



Otorohanga District Council

# AGENDA

2 May 2006

Members of the Otorohanga District Council

Mr DF Williams (Mayor)  
Mrs S Blackler  
Mrs D de Haan  
Mr WH Earwaker (Deputy Mayor)  
Mr AL Gower  
Mr CE Jeffries  
Mrs DM Pilkington  
Mr GA Wilshier

Meeting Secretary: Mr CA Tutty (Customer Services Team Leader)

**OTOROHANGA DISTRICT COUNCIL**

2 May 2006

Notice is hereby given that an ordinary meeting of the Otorohanga District Council will be held in the Council Chambers, Maniapoto St, Otorohanga on Tuesday 2 May 2006 commencing at 10.00am.

26 April 2006

**DR HALL**  
**CHIEF EXECUTIVE OFFICER**

**AGENDA**

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**PRESENT**

**OPENING PRAYER**

**IN ATTENDANCE**

**APOLOGIES**

**CONFIRMATION OF MINUTES**

**OTOROHANGA DISTRICT COUNCIL - 11 APRIL 2006**

**REPORTS**

**Item-230 BUILDING CONTROL OFFICERS REPORT TO 31 MARCH 2006**

**To: His Worship the Mayor and Councillors  
Otorohanga District Council**

**From: District Building Control Officer**

**Date: 2 May 2006**

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**Executive Summary**

The Building Control Officers report from February 2006 to March 2006.

**Suggested Recommendation**

It is recommended that:

The Building Control Officer's report to 31 March 2006 be received.

**Report Discussion**

Property Inspections

Property inspections has become a growing industry and Council Officers are caught up in this demand. The days of a builder giving a home the once over before a purchase are gone.

In their place are professional inspectors and mostly Territorial Authority Building control Officers who are playing an increasingly important role to protect the consumer.

They undertake non-invasive, visual inspection of homes and use the data collected to advise clients on the condition of the homes. They are generally helping home owners identify maintenance required for buildings to comply and on their suitability to relocate.

This role is still unique for Building Control Officers as there is a definite need for rigorous systems and professionalism.

There is a New Zealand Standard available on Residential Property Inspection NZS 4306 2005, which establishes a standard and the aim is to develop nationwide consistency. To inspect these buildings we have to work with strong systems and processes designed to protect Councils and also the applicant.

Building Control Officers have to be experts in their field and have to be more knowledgeable about building issues. Ultimately, property can be a litigious environment, so robust systems and processes are needed to minimise the risk for Building Control Officers.

Building Control Officers should have relevant technical qualifications plus practical experience within the building industry, and enough skill to ensure continued best practice.

Building Control Officers need to be able to competently operate the latest technological equipment and understanding to carry out their functions, and stay current with modern building practices, materials and a broad knowledge base across different areas. They also require to be well trained so they can provide a comprehensive picture of any problems and opportunities to up skill.

The popularity of second hand dwellings is growing with more and more purchasers seeking reports before committing to purchasing a home. Sometimes substantial issues are identified and it is essential for officers to retain their professionalism so that way consumers can make an informed decision.

## **BUILDING**

During the last two months the building trend has continued at a steady rate which is pleasing for the District as it appears that in large cosmopolitan areas a slight decline or levelling out is being noticed.

The Building Consents issued during this period are broken down into the following areas:

Otorohanga District	65	Consents Value	\$5,284,425.00
Otorohanga Urban	14	Consents Value	\$510,451.00
Kawhia Urban	5	Consents Value	\$140,100.00
<b>Total:</b>	<b>84</b>	<b>Total Value</b>	<b>\$5,934,975.00</b>

## **INSPECTIONS**

Building Control staff are continually inspecting building projects when called for. During this period the number of inspections amounted to 234, with 49 Code Compliance Certificates issued.

## **STAFF**

During the months of February and March Gavin Phillips has completed a comprehensive course on building controls, which will be to the benefit of this Council to have qualified staff to carry out all the functions required under the Building Act 2004.

While Dianne was on annual leave for a period of ten days, clerical work relating to building consents was carried out by Kat Merrin of which I was very appreciative and I thank her for the good work, as this was a function over and above her normal tasks.

**John Apeldoorn**  
**DISTRICT BUILDING CONTROL OFFICER**

**Item-231 BUILDING ACT 2004 DRAFT POLICIES**

**To: His Worship the Mayor and Councillors  
Otorohanga District Council**

**From: District Building Control Officer**

**Date: 2 May 2006**

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**Executive Summary**

Attached is a Memo from the Building Control Officers on the Building Act 2004 Draft Policies.

**Suggested Recommendation**

It is recommended that:

1. The Building Control Officer's report be received.
2. Council approve for public consultation the draft Policies for Earthquake Prone Buildings and Dangerous and Insanitary Buildings.

**John Apeldoorn**  
**DISTRICT BUILDING CONTROL OFFICER**

**Attachment: Memo to JMR re Building Act 2004 Draft Policies**

Inquiries to: John Apeldoorn  
File Reference: Building/Policies



# Memo . . .

**Date:** Wednesday, 26 April 2006  
**To:** Julie Meade Rose  
**From:** John Apeldoorn  
**Re:** BUILDING ACT 2004 DRAFT POLICIES

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## 1. Background

In 2003 the Government launched a comprehensive review of the 1991 Building Act. The review was driven by concern surrounding the robustness of the regulatory framework managing building construction within New Zealand and a desire to improve the quality of buildings.

The review resulted in the Building Act 2004. This Act contains a number of new policy and regulatory requirements not previously seen in its predecessor. To enable territorial authorities and people within the building industry to prepare for and absorb these changes they are progressively being implemented over 3-5 years.

One of the new requirements is that all territorial authorities develop and adopt policies on earthquake prone, dangerous and insanitary buildings by May 2006. In developing these policies it is hoped that the level of earthquake risk to the public will be reduced over time and that danger to public from dangerous and insanitary buildings will also be reduced.

## 2. Proposed Policies

### 2.1 Overall Approach

Attached to this report as Appendix A & B are the draft proposed policies for Earthquake Prone Buildings and Dangerous and Insanitary Buildings.

The development of these policies has been based on Councils past practice and modified in accordance with the requirements of the Building Act. The policies continue to support a passive approach to the management of these types of buildings with the exception of potentially earthquake prone buildings which are identified for priority attention. The general approach and framework of each policy is summarized below.

#### 2.1.1 Earthquake Prone Buildings (EPB's)

Under this policy Council will:

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- Review its whole building stock to identify buildings that are potentially earthquake prone under the Building Act 2004;
- Compile and maintain a register of identified potentially EPB's, including identifying priority buildings for full assessment;
- Advise and actively work with owners of identified potentially EPB's;
- Encourage owners to obtain an assessment of the buildings' structural integrity from a suitably qualified structural engineer;
- Work with and encourage owners of priority buildings to have structural assessments undertaken and upgrade these buildings where necessary;
- and
- Manage the necessity for assessment and upgrading of other potentially EPB's at the time an application for a building consent is received.

The policy also details the process Council will follow to identify potentially EPB's; what Council will do to take action of these buildings; how Council will interact with affected building owners; how the policy interacts with other sections of the Building Act; what the impacts of the policy will be; and how the policy will be applied to heritage buildings.

### **2.1.2 Dangerous and Insanitary Buildings**

Identification of these types of buildings is particularly difficult as a building's external appearance does not necessarily reflect its internal condition. For this reason Council is heavily reliant upon external sources such as building occupants, neighbours, police, fire service and other agencies to inform them of dangerous and insanitary buildings. Once a building has been brought to Council's attention, Council will actively engage in inspection and assessment of the building's condition in terms of the Act. Following confirmation of a buildings status as being dangerous or insanitary Council will then work closely with building owners to find a mutually acceptable solution before exercising its powers under the Act. Where an acceptable solution cannot be negotiated with the building owner or where immediate action is required Council will exercise its statutory powers under Section 124 of the Act.

The policy also details how Council will respond to complaints about these types of buildings; how it will assess the buildings; what it will do once it is satisfied that a building is dangerous or insanity; how it will interact with building owners and complainants; how information about these buildings will be recorded; how the policy interacts with other sections of the Building Act; what the impacts of the policy will be; and how the policy will be applied to heritage buildings.

## **3. Implications**

The implementation of these policies will have little effect on Council's operations. As outlined above, development of the policies is based on past practice and as such will not require any additional resources. Some initial work will be required to investigate and compile a list of potentially earthquake prone buildings and Council will need to actively engage with building owners. This work will need to be managed and scheduled with other existing workloads but implementation of the policies will not otherwise place additional pressures upon Council in terms of time and resources.

## **4. Timetable**

This report is seeking Council approval of the draft polices for public consultation.

Once approved by Council the Building Act requires that the policies be publicly notified in accordance with the special consultative procedure in section 83 of the Local Government Act 2002. Submissions will then be taken for a minimum period of one month. Following closure of submissions Council is then required to enable submitters to be heard at a hearing. Having considered all submissions Council will then finalise the policies and adopt these to come into effect by 31 May this year.

## **5. Recommendation**

It is recommended that:

- a) The report of the District Building Control Officer dated 18 April 2006 be received.
- b) That Council approve the attached draft policies for Earthquake Prone Buildings and Dangerous and Insanitary Buildings for public consultation.

## Earthquake-Prone Building Policy 2006

### Introduction and Background

Under Section 131 of the Building Act 2004 (the Act) all territorial authorities are required to adopt a policy on earthquake-prone buildings by 31 May 2006.

The definition of an earthquake prone building is set out in Section 122 of the Act as follows:

*“Having regard to its conditions and to the ground on which it is built, and because of its construction, the building:*

- (a) will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and*
- (b) would be likely to collapse causing –*
  - i. injury or death to persons in the buildings or to persons on any other property;*
  - or*
  - ii. damage to any other property.”*

The Act also notes that this definition does not apply to buildings used wholly or mainly for residential purposes unless that building comprises 2 or more storeys and contains 3 or more household units.

The building regulations define a moderate earthquake as:

*“In relation to a building, an earthquake that would generate shaking at the site of the building that is of the same durations as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity and displacement) that would be used to design a new building at the site.”*

This document sets out Otorohanga District Councils response to the policy requirements of the Act in relation to Earthquake prone buildings.

The policy includes:

- 1 The approach that Otorohanga District Council will take in performing its functions under the Building Act 2004;
- 2 Otorohanga District Councils priorities in performing those functions; and
- 3 How the policy will apply to heritage buildings.

# Earthquake-Prone Building Policy 2006

## 1.0 Otorohanga District Council's Policy Approach

### 1.1 Policy Principles

The provisions of the Building Act in regard to earthquake prone buildings reflect the governments concern with the life safety of the public in buildings and more particularly, the need to address life safety in the event of an earthquake. The Act requires Council to develop and adopt a policy for the management of earthquake prone buildings but provides discretion in the approach to be adopted and implementation of the policy. This policy document is Otorohanga District Council's response to the requirements of the Act.

### 1.2 Policy Approach

In the past Otorohanga District Council has adopted a passive approach to the management of earthquake prone buildings (EPB's). Council has actively engaged in the identification of potential EPB's but further investigation of the these buildings structural integrity has been at the discretion of building owners, or until such time as Council receives an application for building consent. At this stage Council has then actively pursued assessment of the identified building and structural improvements, where warranted.

Under the new requirements of the 2004 Building Act Council will continue to implement a similar approach with the exception of buildings constructed prior to 1935.

These buildings will be labeled as priority buildings and identification, assessment and improvements of them will be actively pursued.

In adopting this approach Otorohanga District Council will:

- Review its whole building stock to identify buildings that are potentially earthquake prone under the Building Act 2004;
- Compile and maintain a register of identified potentially EPB's, including identifying priority buildings for full assessment;
- Advise and actively work with owners of identified potentially EPB's;
- Encourage owners to obtain an assessment of the buildings structural integrity from a suitably qualified structural engineer;
- Work with and encourage owners of priority buildings to have structural assessments undertaken and upgrade these buildings where necessary; and
- Manage the necessity for assessment and upgrading of other potentially EPB's at the time an application for a building consent is received.

## 2.0 Identifying Earthquake Prone Buildings

### 2.1 Process for Identification

Otorohanga District Council will:

- Identify from its records, as far as practicable, buildings which are potentially earthquake prone. Where necessary and/or appropriate the building will also be visually inspected. When making its assessment Council will take into account the condition and construction of the building and the ground upon which the building is constructed;
- Compile a list of potentially earthquake prone buildings;
- Categorise potentially EPB's as follows:

1. **Priority Buildings** - being those constructed prior to 1935;

2. **Other buildings** - all other buildings.

- Inform and consult with owners of buildings identified as being potential earthquake prone;
- Work with and encourage owners of priority buildings to have assessments carried out on their building.

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## 2.2 Assessment Criteria

Assessments of potentially earthquake prone buildings should be undertaken by an appropriately qualified professional and use the New Zealand Society of Earthquake Engineers document "Recommendations For the Assessment and Improvement of the Structural Performance of Buildings in Earthquakes."

## 2.3 Taking Action on Earthquake-Prone Buildings

Once a building is confirmed as being earthquake prone Council will:

- Liaise and work with the owners of the building;
- Update Councils register to confirm that the building is earthquake prone and identify the buildings status on its respective property file.
- Identify the building as being earthquake prone on any Land Information Memorandum (LIM) prepared for that property and include a statement that further details are available from the Council to those who can demonstrate a genuine interest in the property.
- Invoke its powers in accordance with Section 124 and/or 126 of the Building Act 2004, or any other section which may be appropriate in the circumstances.

## 2.4 Interacting with Building Owners

Council acknowledges that implementation of this policy will require early and on-going communication with owners of potentially earthquake prone buildings. This includes:

- Writing to and actively engaging in consultation with owners of buildings identified as being potentially earthquake prone;
- Informing these owners of the policy; its interpretation and implications; and the options available to them with its implementation;
- Working with owners to achieve mutually acceptable outcomes.

## 3.0 Interaction Between Earthquake Prone Building Policy and Related Sections of Building Act 2004

### 3.1 Section 112 – Alterations to existing buildings

When a building consent application is received under Section 112 for a building that is identified as being potentially earthquake prone Council will not issue a building consent unless it is satisfied that the building is not earthquake prone and that the building work will not detrimentally affect the building's compliance with the Building Code. This will require the owner of the building to engage an appropriate expert to investigate and assess the structural integrity of the building.

Were the assessment confirms that the building is earthquake prone, and Council is satisfied with this assessment, Council will invoke its powers under Section 124 of the Building Act, as appropriate, in relation to the particular circumstances of the building in question.

### **3.2 Sections 115 – Change of use of buildings**

When an application is received for a building consent to change the use of a building that is identified as being potentially earthquake prone it will be a requirement of the building consent that the owner make a detailed assessment of the earthquake performance of the building to determine whether or not it is an earthquake prone building in its existing condition.

If the building is shown to be earthquake prone then the Council will require the building to be strengthened to comply as near as is reasonably practicable with every provision of the Building Code that relates to structural performance as required by Section 115(b)(i)(A).

When issuing building consents under Sections 112 to 116A of Act for an alteration, change of use, extension of life or subdivision Council will also consider the requirements of the Act relating to dangerous and insanitary buildings. Council will require that any action necessary to reduce or remove the dangerous or insanitary situation to be undertaken at the same time as (or before if appropriate) the building work set out in the consent application.

### **4.0 Impact of the Policy**

Otorohanga District Council's past practice in dealing with Earthquake Prone Buildings has been well received by the community. The approach adopted in this policy is similar, being a passive approach in terms of general building stock and active in terms of priority buildings.

Implementation of the policy will come at a low cost to the community. While Council will actively encourage building owners, detailed assessments will be at the discretion of building owners, unless an application is received for building consent. At this time the applicant will be required undertake a structural assessment, at their cost, in order for Council to determine, and be satisfied that the building is not earthquake prone.

It is not anticipated that the policy will generate any adverse social or cultural effects within the community. Where buildings are identified that have social, cultural or historic significance Council will work with the building owners and other statutory/interest parties to address and resolve any concerns.

The approach within this policy is based on the environmental conditions particular to the Otorohanga District. Council will monitor the effectiveness and appropriateness of the policy and review it within 5 years after its adoption date.

### **5.0 Application of Policy to Heritage Buildings**

Otorohanga District Council believes it is particularly important that its heritage buildings have a good chance of surviving a major earthquake. However, Council does not wish to see the intrinsic value of these buildings adversely affected by structural improvement measures. Heritage buildings will be assessed in the same way as other potentially EPB's. Council will actively work with owners of these buildings, and the Historic Places Trust where appropriate, to identify mutually acceptable ways of managing the risk associated with these buildings.

## Dangerous and Insanitary Building Policy 2006

### Introduction and Background

Under Section 131 of the Building Act 2004 (the Act) all territorial authorities are required to adopt a policy on dangerous and insanitary buildings by 31 May 2006.

A building is defined as being dangerous in Section 121 of the Act if:

- "(a) *in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
  - (i) *injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
  - (ii) *damage to other property; or*
- (b) *in the event of fire, injury or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building."*

In making this determination Council may seek advice from notified members of the New Zealand Fire Service.

Section 123 of the Act defines a building as insanitary if it:

- "(a) *is offensive or likely to be injurious to health because-*
  - (i) *of how it is situated or constructed; or*
  - (ii) *it is in a state of disrepair; or*
- (b) *has insufficient or defective provisions against moisture penetration so as so cause dampness in the building or in any adjoining building; or*
- (c) *does not have a supply of potable water that is adequate for its intended use; or*
- (d) *does not have sanitary facilities that are adequate for its intended use."*

This document sets out Otorohanga District Councils response to the policy requirements of the Act in relation to Dangerous and Insanitary buildings.

The policy includes:

- 1 The approach that Otorohanga District Council will take in performing its functions under the Building Act 2004;
- 4 Otorohanga District Councils priorities in performing those functions; and
- 5 How the policy will apply to heritage buildings.

# Dangerous and Insanitary Building Policy 2006

## 1.0 Otorohanga District Council's Policy Approach

### 1.2 Policy Principles

The provisions of the Building Act 2004 reflect the governments broad concern with the life safety of the public in buildings and in terms of dangerous and insanitary buildings, the need reduce the danger to the public posed by these buildings. The Act requires Council to develop and adopt a policy for the management of these buildings but provides discretion in the approach to be adopted and implementation of the policy. This policy document is Otorohanga District Council's response to the requirements of the Act.

### 1.2 Policy Approach

In the past Otorohanga District Council has adopted a reactive approach to the management of dangerous and insanitary buildings. Identification of these types of buildings is particularly difficult as a building's external appearance does not necessarily reflect its internal condition. For this reason Council has been reliant upon external sources such as building occupants, neighbors, police, fire service and other agencies to inform them of dangerous and insanitary buildings. Once a building has been brought to Councils attention, Council has then actively engaged in inspection and assessment of the buildings condition in terms of the Act. Following confirmation of a buildings status as being dangerous or insanitary Council has actively worked with building owners to find a mutually acceptable solution before exercising its powers under the Act.

Under the 2004 Building Act Council will continue to implement a similar approach to these types of buildings. Council will however exercise its statutory powers under Section 124 of the Act where action is required to avoid immediate danger or in circumstances where an acceptable solution cannot be negotiated with the building owner. Council will not actively inspect all buildings within the District but will make it a priority to quickly and efficiently respond to information received regarding potentially dangerous and insanitary buildings.

## 2.0 Responding to Complaints about potentially Dangerous or Insanitary Buildings

Once Otorohanga District Council has received information regarding a potentially dangerous or insanitary building it will:

- Check the details of the property against Council records;
- Have an authorized officer undertake an inspection of the building in question. In doing this, Council may seek advice from the New Zealand Fire Service, or any other professional deemed appropriate by Council; and
- Prepare an inspection record.

### 2.2 Assessment Criteria

All inspections of potentially dangerous or insanitary buildings will involve assessment of the building's condition in terms of the definitions in Section 121 and 123 of the BA and the current building code requirements. Inspection records will be prepared in all cases.

### **2.3 Taking Action on Dangerous or Insanitary Buildings**

Once Council is satisfied that a building is dangerous or insanitary it will:

- Where appropriate, try to work with the owner of the building to achieve an acceptable outcome.
- Where a mutually acceptable outcome cannot be reached, or where the situation requires, Council may invoke its powers under Section 124, 126 or 129 of the Act.

### **2.4 Interacting with Building Owners & Complainants**

Council will endeavor to work with property owners/occupiers. Warranted officers are not required to inform or obtain approval for inspections to determine whether or not a building is dangerous or insanitary, unless the building is a household unit. In these circumstances Council must either; obtain consent of the occupier of the household unit or an order of a District Court.

Once Council has determined that a building is dangerous or insanitary it will, in the first instance, consult with the owners of the affected building to further determine the circumstances and decide on an appropriate course of action. However where the situation requires, immediate action will be taken without consultation with the building owner, to remove danger or fix insanitary conditions.

Complainants will be informed of the inspection results and Councils intended course of action to deal with the situation.

### **2.5 Recording Information about Dangerous and Insanitary Buildings**

All information relating to dangerous and insanitary buildings will be filed on the relevant property file. This will include a copy of the original inspection record and any further action taken. This information will also be included on any LIM prepared for the property.

## **3.0 Interaction with Related Sections of Building Act 2004**

In exercising its powers under the Act in relation to dangerous and insanitary buildings Council will be guided by the purpose of the Act and the principles of its functions as set out in Section 4. Particular regard will be given to:

- harmful effects on human health;
- special cultural, traditional or heritage aspects of a building;
- protecting other property from physical damage resulting from use of a building; and
- preservation of buildings of significant cultural, historical or heritage value.

When issuing building consents Council will also consider the requirements relating to dangerous and insanitary buildings.

## **4.0 Impact of the Policy**

Implementation of this policy will have beneficial effects on the health and safety of people using buildings. The policy provides a clear framework of how Council will manage unsatisfactory building conditions. Implementation of this policy will raise people's awareness of the processes that are in place to address these situations and empower people to raise concerns about buildings and have these concerns investigated.

Application of the options available to Council in the Act to deal with dangerous and insanitary buildings will be applied with discretion. The situation of each building will be different and Council will weigh up these elements when deciding what approach should be taken to deal with the situation and remove or minimize the danger the building presents. The cost of any action taken will be borne by the building owner.

## **5.0 Application of Policy to Heritage Buildings**

This policy applies to heritage buildings in the same way it applies to all other buildings.

Where Council receives information regarding buildings which have a heritage classification, either in the District Plan or under the Historic Places Trust, in addition to consulting with affected owners Council will consider seeking advice from the Historic Places Trust.

## Item-232 DISTRICT PLAN CHANGE NO 5

**To:** His Worship the Mayor and Councillors  
Otorohanga District Council

**From:** Environmental Services Manager

**Date:** 2 May 2006

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### Executive Summary

With increased subdivision activity within the District it has become increasingly apparent that a more specific and consistent approach is required towards specifying the standards of infrastructure required for these new developments.

A change to Council's District Plan (Plan Change No.5) to introduce references to the standards contained in the Hamilton City Council Development Manual in respect of roading, water and wastewater services is therefore proposed.

### Suggested Recommendation

It is recommended that:

1. The Environmental Services Manager's report be received; and
2. The District Plan Change No 5 becomes operative on 1 July 2006.

### Report Discussion

#### Infrastructure Standards for Subdivisions

Within the Otorohanga District Plan there is little explicit reference to the engineering standards required in respect of water, wastewater, stormwater and roading infrastructure that is to be provided for proposed new subdivisions.

The most specific criteria currently provided in the Plan are in relation to new roads serving subdivisions, where under assessment subdivision criteria 16a a stated requirement is that 'The road development plan meets Council's standards for road design and construction', but little detail is provided of what these standards are.

In relation to water supply within Urban Services areas, the District Plan requires that 'each lot is provided with an adequate and suitable supply of water' in a manner that 'will not adversely effect the existing infrastructure and/or its efficient function' and also provides for applicants to make financial contributions towards upgrading water treatment and reticulation systems if this is required. Comparable provisions also exist within the District Plan for wastewater, but there is no reference to issues in respect of stormwater.

Because specific technical standards are not defined in the District Plan engineering staff have generally made somewhat subjective decisions on what are appropriate standards for the infrastructure to be provided on new subdivisions. These have typically been based upon the New Zealand Standard 4404 (Urban Land Subdivision) and various design manuals adopted by

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other local authorities, taking account of general powers in relation to provision of roading, water supply and drainage contained in the Local Government Act 1974.

This approach has generally been satisfactory, but with the recent increases in subdivision activity (and the repeal of some relevant provisions of the LGA 1974) it has become apparent that a different, more standardised approach is desirable.

During the past two years staff have been making increasing use of Hamilton City Council's Development Manual (HCCDM) as a comprehensive benchmark for technical standards, and a number of other Waikato TLA's have come together to develop a Rural Supplement to the HCCDM that will, in combination with the HCCDM itself, provide an appropriate and consistent set of standards for rural authorities in the Waikato region. This supplement is currently nearing completion.

With the continuing increase in the numbers and size of subdivision applications being received it is now considered appropriate to formalise the use of the HCCDM and any adopted supplement in setting standards for subdivision development within the District, through a change to the District Plan.

### **Proposed Plan Changes**

The following changes are proposed to the subdivision section of the District Plan:

#### **Roading**

The following words shall be added to assessment criteria 16a:

*Such standards will generally be based upon those contained in the current versions of the Hamilton City Council's Development Manual and any supplement to this manual adopted by Otorohanga District Council.*

#### **Water Supply**

It is proposed that the following be adopted as an additional assessment criteria, 8d:

*Within the Urban Services or Urban Limited Services Effects areas any new water supply infrastructure to serve the proposed subdivision shall be designed and constructed to the satisfaction of Council and in accordance with the requirements of the current versions of the Hamilton City Council's Development Manual and any supplement to this manual adopted by Otorohanga District Council.*

#### **Wastewater**

It is proposed that the following be adopted as an additional assessment criteria, 7d:

*Within the Urban Services or Urban Limited Services Effects areas any new sewerage infrastructure to serve the proposed subdivision shall be designed and constructed to the satisfaction of Council and in accordance with the requirements of the current versions of the Hamilton City Council's Development Manual and any supplement to this manual adopted by Otorohanga District Council.*

#### **Stormwater**

It is desirable that any new stormwater infrastructure serving a proposed subdivision is also designed and constructed in accordance with the HCCDM, but the District Plan currently lacks a section on stormwater into which such a requirement could be easily inserted.

There are however still some relatively comprehensive provisions within the LGA 1974 (in particular Sections 451, 459-62 and 467) which appear able to provide Council with effective control over stormwater infrastructure on new subdivisions.

It is therefore considered that while it would be desirable to have greater reference to stormwater drainage in the District Plan, this is not an urgent need, and can be incorporated as part of the forthcoming full Review of the District Plan.

**Julie Meade Rose**  
**ENVIRONMENTAL SERVICES MANAGER**

## Item-233 LTCCP 2006

**To:** Chairperson and Members  
Otorohanga District Council

**From:** Finance and Administration Manager

**Date:** 2 May 2006

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### Executive Summary

Council to consider adopting:

1. Draft Management Plan for 2006/07 year
2. Draft Long Term Council Community Plan for the financial periods from 1 June 2006 to 30 June 2016
3. The Statement of Proposal.

### Suggested Recommendation

It is recommended that:

1. The Draft Plan be approved, and
2. Public Notice be given that the Council proposes to adopt the Long Term Council Community Plan, and
3. Submissions be heard at the meeting to be held 27 June 2006.

### Report Discussion

The Plan has been prepared taking into account the Community outcomes put forward by the various Group's and recommendations from the Community Boards as to the level of rates they need to fund their activities for the period of the plan.

The draft Plan sets out the services, activities and projects proposed to be undertaken during the period 1 July 2006 to 30 June 2016 and includes

- Community Outcomes and how Council proposes to measure progress towards achieving those outcomes.
  - Councils Annual Plan for the 2006/07 year
  - Details of the proposed 2006/07 rating levels
  - Council programme of Work for the 2006/7 year in particular and in general Terms for the following 9 years
  - 10 year Financial Strategy
  - Rating Impact of the Plan and Financial Strategy
  - Prospective Financial Statements
  - Policies on Rates, Treasury Management, Significance, Development Contributions, Partnerships, Maori Involvement in Decision Making and appointment of Directors
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Key assumptions include price level adjustments to the Financial Statements from 1 July 2007 onwards.

Linkages to the Asset Management Plans through performance measures are an improvement on previous plans.

A policy on postponement of Rates on Maori land is included. This is a Statutory requirement.

The Audit process has been frustrating. This is partly because of the clash with public holidays and the later than planned commencement of the Audit. At the date of writing this report there are still issues to be resolved with the Office of the Auditor General but sign off should be achieved by the meeting date.

The Plan includes references to the Waikato Regional Outcomes and Outcomes prepared by Ngati Maniapoto and Tainui.

The Plan has been audited and received the approval of the Office of the Auditor General

It is proposed that the Plan, if approved, will be advertised in the Waitomo News on Thursday 4 May 2006. Submissions will close on 6 June and be heard at the meeting of Council scheduled for 27 June. It is proposed to adopt the Plan together with the Management Plan at that meeting.

A Summary of the Plan and will be sent out with the May Newsletter.

**J L Pevreal**  
**FINANCE AND ADMINISTRATION MANAGER**

## Item-234 REPRESENTATION REVIEW FOR 2007 ELECTIONS

**To:** His Worship the Mayor and Councillors  
Otorohanga District Council

**From:** Chief Executive

**Date:** 2 May 2006

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### Executive Summary

The Local Electoral Act 2001 ('LEA') requires that the representation arrangements of each local authority and community board be publicly reviewed at least once in every six years. No review was undertaken prior to the 2004 elections and therefore we are obliged to undertake a review prior to the 2007 elections.

The LEA requires that there be no greater than a +/- 10% variation in the ratio of population to elected members for each ward. Unfortunately neither the Kawhia nor the Tihiroa Wards meet this requirement. At the minimum therefore a re-definition of the ward boundaries for these two wards will be required. However there are a number of alternatives which should also be considered.

The Council has undertaken preliminary consultation in each of the areas likely to be affected by a boundary change. As a result of this informal consultation one change to the proposed boundary between the Kawhia and Tihiroa Wards is recommended.

### Suggested Recommendation

It is recommended that the following recommendations be adopted in accordance with Sections 19H and 19J of the Local Electoral Act 2001:

1. The Kawhia and Otorohanga Community Boards be retained.

*Explanation:* Council believes that the Community Boards provide a valuable linkage between Council and the Otorohanga and Kawhia communities.

2. The boundaries of the Kawhia Community be expanded to include that part of Meshblock 0992700 that includes the Aotea Community.

*Explanation:* Aotea is an expanding coastal community and shares many common issues with Kawhia. By including the Aotea community within the Kawhia Community Board area ratepayers and residents will have an additional forum through which to communicate with the District Council.

3. Membership of the Kawhia Community Board be expanded to 5 elected members and 1 member appointed by Council.

*Explanation:* The expansion of the Kawhia Community Board is necessary in order to provide an equitable split of representation between the Aotea and Kawhia communities.

4. The Kawhia Community Board be split into two Subdivisions. The names of the Subdivisions, the boundaries of the Subdivisions, and the number of members to be elected by the Electors of each Subdivision are:

SUBDIVISION	BOUNDARIES OF EACH SUBDIVISION SHOWN ON...	NO. OF ELECTED MEMBERS
Kawhia	New SO Plan Required	4
Aotea	New SO Plan Required	1
<b>TOTAL</b>		<b>5</b>

*Explanation: Splitting the Kawhia Community Board into two subdivisions guarantees that both Kawhia and Aotea communities will be represented on the new Community Board.*

5. The boundaries of the Otorohanga Community be expanded to include meshblock MB1001101 and part MB1001001 (the Westridge subdivision, including all of the land from the end of Blucks Road through to the railway line) and part of Meshblock MB1002801 (from the southernmost point of the Otorohanga Community on Old Te Kuiti Road through to Otewa Road, opposite Te Kotahitanga Marae).

*Explanation: The expansion of the Otorohanga Community is a reflection of both historical growth, such as the Westridge residential subdivision, and the need to provide for future growth.*

6. No subdivisions for electoral purposes are required within the Otorohanga Community.
7. Existing representation arrangements (4 community board members elected at large and 2 appointed members) be retained for the Otorohanga Community.
8. The Council (including the Mayor) shall have a total membership of eight persons.
9. The Council (other than the Mayor) shall be elected by the electors of each Ward of the District.
10. The names of the Wards, the boundaries of the Wards, and the number of members to be elected by the Electors of each Ward are:

WARD	BOUNDARIES OF EACH WARD SHOWN ON...	NUMBER OF MEMBERS
Kawhia	New SO Plan Required	1
Kiokio / Korakonui	New SO Plan Required	1
Otorohanga	New SO Plan Required	2
Tihiroa	New SO Plan Required	1
Waipa	New SO Plan Required	1
Wharepuhunga	SO Plan 59040	1
<b>TOTAL</b>		<b>7</b>

*Explanation 1: In order to comply with the statutory requirement that there be no greater than a +/- 10% variation in the ratio of population to elected members for each ward when compared to the ratio for the District as a whole it has been necessary to re-define the boundary between the Kawhia and Tihiroa Wards.*

*Explanation 2: It is proposed that the boundary of the Otorohanga Ward be expanded in order to coincide with the proposed boundary of the Otorohanga*

*Community. This alteration is made for the purpose of avoiding future confusion between community Ward and Community Board boundaries.*

## **Report Discussion**

Section 19H of the Local Electoral Act 2001 ('LEA') provides that all Councils must conduct a review of their representation requirements no less than once every six years. As no such review was undertaken prior to the 2004 elections we are required to conduct a review prior to the 2007 elections. The results of this review of representation must be publicly notified by 8 September 2006. The public has a right to submit on the review and to have their submissions heard by Council. Council's decision on any submission can be appealed to the Local Government Commission.

Recent decisions made by the Local Government Commission on representation review appeals have caused a significant level of concern throughout local government, for a variety of reasons. Of particular concern is the fact that at appeal the Council's decision is given equal weighting to the views of appellant(s). This is inappropriate because it means that public consultation undertaken by the Council prior to making its final decision is disregarded. As a consequence the views of the vast bulk of electors, who may have been (and probably were) entirely satisfied with the arrangements determined by the Council, are disenfranchised. There is also a view that the Local Government Commission's previous decisions have been ideologically driven.

The Local Government Commission now has a completely different membership to the Commission that heard the most recent representation review appeals. The decisions reached by the new Commission may therefore be more acceptable. However until the LEA can be amended so that the views of all electors are adequately represented at appeal, it is considered desirable to avoid getting into a situation where appeals are likely.

The representation review needs to cover a range of issues. The Council has already considered and resolved the choice of electoral system to be used (FPP); the inclusion of Maori Wards, and confirmed other mechanical details (the use of postal voting and progressive vote counting). Matters remaining to be considered and resolved are:

- The structure of community boards; and
- The requirement for achieving a fair representation of electors and effective representation of communities of interest. In particular this includes the requirement that there be no greater than a +/- 10% variation in the ratio of population to elected members for each ward when compared to the ratio for the District as a whole. This variation is exceeded in the Kawhia and Tihiroa Wards.

## **Community Boards**

The Council is required by Section 19J(1) of the LEA, whenever reviewing its own representation arrangements, to also undertake a review of community boards. The review is intended to be zero-based, and therefore provides a process whereby a territorial authority can propose the constitution of new boards or the disestablishment of existing boards.

In carrying out such a review two levels of decisions are required –

- Whether there should be community boards; and
- If so, the nature of the community and the structure of the community board.

In undertaking the community board review, the Council is required to have regard to the criteria which apply to reorganisation proposals under the Local Government Act 2002 ('LGA'), to the extent that they are appropriate to community boards.

In considering the rural nature of Otorohanga District, the urban areas of Otorohanga, Kawhia and – increasingly – Aotea stand out as potentially meriting community boards. The table below therefore considers each of these areas against the relevant criteria of the LGA.

CRITERIA	OTOROHANGA	KAWHIA	AOTEA
Will the proposal promote the good local government of the District and community concerned?	Yes. The ability of the Council to understand issues facing urban and coastal communities, and to provide appropriate services to these communities, will be enhanced by the existence of community board representation.		
Would the District and the Community have the resources necessary to enable them to carry out their respective responsibilities, duties and powers?	Yes.	The Kawhia Community Board are very aware of the need to keep costs to a minimum, however in a community where an additional \$4,700 expenditure equates to a 1% rate increase the cost of the community board (\$25,500 local share) may be considered disproportionate.	No. Aotea is still a very small community. Based on Kawhia's experience it is likely that the cost of a separate community board for Aotea would place too great a burden on Aotea ratepayers.
Would the community encompass an area that is appropriate for the efficient and effective exercise of its responsibilities, duties and powers?	Yes, although the existing community boundaries need to be re-defined to encompass recent development.	Yes, although consideration should be given to re-defining the existing boundaries.	Yes, the Aotea community could be defined sufficiently to allow for the efficient and effective exercise of its responsibilities, duties and powers.
Would the district and community contain a sufficiently distinct community (or communities) of interest?	Yes, the urban area of Otorohanga is quite distinct from the surrounding rural areas.	Yes, although as noted above, a re-definition of Kawhia's boundaries would be desirable. It is noted that the communities of Aotea and Kawhia have many commonalities.	
Would the district and community be able to meet the decision-making requirements of the Act?	Yes.	Yes, notwithstanding the resource issues referred to above.	No, resource constraints may inhibit the ability of the community to achieve the decision-making requirements of the LGA.

Based on the above criteria it is recommended that Council confirm that community boards continue to be justified in the Kawhia and Otorohanga communities.

#### Aotea

The issue of whether a community board is justified in Aotea is less clear. From a resource perspective it is unlikely that a stand-alone Aotea Community Board could be justified. However that is an issue that the Aotea Community itself must consider.

Another option would be to extend the Kawhia Community Board to include the Aotea community. This option could have benefits for both communities. The enhanced representation of Aotea would promote good local government, and the costs of the KCB would be shared amongst a wider population, and therefore reduced for individual ratepayers at Kawhia. The Local Government Commission has advised, informally, that it cannot identify any reason that non-contiguous areas could not be combined within a single Community Board.

Kawhia Community Board Members have considered the possibility of adding representation from Aotea to their Board and are generally supportive of it. The Board has resolved that the views of the Aotea Community should be sought prior to any decision being made.

Correspondence has been circulated to all ratepayers in the Aotea Community and a public meeting was held in Aotea on Saturday, 18 February 2006. The meeting was well attended and was generally supportive of having a voice on the Kawhia Community Board, notwithstanding that concerns were raised regarding the additional expense that would be incurred. This cost was assessed to be approximately an additional \$45 of rates for a property with a CV of \$150,000. There was also concern that having only one representative on a Board of six could mean that Aotea's voice would not be heard.

The advice distributed to Aotea ratepayers concerning the financial consequences of joining the Kawhia Community Board was based only on a spread of the existing community board costs. Following the public meeting more work has been undertaken and it has been identified that these costs were overstated. Because the Kawhia Community pays a much lower proportion of Swimming Pool costs than the rural sector, the additional costs of joining with the Kawhia Community will be offset by a reduction in the Pool rate.

The officially estimated usually resident population of Aotea and Kawhia, as determined by Statistics New Zealand, is 40 and 440 respectively. Therefore in order to obtain completely equal representation between Aotea and Kawhia eleven representatives would be required for Kawhia for every one representative of Aotea. Even taking into account the +/- 10% variation allowed for by the Act, a ratio of 10 Kawhia representatives for every one Aotea representative is necessary. Clearly that would not be acceptable. Similarly, having elections at large – and therefore running the risk that there would be no Aotea representative – is unlikely to be acceptable to the Aotea community.

There is one allowable exemption from the +/- 10% rule. The LEA provides that if a territorial authority considers that effective representation of an island or isolated community requires representation that does not comply with the +/-10% rule then it may distribute representation accordingly. This provision has not been widely used (if at all); however in the case of the Aotea Community it is possible to make a case that the physical separation of Aotea from Kawhia justifies a departure. In addition it is noted that:

- The use of a percentage variance rule for a low population community may not be entirely appropriate (e.g. each Kawhia representative will represent only 70 more people than the Aotea representative, which is hardly material);
- The estimated usually resident population (in both Aotea and Kawhia) does not reflect the number of ratepayers in each community;
- Construction has commenced in the Aotea Estate subdivision. This development has the potential to increase the population of Aotea over the next few years, and will certainly increase the number of ratepayers.

For the above reasons it is considered that the creation of two subdivisions, based on the existing Kawhia and Aotea communities, would be appropriate.

#### Kawhia and Otorohanga Communities

The LEA prescribes a range of other factors which must be addressed as part of the review of community boards. These include the definition of community board boundaries, the number of members and the possibility of subdivisions. These matters have been recently considered by

the Otorohanga and Kawhia Community Boards and the following recommendations have been referred to Council. The information used by the Boards to reach the below recommendations is contained in the attached reports considered by each community board.

Kawhia Community Board's Recommendations:

*It is recommended to the Otorohanga District Council that:*

- 1. The Kawhia Community Board be retained.*
- 2. The views of the Aotea community regarding community board representation be sought.*

Otorohanga Community Board's Recommendations:

*It is recommended to the Otorohanga District Council that:*

- 1. The Otorohanga Community Board be retained.*
- 2. The boundaries of the Otorohanga Community be expanded to include meshblock MB1001101 and part MB1001001 (the Westridge subdivision, including all of the land from the end of Blucks Road through to the railway line) and part of Meshblock MB1002801 (from the southernmost point of the Otorohanga Community on Old Te Kuiti Road through to Otewa Road, opposite Te Kotahitanga Marae).*
- 3. No subdivisions for electoral purposes are required within the Otorohanga Community.*
- 4. Existing representation arrangements (4 community board members elected at large and 2 appointed members) be retained.*

Correspondence has been sent to all ratepayers who were identified as being affected by the proposed alteration to the Otorohanga Community boundary. Several enquiries were received as a result but only one written response resulted. The written response was supportive of the proposed changes and also congratulated Council for initiating the Westridge subdivision.

Although Community boundaries and Ward boundaries do not have to align, it would be logical to alter the boundaries of the Otorohanga, Waipa and Kiokio Korokonui Wards to coincide with the proposed Community Board boundary in order to retain consistency within the Otorohanga urban area.

**Ward Boundaries**

As noted above, the Local Electoral Act 2001 requires that there be no greater than a +/- 10% variation in the ratio of population to elected members for each ward when compared to the ratio for the District as a whole. There are however some riders to this, as follows:

- The LEA goes on to allow that if a territorial authority considers that effective representation of an island or isolated community requires representation that does not comply with the +/-10% rule then it may distribute representation accordingly. This matter has been discussed with Local Government Commission officials. The general consensus is that the Kawhia Ward is not sufficiently isolated to justify special Councillor representation. Even if it were, the Kawhia and Tihiroa Wards would still require re-definition.
- The government has signalled that it is willing to review the LEA in order to provide greater flexibility, including around the +/-10% rule. Unfortunately it does not appear that any amendments will be made in sufficient time for this review.
- The last census occurred in March 2006. Ideally the results of this census would be used to determine representation arrangements. Unfortunately the official release of population data is not anticipated prior to May 2006. Delaying Otorohanga's representation review until census results are released would run the risk of not being able to meet the statutory deadline. The LEA specifically recognises this concern and excludes the use of census data collected in the year of, or in the year before, a triennial election.

- The previous census was in 2001, and is therefore nearly five years old. For that reason the population figures used in this review are an assessment of the Ordinarily Resident Population at 30 June 2005, and have been certificated by the Government Statistician, as specified in the LEA.

The population ratio for Otorohanga District and each Ward is shown below:

WARDS	POPULATION	NO. OF MEMBERS	POPN / MEMBERS	VARIANCE
Kawhia	1,050	1	1050	-169
Tihiroa	1,520	1	1520	+30
Kiokio-Korakonui	1,480	1	1480	
Otorohanga	2,720	2	1360	
Wharepuhunga	1,350	1	1350	
Waipa	1,350	1	1350	
<b>Otorohanga District</b>	9,480	7	1354	

The +/- 10% rule means that no Ward may have less than 1,219 residents per representative or more than 1,490 residents per representative.

As shown in the table above, the Kawhia Ward is proportionally over-represented while the Tihiroa Ward is under-represented. It is also noted that the Kiokio-Korakonui Ward is just ten residents away from also being under-represented. Because of the variances in the Kawhia and Tihiroa Wards the status quo cannot lawfully be retained.

#### Options

There are a range of mechanisms by which Otorohanga's representation could be made to conform to the Act. Three possible solutions (Varying the Number of Elected Members; Rationalising Ward Boundaries; or Re-defining Ward Boundaries) are considered below:

1. Varying the Number of Elected Representatives: By increasing the number of Councillors to 19 (2 in Kawhia, 5 in Otorohanga and 3 in every other Ward) it would be possible to conform to the Local Electoral Act while maintaining existing Ward boundaries. However, 19 Councillors (plus a Mayor and two Community Boards) would not be acceptable in a community of less than 10,000. It does however raise the issue of what an appropriate level of representation should be.

The table below outlines the ratio of Councillors to residents in Waikato TLAs. It identifies that Otorohanga District's ratio of Councillors to residents is high in comparison with our local peers. If Community Board members are included our ratio increases to 1 elected member for every 593 residents. While the approach of other Council's does not need to influence Otorohanga's choices, they do illustrate that an increase in Councillors is difficult to justify.

DISTRICT	POPULATION	NUMBER OF COUNCILLORS	POPULATION PER COUNCILLOR
Hamilton	129300	13	9946
Waikato	42400	13	3262
Waipa	41500	12	3458
Taupo	33600	12	2800
Matamata Piako	30300	11	2755
South Waikato	23300	10	2330
Thames Coromandel	26500	8	3313
Hauraki	16900	13	1300
Waitomo	9660	6	1610
Otorohanga	9480	7	1354
<b>Total</b>	<b>362950</b>	<b>105</b>	<b>3457</b>
<b>Total excluding Hamilton</b>	<b>233650</b>	<b>92</b>	<b>2540</b>

Based on the above data a reduction in the number of Otorohanga's Councillors could be argued. In order to achieve this there would need to be a significant re-arrangement of Ward boundaries, or perhaps a move to at-large elections.

2. Rationalising Ward Boundaries or Holding Elections 'At-Large': A small number of Councils have moved to holding elections at large, or over rationalised Wards. For example, Waitomo District Councillors are elected from only an Urban or Rural Ward.

A wide range of boundary arrangements are possible, for example:

- An Urban / Rural Ward split (along the lines that Waitomo District have adopted) would result in either 4 or 5 Councillors elected from Rural areas and 2 from the Otorohanga Community. Under this scenario rural Councillors could be reduced to four if the Otorohanga Ward was expanded by at least 62 residents.
- The creation of an East Ward (Wharepuhunga and Waipa), West Ward (Kawhia, Tihiroa and Kiokio Korakonui) and Otorohanga Ward would also be possible. If existing boundaries were utilised this arrangement would result in 3 Councillors being elected from the East Ward, 2 from the West Ward and 2 from the Otorohanga Ward. As above, the possibility of reducing Councillor numbers by one would arise if the West Ward was reduced by 300 residents and the other two Wards were increased by about 70 residents each.
- A third option would be to amalgamate the Wharepuhunga and Waipa Wards into a new East Ward (2 members) and the Tihiroa and Kiokio Korakonui Wards into a new East Ward (2 members), leaving Kawhia (1 member) and Otorohanga (2 members) Wards largely untouched. In this scenario the Kawhia Ward would need to be expanded by approximately 180 residents.

Each of these alternatives, and no doubt many others, is technically possible.

3. Re-defining Ward Boundaries: The simplest solution to resolve representation disparities would be to re-define the boundary between the Kawhia and Tihiroa Wards.

A range of alternative boundary lines is possible. The favoured alternative is attached.

The Council has informally consulted with ratepayers who are likely to be affected by the proposed new boundary. As a result of a mail-out showing the new boundary and explaining the reasons for it the council has received four letters of opposition, copy attached. As a result of these letters, and in consultation with the Ward Councillor, the proposed boundary between the Kawhia and Tihiroa Wards has been amended slightly so that Tapuae Road is retained within the Tihiroa Ward.

**D R Hall**  
**CHIEF EXECUTIVE**

#### **Attachments**

- a. Responses Received from Informal Consultation.

**Attachment: 0555066600 - 710 Tapuae Rd - M Oliver & K Upston - Objection to Boundary Review**

**Attachment: 0555066400 - 415 Tapuae Rd - R Dillimore & D Morton - Objection to Boundary Review**

**Attachment: Boundary Adjustment - objection from Montrose Farms**

**Attachment: Boundary Review - Objection by Y Ralph, Honikiwi Rd**

## **Item-235 ADDITION TO LIBRARY FEES AND CHARGES**

**To:** His Worship the Mayor and Councillors  
Otorohanga District Council

**From:** District Librarian

**Date:** 2 May 2006

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### **Executive Summary**

Sets out the case for introducing an annual library membership fee for non-residents of the district.

### **Suggested Recommendation**

It is recommended that:

That an annual non-resident membership fee of \$60 be added to the schedule of library fees and charges which will take effect from 1 July 2006.

### **Report Discussion**

Most of the councils in the greater Waikato region charge non-residents who wish to use their library services an annual membership fee. At present, non-Otorohanga residents joining our library pay the same fees and charges as residents of the district.

Because the changes to the schedule of library fees and charges approved by Council on 11 April may make membership of the library a more attractive option to people living outside the district, it is now recommended that an annual non-resident membership fee be introduced. It is suggested that this fee be set at \$60 which is the amount that the average Otorohanga ratepayer contributes annually towards the library service. This is also the amount that the Waipa District Council charges for a non-resident library membership.

In addition to the annual fee, non-resident library members would be liable for all other library fees and charges, as listed in the revised schedule.

**Sarah Osborne**  
**DISTRICT LIBRARIAN**

## **Item-236 REVIEW OF STOCK DROVING BYLAW**

**To:** His Worship the Mayor and Councillors  
Otorohanga District Council

**From:** Engineering Manager

**Date:** 2 May 2006

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### **Executive Summary**

Issues to be considered in a potential revision of Council's Stock Droving Bylaw are presented.

### **Suggested Recommendation**

It is recommended that:

1. Preparation proceeds of a draft Livestock Movement Bylaw to supersede the Stock Droving Bylaw 1999, taking account of the content of this report and associated discussion.
2. The expiry date for existing and new permits issued under the Stock Droving Bylaw 1999 is extended to 31 August 2006, without any charges being made for these new permits or extensions.

### **Report Discussion**

Council signalled at its meeting of 15 March 2005 that its Stock Droving Bylaw should be reviewed, to ensure that it met the needs of Council and also that it was perhaps aligned more closely with the Best Practice Guidelines for stock crossings produced by the Road Controlling Authorities Forum (RCAF).

The subsequent departure from Council of all staff who were to have managed this review – and in particular the Legal Officer, who was to have prepared the new draft Bylaw, and whose position has not subsequently been fully filled – has resulted in the review process being significantly delayed.

In recent times work towards review of the Bylaw has been resumed, and it is considered appropriate for relevant issues to be discussed with Council before proceeding with drafting of the new Bylaw Document.

The main issues identified in the previous report presented to Council continue to be relevant, and are discussed in the following sections.

### **Effectiveness of Existing Bylaw**

At present the main problem associated with stock movement continues to be a small number of permit holders who consistently fail to comply with requirements of the existing Bylaw, particularly in relation to preventing fouling of the carriageway and providing adequate warnings to road users at stock crossings. There have also been some cases of stock crossings without permits.

The adopted approach of requesting such parties to improve compliance without imposition of penalties has not been entirely successful. Some such parties listen politely to requests from Council staff, and undertake to make improvements to their practices, but these improvements subsequently fail to occur on a consistent basis. A few others have been more confrontational,

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challenging Council's right to control livestock movement, and have ignored the requests, sometimes telling staff 'where to go'.

Some individuals appear to view Council as being 'toothless' in respect of stock movement issues and it seems unlikely that their level of compliance will increase under the current regime. There is also perhaps a risk that if such attitudes and behaviours are not addressed the extent and magnitude of non-compliance may increase with time.

That this situation has arisen should not be considered as being entirely attributable to deficiencies in the existing Bylaw. Inspection of a number of Stock Droving Bylaws prepared by other Local Authorities, and the sample Bylaw produced by the RCAF has suggested that ODC's existing bylaw is relatively sound. The ODC Bylaw is fairly comprehensive in terms of its detail – much more detailed than some (for example Waipa, Hastings and Wairoa DC's) and is not dissimilar to the RCAF model.

Whilst there may be some aspects of the Bylaw that could be improved, its limited effectiveness is believed to be primarily due to our approach towards enforcement rather than the detailed wording of the document. Following on from this it is believed important to ensure that the Bylaw remains a concise and manageable document that can be easily understood by those who are subject to it, rather than an extremely detailed set of provisions primarily intended to be robust against any potential challenge.

With this in mind it is suggested that we continue to use the existing bylaw as a base, making only a relatively small number of changes to address issues raised in the following sections.

### **Drovers Day Permits**

The usefulness of the Drover's Day Permit system had previously been questioned (it was stated in the previous report to Council that no such permits had been issued to March 2005) but it is believed that this system is now being effectively utilised with 20 such permits having been issued. There has however been some inconsistency in the way that fees have been charged for these permits, with the scheduled \$140 fee having been charged only for permits for on-going droving, with one-off droving permits having been commonly issued without charge. No clear rationale for this appears to have existed, though it is understood that justification has been based on less scrutiny and administrative time being spent on the one-off permits.

It is considered that the Bylaw should be revised to reflect this, with the fee of \$140 remaining for continuing drovers permits, whilst one-off permits would be charged at perhaps \$20. It is felt that the fee for one-off permits should be kept relatively low so that applications for permits are not discouraged.

### **Enforcement**

A weakness of the existing Bylaw is perhaps that little detail is provided of the means that will be used by Council to ensure that compliance is achieved with conditions of permits issued under the Bylaw. Some of the relevant provisions that exist are either insufficiently detailed or too drastic (for example cancellation of the permit) to be effective.

Whilst there are general conditions to the effect that permit holders will 'be liable for all costs incurred by the Council in connection with the breach of condition' there is arguably insufficient explanation of the likely nature of such costs, other than for road repairs attributable to the effects of cattle, and to date no cost recovery of any type has been attempted. It is clearly desirable to be able to make permit holders liable for stock related roading costs (in particular preventative effluent clean-up) before damage is caused to the pavement, and it is believed that additional explanation is required in the Bylaw and permits to clarify this.

It is suggested that this could be done by replacing the existing condition 14 of the Crossing Permit ( which requires that applicants pay for road repairs attributable to the crossing) with something along the lines of the the following more detailed text (in italics).

14 *Permit holders will be required to reimburse the Council for the cost of:*

- i. *The removal by the Council (or its agents or contractors) of stock excrement from the sealed road at the point where the cattle cross, should the clearing of such excrement by the permit holder fail to meet standards judged as appropriate by Council's Engineering Manager or other authorised officer.*
- ii. *Any road repairs or any required additional road maintenance at or around the crossing area which are considered by Council's Engineering Manager or other authorised officer to be attributable to the effects of the cattle crossing the road.*

*A permit holder shall be provided with one warning by Council before reimbursement of costs is first sought under item i. above, and a period of not less than 2 weeks shall be provided after delivery of this first warning, for the permit holder to rectify the non-compliance before Council will take any further action to remove excrement from the crossing.*

*Should further instances of inadequate clearing of excrement be observed during the term of the Crossing Permit, Council will arrange for cleaning of that excrement without providing any further warning to the permit holder.*

*No warning will be provided before costs are sought under item ii, since it is expected that the permit holder will be fully aware of any damage to the road that is occurring.*

*Such actions under this Bylaw shall not limit Council's other rights to recover costs or impose penalties pursuant to Sections 175 and 176 of the Local Government Act 2002, Section 357 of the Local Government Act 1974 or other relevant legislation.*

It might also be beneficial to require that permit holders sign a copy of the permit and return it to Council, by which they would have more fully accepted the conditions attached to it.

Such changes to the Bylaw and Bylaw process if responsibly applied would not be onerous for the large majority of permit holders who operate their crossings in a satisfactory manner, but it would give staff a firmer footing to address the problems caused by the minority who do not.

### **Crossing Enhancement or Replacements**

The potential for measures to encourage underpasses or other improvement / replacement of stock crossings has been raised previously, and this probably warrants further consideration in light of 'best practice' suggested by the RCAF.

Various approaches have been suggested as to how the need for underpasses or other crossing improvements should be assessed. The most comprehensive of these evaluation processes is that used by Matamata Piako DC and Waikato DC, which is based upon a nomogram (multi variate graph) that takes account of stock numbers, frequency of crossings and average daily traffic volumes on the road. A copy of this nomogram as used by Waikato DC in its Livestock Movement Bylaw is attached.

The variable 'Stock Crossing % Days of the Month' would also be expected to approximate the percentage of the farmer's land on the opposite side of the road to the milking shed in cases where only one stock crossing was used.

Some examples of the requirements specified by this nomogram as used by Waikato DC are contained in the table below. These examples represent 'marginal' situations on the lower thresholds of the particular categories of underpass requirements, and these can therefore be used to those scenarios in which underpasses are not likely to be required.

It should be noted that in this assessment approach adopted the underpass requirements are relatively little influenced by the volume of traffic at the lower end of the traffic volume scale, ie less than 400 vehicles per day.

Herd Size	Crossing Use - % of days in month	Average Daily Traffic	Marginal Underpass Requirement
100	60	400	Within 10 years
100	65	50	Within 10 years
200	40	400	Within 10 years
200	55	50	Within 10 years
400	20	400	Within 10 years
400	30	50	Within 10 years
100	60	1200	Within 5 years
100	100	50	Within 5 years
200	80	400	Within 5 years
200	80	50	Within 5 years
400	55	400	Within 5 years
400	65	50	Within 5 years
100	95	1200	Within 2 years
200	100	800	Within 2 years
400	75	400	Within 2 years
400	100	50	Within 2 years
100	100	1600	Within 1 Year
100	100	1600	Within 1 Year
200	100	1200	Within 1 year
400	100	400	Within 1 year

This approach, though less severe than Waikato DC's initial proposal to require that underpasses are provided whenever dairy cattle cross a public road, is still a very forceful tool towards requiring underpasses in the medium term, and it is suspected that such an approach may not be appropriate for the Otorohanga District where traffic volumes are generally much lower than those found in the Waikato District.

A similar, but somewhat more easily understood assessment method has been proposed by the Road Controlling Authorities Forum (RCAF) that is based on a graph of average daily traffic and cattle numbers.

An even simpler method that has been suggested is making decisions based upon the number of cars being stopped by the crossing, which is estimated from a simple calculation based on traffic and stock numbers. A chart produced by Federated Farmers, also attached, could be easily adapted to reflect underpass / crossing improvement requirements based on this approach. The disadvantage of this approach is however that it does not take account of the frequency of crossing use.

It can perhaps be argued that in using any of these methods the primary factor being assessed is traffic nuisance, since account is not generally being taken of whether the road being crossed is sealed or unsealed, and hence the issues associated with potential road damage are therefore not fully incorporated.

A final option towards encouraging the use of underpasses might be increasing the extent of financial assistance provided by Council (over and above the LTNZ subsidy, for which a guideline chart is attached). This is currently \$2500 per underpass, which typically represents around 5% of the underpass cost, but this fraction is obviously decreasing as construction costs rise, and a revision of this subsidy may be required.

### Property Amalgamation Issues

The amalgamation of two properties on opposite sides of a road may be an appropriate trigger for putting in place stronger criteria for requiring an underpass or other crossing improvements if dairy cattle are required to move between the two amalgamated sections on a regular basis.

Whether such stronger criteria should extend to requiring an underpass in all such cases is perhaps questionable, and it is believed that a more 'gradated' extension of the underpass requirement criteria proposed by the RCAF might be more appropriately adopted.

## Appropriate Crossing Policy – ODC

With lower traffic levels than found in many other Districts, there appears to be reason to adopt a somewhat different policy in respect of dairy cattle crossings.

Of the previously listed approaches it is believed that a possible approach might be to use the RCAF concept, but with the modification that in addition to requiring action in the 'Underpass Required' zone (hereafter referred to as 'Zone 1'), some form of action is also required in the 'At Grade Crossings Questionable' zone (hereafter referred to as 'Zone 2').

The following proposal is based on the assumption that it could be thought appropriate to consider stock crossing requirements arising from property amalgamations as new activities, that should be treated in a somewhat different manner to where the crossing is between parts of a well established existing property.

It is however not clear if such an approach is justifiable, because it is difficult to see how such a situation is really different to other instances where changes in farming practice (ie conversion of drystock farm to dairying) cause new stock crossing activities to be required. As such it would not be unexpected if opinion favoured use of only the conditions set out under the 'normal' situation below.

### 'Normal' Situation

For a 'normal' situation where dairy cattle will cross a road between parts of an established farm (those parts having not been amalgamated from previously separately owned parts since the introduction of the reviewed Livestock Movement Bylaw) the requirements would be as follows

1. Underpass required to be implemented if crossing site is in Zone 1.
2. One of the following forms of crossing surface protection required to be implemented within 6 months of the issue of the stock crossing permit, if the crossing is within Zone 2:
  - Hose wash-down of crossing following each crossing, after normal brush & shovel cleaning\*, with appropriate measures to control resultant run-off and scour
  - Surfacing of full effective width of the crossing strip with effluent resistant material\* (ie epoxy seal or concrete) – expected costs circa \$45 / \$140 per m<sup>2</sup> and \$1600 / \$5000 per typical crossing respectively
  - Use of a removable protective mat of an approved type (guideline cost \$35 per square metre, circa \$1200 for a typical crossing)

\* applicable to crossings on sealed surfaces only

Implementation of the measures under item 2 would not exempt the applicant from other general requirements to prevent or remove effluent from the road surface. They would instead provide Council with some additional assurance that road surface damage would not occur in these 'marginal' crossing situations.

Given the relatively low cost of these measures it might be reasonable to use the same criteria to determine when these measures were appropriate on both sealed and unsealed roads

This approach could also provide some further incentive for a permit holder to install an underpass, by making it slightly bit more demanding and expensive to take cattle across the road on an 'at grade' crossing.

Though it may to some extent nullify the previous point, it is probable that subsidy towards the cost of some of these measures on sealed roads could be obtained from LTNZ on the basis that these measures increased pavement life and were therefore part of an appropriate pavement maintenance regime.

### **'Amalgamated Property' Situation**

An amalgamated property situation would be where dairy cattle will cross a road between parts of a farm that have been amalgamated from previously separately owned parts since the introduction of the reviewed Livestock Movement Bylaw.

In this case an underpass would be required if the crossing site was within either Zone 1 or Zone 2. A further requirement could also be that the crossing surface protection measures set out under item 2 for the 'normal' situation were required within another defined Zone ('Zone 3') below Zone2.

This would in effect mean that the same set of crossing or enhancement approaches were being used in all situations, with only the application threshold levels being adjusted for the 'normal' and 'amalgamated property' cases.

Details of appropriate crossing improvement criteria are currently being considered. Information will be provided at the meeting suggesting the form of potential criteria, and the relationship of these criteria to existing stock crossing activities within the District.

### **Timing Issues**

In March 2005 Council resolved that the expiry date for existing permits issued under the Stock Droving Bylaw would be extended to 31 May 2006 to enable a review of the Bylaw to be completed before these permits were renewed.

Because of delays in undertaking this review it is however believed that a further small extension of the expiry date for these permits (to 31 August 2006) is required to ensure that there is adequate time for the Bylaw review process (which will include public consultation) to be properly undertaken.

A provisional schedule for this process, in accordance with requirements of the Special Order process may be as follows:

<b>Date</b>	<b>Action</b>
8 May	Provisional draft of revised Bylaw sent to Councillors and Federated Farmers for inspection
16 May (ODC Workshop)	Council and Fed Farmers to discuss draft
6 June (Council meeting)	Council resolution to make Bylaw
8 June	First notice published
15 June	Second Notice Published
26 July (Council meeting)	Council confirms Bylaw
18 August	All new permits issued

**Dave Clibbery**  
**ENGINEERING MANAGER**

### **Attachments**

- a. Stock Movement - Graph to Determine Crossing Status
- b. RCAF Working Group Concept
- c. Federated Farmers Number of cars stopped
- d. Cost Sharing for Stock Underpasses or Overpasses



**Item-237 OTOROHANGA DISTRICT DEVELOPMENT BOARD REPORT 1  
FEBRUARY - 30 APRIL 2006**

**To:** His Worship the Mayor and Councillors  
Otorohanga District Council

**From:** Chairman, Otorohanga District Development Board

**Date:** 2 May 2006

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**Executive Summary**

The Chairman of the Otorohanga District Development Board, Mr Eric Tait, will attend the meeting to present his report.

**Suggested Recommendation**

It is recommended that:

The Otorohanga District Development Board report for the period 1 February - 30 April 2006 be received.

**Report Discussion**

The present Board membership is as follows:

Eric Tait - Chairman, Pat Bailey, Graham Sanders, Andrew Giltrap, His Worship - Dale Williams, Carolyn Christian, Ken McGrath and Bob Strawbridge.

**i-Site - Otorohanga & Kawhia**

These two organisations are our biggest cost centres and the face of both Communities and the District.

The Centres have continued to develop the services they offer while still operating from the same annual financial contribution budgeted in 1995. The ODDB is not in a position to increase funding so is working closely with the Centres to encourage cash flow from ticket and souvenir sales. Otorohanga have achieved this while Kawhia is struggling to grasp the concept of sales vs free.

**Kawhia Kai Festival**

This was again a successful event and the Committee is already working on their 2007 event.

**Kiwiana Festival & County Fair**

There was a meeting held on 24 April to discuss the 'working together' of these two projects. The outcome was not available at the time of this report going to Council.

**District Brochure**

Richard Wallace has produced the required photo album for this project. The album will be made available to other key organisations and the wording is presently being formatted prior to printing.

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### **Otorohanga Medical Centre**

The ODDB, Community Board and Mayor have been working on this. Two additional Doctors have been recruited to fill the gaps of recent months. One is now in residence. The medical centre building is about to have alterations start and neighbouring organisations have agreed to help with parking, etc. This is a very important project for the well-being of our residents, with positive progress being made.

### **National Bank Young Farmer of the Year**

ODDB have helped with marketing, fundraising and organisational support. The event will take place on Saturday 6 May at the Island Reserve with huge NZ television and international exposure for the District.

### **Trade Training Centre and Kiwi House Projects**

These are on track.

### **Regional Labour and Employment Strategy**

Members from the Employment Shop, Andrew Giltrap and I met with two Government Department representatives recently to discuss the needs and wants of our future labour force. A big project that will need funded staff assistance. I will elaborate further on this at the meeting.

### **Staff Co-ordinator**

ODDB are investigating funding available to employ someone to carry out a number of projects for the Board. I will present a separate report to the meeting.

As you can see the Board is very busy managing projects locally without exploring opportunities regionally, which I believe is what is required to assist the District to continue its growth and development programme.

**E S Tait**  
**CHAIRMAN**

**Item-238 CREATIVE COMMUNITIES NZ - MINUTES**

**To: His Worship the Mayor and Councillors  
Otorohanga District Council**

**From: Customer Services Team Leader**

**Date: 2 May 2006**

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**Executive Summary**

The Committee met on 8 December 2005 to consider the Applications received.

**Suggested Recommendation**

It is recommended that:

The Minutes of the meeting of the Assessment Committee for Creative Communities NZ Local Arts Scheme held 8 December 2005 be received.

**Report Discussion**

The Committee considered the 12 Applications received and resolved to allocate \$6100 of the \$10569 available.

**CA Tutty**  
**CUSTOMER SERVICES TEAM LEADER**

**Attachments**

- a. Creative Communities NZ - Minutes

**GENERAL**

