of the Local Government Act 1974.

Mr Paul Howes – Manager Regulatory Engineering, North-West provided an overview of the application and responded to questions from the committee.

Robert Cawley, Frances Cawley, Lorraine Cawley and Cheryl Martin – the affected owners of 2 Wakeling Avenue, Te Atatu South addressed the committee objecting to the proposal and responded to questions.

Mr Andrew Body and Mr Paul Cully was given the opportunity to reply to the matters raised by the Robert Cawley, Frances Cawley, Lorraine Cawley and Cheryl Martin, provide the committee with final comments and respond to questions.

Note: Item 20 – Objection to a menacing dog classification – Mr Brian Cooke was considered prior to Item 19 – s460 LGA report for stormwater and wastewater connections.

21 Objection to a menacing dog classification - Mr Adam Palmer

Item deferred until July

22 Consideration of Extraordinary Items

There was no consideration of extraordinary items.

23 Procedural motion to exclude the public

Resolution number REG/2020/34

MOVED by Cr L Cooper, seconded by Cr E Collins:

That the Regulatory Committee:

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

b) 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
The 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 | Appeals to Plan Change 25 (Private) - Warkworth North |
|-----------------|---------------------------------|---------------------------------|
| 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 |
| 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. |
| | C1 Appeals to Plan Change 25 (Private) - Warkworth North |
| | 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)(g) - The withholding of the information is necessary to maintain legal professional privilege. |
| | 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 a recommended change to the council position on some of the appeals on Plan Change 25 (Private) – Warkworth North. |

| C2 | s460 LGA report for stormwater and wastewater connections |
|-----------------|---------------------------------|---------------------------------|
| 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 |
| 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 s460 LGA report for stormwater and wastewater connections |
| | 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 460 of the Local Government Act 1974. |

| C3 | Objection against a Menacing Dog Classification - Mr Brian Cooke |
|-----------------|---------------------------------|---------------------------------|
| 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 |
| 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 Objection against a Menacing Dog Classification - Mr Brian Cooke |
| | 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 |
The text of these resolutions is made available to the public who are present at the meeting and form part of the minutes of the meeting.

CARRIED

2pm 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.

2.30pm The public was re-admitted.

RESTATENMENTS

It was resolved while the public was excluded:

**C1 Appeals to Plan Change 25 (Private) - Warkworth North**

Resolution number REG/2020/35

MOVED by Member G Wilcox, seconded by Cr L Cooper:
That the Regulatory Committee:

c) agree that the matter remain confidential until all the appeals on PC25 are resolved.

CARRIED

**C2 s460 LGA report for Stormwater and wastewater connections**

Resolution number REG/2020/36

MOVED by Cr L Cooper, seconded by Cr P Young:
That the Regulatory Committee:

a) hear and determine the objections by the owners of 2 Wakeling Avenue (Lot 1 DP 44646), pursuant to section 460 of the Local Government Act 1974.

b) resolve under section 460(1) of the Local Government Act 1974 that the proposed stormwater and wastewater connections route across 2 Wakeling Avenue, is the only practical route as shown on MSC Consulting Group Ltd engineers drawing 39450 sheets RC400 revision E C400 revision C.

c) agree that the matter remain confidential until the conclusion of the hearing and then be restated in the open minutes.

CARRIED

Reasons:
The applicant and Council’s Development Engineer confirmed that the proposed route was the only practical route, being the shortest and least intrusive route and having regard to the location of existing public infrastructure and the topography of the site and surrounding properties. The objectors did not provide evidence to the contrary.
The key issues raised by the objectors in opposition related to ensuring there was 24 hour access to 2 Wakeling Avenue, given the occupants’ vulnerability due to their age. The applicant offered to provide alternative access to 2 Wakeling Avenue via 227 Te Atatu Road and the Committee is satisfied that the mitigation offered by the applicant will address any adverse effects of construction.

The Committee requires that Council staff ensure the construction period is minimized to the extent possible and that 24 hour vehicle access is maintained to 2 Wakeling Avenue for the duration of the works. Alternatively, arrangements could be made to relocate the objectors during construction at no cost to the objectors.

C3 Objection against a menacing dog classification - Mr Brian Cooke

Cr E Collins retired from the meeting at 2.23 pm.

Note: changes to the original motion were incorporated adding a new clause b) and c) with the agreement of the meeting.

Resolution number REG/2020/37

MOVED by Cr L Cooper, seconded by Cr D Newman:

That the Regulatory Committee:

a) hear and determine the objection to the menacing dog classification by Mr Cooke 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.

c) dismisses the objection and upholds the menacing classification on the basis of the evidence, heard and considered.

d) agree that the matter remain confidential until the conclusion of the hearing and then be restated in the open minutes.

CARRIED

The Regulatory Committee outlined the reasons for upholding the menacing dog classification:

Registration records – The dog, Jack, was registered by a previous owner as an American Staffordshire Terrier which is considered an American Pit Bull Terrier Type. The previous owner did not object to the menacing classification. Mr Cooke submitted that the dog is in fact predominantly an American Bulldog which is also considered an American Pitt Bull Terrier Type.

The Identification checklist – The American Pit Bull Terrier Type Checklist was used to assess Jack on two separate occasions by four separate animal management officers. A score of 46 to 63 on the checklist indicates a dog is an American Pit Bull Type. Score of 46 or more were recorded in all four assessments.

Mr Cooke submitted that DNA testing is the only reliable way to determine a type of dog. However, the evidence presented by animal management officers was that DNA testing does not establish a type of dog. The Committee preferred the evidence of the animal management officer and considered the evidence presented by Mr Cooke failed to establish that Jack was not an American Pit Bull Type.
2.30pm

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:.............................................