MEMO TO HIS WORSHIP THE MAYOR AND COUNCILLORS

ORDER PAPER FOR:

the Ordinary Meeting of the Hamilton City Council to be held in the Council Chamber, Garden Place, Hamilton on Wednesday, 25 February 2009, at 7.30pm.

OPEN MEETING (The meeting will open with a prayer).

1. Apologies

2. Confirmation of Agenda


4. Activity Report — Chief Executive Officer

5. Activity Reports — His Worship the Mayor

6. Sealed Documents

7. Non-Confidential Minutes of Committee Meetings as under:
   Statutory Management Committee 16.12.08 & 17.12.08
   Statutory Management Committee 04.02.09
   Statutory Management Committee 12.02.09
   Transport Committee 10.02.09
   Community & Environment Committee 11.02.09
   City Development Committee 17.02.09

8. Exclusion of the Public

9. PUBLIC EXCLUDED MEETINGS
   Confidential Minutes of Council and Committee Meetings as under:
   Ordinary Council 10.12.08
   Extraordinary Council 27.01.09
   Statutory Management Committee 12.02.09
   Community & Environment Committee 11.02.09
   City Development Committee 17.02.09

M G Redman
CHIEF EXECUTIVE
Council — OPEN

Time and Date: 7.30pm, Wednesday, 25 February 2009.

Venue: Council Chamber, Garden Place, Hamilton.

Council Members: His Worship the Mayor Mr R Simcock (Chairperson)
Councillors: D L Bell
P A Bos
G D Chesterman
G Di Maio
J R Gower
K L H Gregory
R E Hennebry
D G Macpherson
P M Mahood
A R O’Leary
G M Saunders
M J Westphal

Committee Advisors: Mr A J Dick and Ms F M Yates

Apologies:

1. Apologies

2. Confirmation of Agenda

   The Council to confirm the agenda.
3. **Confirmation of Minutes**


Resolved: (That the open minutes of the Ordinary Council Meeting of 10 December 2008 and Extraordinary Council Meetings of 8 December 2008, 12 December 2008, 27 January 2009 and 16 February 2009, the copies having been circulated, be adopted as a true and correct record.

4. **13/16. Activity Report — Chief Executive**

The Council to receive an Activity Report from the Chief Executive.

(Copy attached page 1)

5. **13/16. Activity Reports — His Worship the Mayor**

The Council to receive Activity Reports from His Worship the Mayor.

(Copy attached page 2-9)

6. **49/13/22. Confirmation of Sealed Documents**

The Council to confirm the schedule as follows:

i) Swarbrick Dixon

a) 40/7. Memorandum of Deed of Rent Review in respect of property located at 354 Victoria Street, Hamilton, between Hamilton City Council and BNZ Branch Properties Limited, Level 14, BNZ Tower, 125 Queen Street, Auckland.

b) 40/7. Memorandum of Variation to Deed of Lease in respect of property located at Ground Floor, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and Alternatives to Violence Project.
c) 40/7. Memorandum of Variation to Deed of Lease in respect of property located at Level 2, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and NZ Historic Places Trust.

d) 40/7. Memorandum of Variation to Deed of Lease in respect of property located at Level 2, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and SPELD Waikato Incorporated.

e) 40/7. Memorandum of Variation to Deed of Lease in respect of property located at Level 1, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and Royal NZ Foundation for the Blind, PO Box 854, Hamilton.

f) 40/7. Memorandum of Variation to Deed of Lease in respect of property located at Level 2, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and Volunteering Waikato.

g) 40/7. Memorandum of Variation to Deed of Lease in respect of property located at Ground Floor, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and Union of Fathers.

h) 40/7. Memorandum of Deed of Lease in respect of Airspace over Pembroke Street, Hamilton, between Hamilton City Council and the Waikato District Health Board.

i) 40/7. Memorandum of Deed of Lease in respect of property located at 68 Vaile Road, Newstead, Hamilton, between Hamilton City Council and Riding for the Disabled Association (Waikato Group) Incorporated.

j) 40/7. Memorandum of Agreement to Lease in respect of property located at Ground Floor, Caro Street Wing, Municipal Building, Anglesea Street, Hamilton, between Hamilton City Council and Velocity Networks Limited.

k) 40/7. Memorandum of Deed of Renewal of Lease in respect of property located at Level 4, 354 Victoria Street, Hamilton, between Hamilton City Council and the New Zealand Transport Agency, Wellington.

l) 40/6. Memorandum of Discharge of Easement in Gross — Initial Amendment in respect of property located at 143 Gordonton Road, Hamilton, between Hamilton City Council and Callum Brae Tainui Limited.

m) 40/6. Memorandum of Discharge of Encumbrance in respect of property located at 76-78 Tawa Street, Hamilton, between Hamilton City Council and Edgecumbe Investments Limited.

n) 40/6. Memorandum of Agreement to Exchange Reserve Land (2) in respect of property located at Te Rapa Road, Hamilton,
between Hamilton City Council and Grey Herron Holdings Limited.

o) 40/6. Memorandum of Encumbrance Variation in respect of property located at 42B Ohaupo Road, Hamilton between Hamilton City Council and Kevin A Booth - Solicitors.

p) 40/6. Memorandum of Easement Instrument to Grant Easement in respect of property located at 9 Pine Avenue, Hamilton between Hamilton City Council and Dennis Irvine.

q) 40/6. Memorandum of Encumbrance in respect of property located at 224 Commerce Street, Frankton, Hamilton between Hamilton City Council and St Vincent De Paul Society.

r) 40/6. Memorandum of Release of Statutory Land Charge in respect of property located at 66 Wellington Street, Hamilton, between Hamilton City Council and Central City Builders Holdings Limited.

s) 40/6. Memorandum of Surrender of Easement in respect of property located at 34 Maui Street, Hamilton, between Hamilton City Council and Philip Leather Builders Limited.

t) 40/6. Memorandum of Authority to Discharge of Instrument in respect of property located at 66 Wellington Street, Hamilton, between Hamilton City Council and Central City Builders Holdings Limited.

u) 40/6. Memorandum of Encumbrance in respect of property located on the corner of Commerce Street and Lake Road, Hamilton, between Hamilton City Council and Commerce Lake Limited.

v) 40/6. Memorandum of Encumbrance in respect of property located at 287 Victoria Street, Hamilton (The Commercial Hotel) Hamilton, between Hamilton City Council and Trustees of the Giarn Family Trust.

w) 40/6. Memorandum of Land Purchase & Sale in respect of property located on the Corner of Te Kowhai Road and State Highway 1, Te Rapa Road, Hamilton, between Hamilton City Council and Grey Heron Holdings Limited.

x) 40/6. Memorandum of Agreement for Purchase of Land in respect of property located at 68 Horsham Downs Road, Hamilton, between Hamilton City Council and MRJT Developments Limited.

y) 40/6. Memorandum of Agreement for Purchase of Land in respect of property located at 87 Ruffell Road, Hamilton, between Hamilton City Council and Jetco Waikato Limited.
z) 40/6. Memorandum of Compensation Certificate in respect of property located at 68 Horsham Downs Road, Hamilton, between Hamilton City Council and MRJT Developments Limited.

aa) 40/6. Memorandum of Encumbrance in respect of property located at 233 Collingwood Street, Hamilton, between Hamilton City Council and Wallace Development Limited.

bb) 40/6. Memorandum of Surrender Easement in respect of property located at 34 Maui Street, Hamilton, between Hamilton City Council and Philip Leather Builders Limited.

c) 40/6. Memorandum of Licence Agreement in respect of property located at Hillcrest Road, Hamilton, between Hamilton City Council and Vodafone New Zealand Limited.

Resolved:

(That the documents be approved.

ii) Deputy Chief Executive

a) 40/6. Memorandum of Gazette Notice in respect of property located at 15 River Oaks Place, Hamilton.

b) 40/6. Memorandum of Easement Instrument to Grant Easement in respect of property located at 53 Te Aroha Street and 30 Claudelands Road, Hamilton, between Hamilton City Council and Ridge Construction Limited.

c) 40/6. Memorandum of Compensation Certificate and Memorandum of Agreement — Land Purchase in respect of property located at the proposed Borman Road Extension land (small land parcel from property at 31A North Ridge Drive), Hamilton, between Hamilton City Council and D L Gifford and M J Jackson.

d) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1876a River Road, Hamilton, between Hamilton City Council and Ian Elliot, Victmella Elliot & NWM Trust Management Limited.

e) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1928-1934 River Road, Hamilton, between Hamilton City Council and Ian Guilford & McCaw Lewis Chapman Trustees.


g) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1876B River Road, Hamilton, between Hamilton City Council and Mark Gregory Travaglia, Anne Marie Patterson and Owen McLeod & Co Trustees.
h) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1904-1908 River Road, Hamilton, between Hamilton City Council and Warren Storm, Nadine Storm, Christine Bear, Carlos Da Silva.

i) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1914 River Road, Hamilton, between Hamilton City Council and Richard Hill, Kathryn Hill & McCaw Lewis Chapman Trustees Ltd.

j) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1896 River Road, Hamilton, between Hamilton City Council and Brett and Fiona Asplin.

k) 40/6. Memorandum of Discharge of Compensation Certificate in respect of property located at 1874 River Road, Hamilton, between Hamilton City Council and Waid Developments Limited.


m) 40/6. Memorandum of Variation of Easement in respect of property located at Church Road, Hamilton, between Hamilton City Council and Septum Limited.

n) 40/6. Memorandum of Surrender of Easement Consent Form in respect of property located at 151 Sylvester Road, Hamilton, between Hamilton City Council and Oaklands Group Holdings Limited.

Resolved: (Crs )
That the documents be approved.
Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

Resolved: (That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<table>
<thead>
<tr>
<th>General subject of each matter to be considered</th>
<th>Reasons for passing this resolution in relation to each matter.</th>
<th>Ground(s) under section 48 (1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Dog Owners Objection to Disqualification</td>
<td>Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987</td>
<td>Section 48 (1)(a)</td>
</tr>
<tr>
<td>2. Kirikiriroa &amp; Fairfield Esplanade Management</td>
<td></td>
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<tr>
<td>3. Purchase of Land</td>
<td></td>
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<tr>
<td>4. World Rowing Championships 2010</td>
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</tr>
</tbody>
</table>

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 the relevant part of the proceedings of the meeting in public are as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Reason</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>On the grounds of right of appeal lies to any Court or Tribunal against the final decision of the Local Authority in this matter.</td>
<td>7 (2) (a) (i)</td>
</tr>
<tr>
<td>2.</td>
<td>To prevent the disclosure or use of official information for improper gain or improper advantage.</td>
<td>7 (2) (j)</td>
</tr>
<tr>
<td>3.</td>
<td>To enable Council to carry out negotiations</td>
<td>7 (2) (i)</td>
</tr>
<tr>
<td>4.</td>
<td>To prevent the disclosure or use of official information for improper gain or improper advantage.</td>
<td>7 (2) (j)</td>
</tr>
</tbody>
</table>
To: His Worship the Mayor and Councillors
From: Chief Executive
Subject: Activity Report
Committee: Full Council
Meeting Date: February 25th 2008

1.0 Contracts Approved Under Delegated Authority

1.1 Contract No. 07086 — Rotokauri Interceptor Section 51A Railway Crossing Increase to Approved Contract Sum $435,000 (excluding GST).

1.2 Contract No. 08042 — CCTV Surveys: Cleaning and Inspection — Approved Contract Sum $280,000 (excluding GST).

1.3 Contract No. 08092 — Fishing Cat Exhibit - Approved Contract Sum $289,431 (excluding GST).

1.4 Contract No. 08079 — Edgecumbe Pump Station & Septic Tank Upgrade — Approved Contract Sum $290,000 (excluding GST).

1.5 Recommendation

1.6 That the contracts approved under delegated authority be noted.

Michael Redman
Chief Executive
To: Council
From: His Worship the Mayor
Subject: Activity Report
Committee: Ordinary Council
Meeting Date: 25 February 2009
File Reference: 42/9/5

1.0 Charter Parade
The Waikato Mounted Rifles and the 4th Medium Battery have requested the right to use their Charter to march through the city on Saturday 14 March 2009.

1.1 The purpose of the Parade is to:

a) exercise and renew the Charters for 4 Medium Battery and Waikato Mounted Rifles,

b) recognise the thirty Army Reserve soldiers from Auckland, Waikato and the Bay of Plenty deploying on OPERATION RATA to the Solomon Islands in mid March 2009, and

c) represent the Freedom of the City Charters to both organisations in their current, modern name change.

Name Changes on the Charter's

1.2 Council awarded Freedom of the City on 10 August 1960 to the Waikato Mounted Rifles as the Queen Alexandra's Waikato/Wellington East Coast Squadron R.N.Z.A.C. The Waikato Mounted Rifles updated their name in 2003 to directly reflect the ties to their 19th Century predecessors. The Waikato Mounted Rifles is an armoured regiment of the New Zealand Army, part of the Royal New Zealand Armoured Corps. The unit is a single squadron within the Territorial Force that serves in the armoured reconnaissance role.

1.3 Council awarded Freedom of the city as 4th Medium Battery R.N.Z.A on 10 August 1960, the 11/4 Battery updated their name when they merged with 11(A) Battery in Auckland. The Artillery has had a presence in Hamilton since 1911, with volunteer recruits being drawn from our city and surrounding towns and districts. The unit still draws its recruits from this area, although the physical presence of gunners in the Waikato ceased with the merge with Auckland in 1999.
2.0 **Recommendation**

That:

2.1 the Report as circulated be received,

2.2 the Waikato Mounted Rifles and the 4th Medium Battery parade be permitted to march in Hamilton on Saturday, 14 March 2009, and

2.3 the Waikato Mounted Rifles and 11/4 Battery be presented with updated charter's to reflect their organisations current names.

Bob Simcock

*Mayor*
1.0 Executive Summary

1.1 Purpose of the Report

1.1.1 To determine Council's recommendation for the distribution of the 2009/2010 indicative remuneration pool of $1,014,770 (as advised by the Remuneration Authority) for elected members, for consideration by the Remuneration Authority.

1.1.2 To re-confirm or recommend changes to Council's existing expenses and allowance policy, which was approved by the Remuneration Authority in June 2008.

1.1.3 To consider the mileage discussion paper issued by the Remuneration Authority.

1.2 Summary of Key Points

1.2.1 Although the Remuneration Authority has advised Council of the total remuneration pool to be distributed for 2009/2010 (including specifying the Mayor's remuneration), Council has three options to consider in relation to the size of the remuneration pool for 2009/2010. The three options are:

**Option 1**  Indicative remuneration pool of $1,014,770 (as advised by the Remuneration Authority) to be fully allocated. This is an increase of $48,798 or 5.05% over the previous year's pool of $965,972. Option 1 would result in a Council budget shortfall of $19,818 for 2009/2010.

**Option 2**  Zero remuneration adjustment for 2009/2010 (same as 2008/2009 $965,972). Due to the economic climate some Councils are considering this option. Option 2 would result in a Council budget saving of $28,980 for 2009/2010 if the Remuneration Authority approves the reduced remuneration pool.

**Option 3**  Increase the remuneration pool to $994,952 for 2009/2010 which is an increase of $28,980 or 3% increase over the previous year's remuneration of $965,972. Option 3 would align with Council's budget for 2009/2010.

1.2.2 Once Council has decided on the size of the remuneration pool it must decide on how this pool is distributed to elected members and then advise the Remuneration Authority.
1.2.3 Council can make recommendations to the Remuneration Authority on the total remuneration pool and how this is distributed and also what expenses and allowances are payable to elected members. The Council recommendation is required by the Remuneration Authority by 1 April 2009. The Remuneration Authority makes the final determination, which is to be issued in June 2009, for the period 1 July 2009 to 30 June 2010.

1.2.4 The Remuneration Authority advised they will consider submissions from any council for other than full allocation of the pool where there is unanimity among elected members for this course of action and will be looking for valid reason to agree such requests.

1.2.5 The Remuneration Authority has recently issued a mileage allowance discussion paper for comment and Council can make a submission by 31 July 2009.

1.3 Recommendation

That:

1.3.1 Council choose one of the three options outlined under sections 2.1.2, 2.1.3 and 2.1.4 of this report,

1.3.2 the Mayor or CEO writes to the Remuneration Authority recommending the option of choice, along with reasons given for recommending that option, and informing the authority of the votes cast for and against that option,

1.3.3 Council will accept the final determination of the Remuneration Authority,

1.3.4 no changes are requested to Council's expenses and allowances policy that has been previously approved by the Remuneration Authority in June 2008, and

1.3.5 Council submit its current mileage policy as a submission to the Remuneration Authority mileage allowance discussion paper.

2.0 Background

2.1.1 There are three options to consider for the total remuneration pool for 2009/2010 - refer below 2.1.2, 2.1.3 and 2.1.4.

2.1.1.1 The Remuneration Authority has advised it is their preference for 2009/2010 for the remuneration pool to be fully allocated for three reasons:

- The increase from 1 July 2009 is conservative in that it is somewhat less than the market information might indicate should be the adjustment.
- A zero increase from 1 July 2009 could create a situation where a larger and perhaps less publicly acceptable, adjustment may need to be made from 1 July 2010. Further postponing an adjustment at that time would only serve to exacerbate the problem.
- The Remuneration Authority’s role in setting the remuneration of elected representative and statutory offices is to remove the political responsibility, and associated pressure, from those persons. Also the Authority must ensure, as far as they can, that this independence from political pressure is maintained.

2.1.1.2 The Remuneration Authority advised they will consider submissions from any council for other than full allocation of the pool where there is unanimity among elected members for this course of action and will be looking for valid reason to agree such requests.
2.1.2 Option 1: Indicative remuneration pool of $1,014,770 to be fully allocated

2.1.2.1 The Remuneration Authority has advised Council (10 December 2008) of the 2009/2010 indicative remuneration pool available for distribution to elected members to be effective from 1 July 2009.

2.1.2.2 The available remuneration pool has increased from $965,972 (2008/2009) to $1,014,770 (2009/2010), an increase of $48,798 or 5.05%. The indicative remuneration pool for 2009/2010 calculated by the Remuneration Authority incorporates a 3% increase in the base rate level of the pool and the balance of the increase is based on the relative level of population, expenses and assets compared to all Councils.

2.1.2.3 The Mayor's gross remuneration is specified by the Remuneration Authority and has moved from $127,152 (2008/2009) to $132,660 (2009/2010). The Mayor's gross remuneration is included on the indicative remuneration pool.

2.1.2.4 The Remuneration Authority is asking Council to review how the indicative remuneration pool for 2009/2010 of $1,014,770 is to be distributed.

2.1.2.5 The Council has previously agreed that the positions of Deputy Mayor and Chairpersons of regular meeting cycles receive an additional $7,000 per annum over the amount paid to Councillors. A Chairperson of a quarterly meeting cycle currently receives an additional $3,500 per annum over the amount paid to Councillors.

2.1.2.6 The remuneration steps between Deputy Mayor/Chairpersons of regular meeting cycles, Chairperson of quarterly meeting cycle, and Councillors has been in place for a number of years. I am therefore not recommending any change for 2009/2010.

2.1.2.7 If the existing margins between the Deputy Mayor, Chairpersons and Councillors remuneration are maintained, and the 2009/2010 indicative remuneration pool $1,014,770 is fully allocated, the comparison of the current and proposed remuneration is as follows:

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>His Worship the Mayor (gross)</td>
<td>$127,152</td>
<td>$132,660</td>
</tr>
<tr>
<td>Deputy Mayor</td>
<td>$73,693</td>
<td>$77,300</td>
</tr>
<tr>
<td>Chairperson - Regular Meeting Cycle (4)</td>
<td>$73,693</td>
<td>$77,300</td>
</tr>
<tr>
<td>Chairperson - Quarterly Meeting Cycle (1)</td>
<td>$70,193</td>
<td>$73,800</td>
</tr>
<tr>
<td>Councillor (6)</td>
<td>$66,693</td>
<td>$70,300</td>
</tr>
</tbody>
</table>

2.1.2.8 Council's draft LTCCP proposes a total remuneration budget for elected members for 2009/2010 of $994,952. This budget represents a 3% increase over 2008/2009 and was prepared before the Remuneration Authority advised Council of the 2009/2010 indicative remuneration pool.

2.1.2.9 Financial implications: If Council decides to fully allocate the indicative remuneration pool $1,014,770, Council would have a budget shortfall of $19,818 for 2009/2010.

2.1.3 Option 2: Zero remuneration adjustment for 2009/2010 (same as 2008/2009 $965,972)

2.1.3.1 Financial Implications: If Council decides on a zero remuneration adjustment for elected members, this would result in budget saving of $28,980 for 2009/2010 if the Remuneration Authority approves the reduced remuneration pool of $965,972 (i.e. same as 2008/2009).
2.1.3.2 **Justification:** Council’s decision for a zero remuneration adjustment for 2009/2010 would have to be justified on the basis that Council wishes to exercise extreme salary restraint for elected members in view of the public interest in the remuneration of the public sector.

2.1.4 **Option 3: Increase in remuneration pool to $994,952 for 2009/2010 (3% increase over 2008/2009)**

2.1.4.1 Council could recommend a total remuneration increase less that that advised by the Remuneration Authority. If Council proposed a total pool of $994,952 (3% increase in the remuneration pool over 2008/2009 $965,972) to be allocated, this would align with the proposed budget for 2009/2010. This would be $22,818 below the indicative remuneration of $1,017,770 as advised by the Remuneration Authority (5.05% increase).

2.1.4.2 If the existing margins between the Deputy Mayor, Chairpersons and Councillors remuneration are maintained, and the $994,952 is allocated, the comparison of the current and proposed remuneration is as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>His Worship the Mayor (gross)</td>
<td>$127,152</td>
<td>$130,967</td>
</tr>
<tr>
<td>Deputy Mayor</td>
<td>$ 73,693</td>
<td>$ 75,790</td>
</tr>
<tr>
<td>Chairperson - Regular Meeting Cycle (4)</td>
<td>$ 73,693</td>
<td>$ 75,790</td>
</tr>
<tr>
<td>Chairperson - Quarterly Meeting Cycle (1)</td>
<td>$ 70,193</td>
<td>$ 72,290</td>
</tr>
<tr>
<td>Councillor (6)</td>
<td>$ 66,693</td>
<td>$ 68,790</td>
</tr>
</tbody>
</table>

2.1.4.3 **Financial implications:** 3% increase is consistent with budget provision for 2009/2010.

2.1.4.4 **Justification:** Council’s decision for an 3% increase in the remuneration pool is justified on the basis that Council is recommending a moderate increase of 3%, which is consistent with the nationwide pool increase of 3% (derived by Remuneration Authority based on survey data and judgement on slowing remuneration growth during 2008/09 and into 2009/2010) and also Council working within budgetary constraints.

2.2 **Expenses and Allowances**

2.2.1 Council carried out a comprehensive review of the expenses and allowances policy for 2007/2008 and this was approved by the Remuneration Authority. For 2008/2009, Council re-confirmed the expenses and allowances policy (i.e. no changes) and this was approved by the Remuneration Authority in June 2008.

2.2.2 For 2009/2010, I am not recommending any change to the expenses and allowances currently payable to elected members.

2.3 **Mileage Allowance**

2.3.1 The Remuneration Authority issued a mileage allowance discussion paper on 28 January 2009. The key points are summarised as follows:

- The Remuneration Authority’s current determination provides for vehicle mileage allowance to be paid to an elected member, for travel by a member if the travel is: in his or hers own vehicle; on Council’s business; and by the most direct route reasonable in the circumstances. This determination is permissive, rather than
mandatory, and sets the maxima for both amount of, and eligibility for, the allowance. Councils can set restrictions on mileage allowances.

- The determination for mileage allowance was introduced in 2003. The amount of the allowance $0.70 per kilometre, and eligibility criteria, have remained largely unchanged since that time.
- The Remuneration Authority has indicated the mileage allowance and its application are becoming increasingly anomalous. The paper describes its inconsistency with the tax status of elected members, the unfairness of its application and the perverse incentives it can create.
- The Remuneration Authority proposes to abolish the mileage allowance for elected members (following the 2011 Local Body elections), leaving the elected members to claim the costs of the vehicle use as part of their taxation arrangements. The Remuneration Authority recommends the mileage allowance be replaced with reimbursement of travelling time (flat hourly rate for travel time which applies uniformly across the country). Council’s can make submissions or comments on the proposal to the Remuneration Authority by 1 July 2009.

2.3.2 HCC’s expense and allowances policy currently states any mileage (and taxi costs) that qualifies (travel costs incurred whilst representing Council outside of the City Boundary) will be reimbursed. The reimbursement of mileage is in accordance with rates as prescribed by the Inland Revenue Department (i.e. 62 cents per km for first 3000 km’s in any one year, with additional kilometres at a rate of 19 cents per km).

2.3.3 Council’s current policy on mileage allowance for elected member is consistent with Council’s policy for employee mileage reimbursement and Inland Revenue Department rates. Council’s current policy and processes for mileage reimbursement appears fair and easy to manage. To abolish the mileage allowance and replace it with the proposed reimbursement of travelling time would be very onerous and difficult to implement.

2.3.4 I am proposing that we submit our mileage policy as a submission to the Remuneration Authority discussion paper.

3.0 Conclusion

3.1.1 The subject of local and central government remuneration is the topic of much debate and we have seen varied decisions made in recent weeks. Ultimately the decision on the level of remuneration paid the local body elected members is the responsibility of the government and their appointed agency, the Remuneration Authority. For that reason Council must accept the final determination of the Remuneration Authority. However, this does not prevent Council from indicating its preference.

Bob Simcock
MAYOR
Minutes of the
**Hearing on Notified Resource Consent Application by Homes for Living Limited — 490 Grey Street.**

<table>
<thead>
<tr>
<th>Time and Date:</th>
<th>9:00 am, Tuesday and Wednesday 16 &amp; 17 December 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venue:</td>
<td>Alcamo Conference Room, Ulster Street, Hamilton.</td>
</tr>
<tr>
<td>Commissioner:</td>
<td>Mr Alan Withy</td>
</tr>
</tbody>
</table>
| Hamilton City Council Staff: | Mr Gulab Bilimoria  
|                     | Mr David Radich  
|                     | Mr Cliff Newton-Smith  
|                     | Mr Alasdair Gray                                   |
| Hearing Secretary:  | Ms Lil Alderton                                     |

The Commissioner gave an introductory statement and advised that he had no conflict of interest in this proceeding, and gave the opportunity for everyone present to advise if they believed he was unsuitable for this project or believed he had a conflict of interest, to which there was no response. The Commissioner then outlined the Hearing procedure and introduced the parties present. He advised that he had undertaken a site visit, and did not feel the need for any further site visit, but if any person would particularly like him to look at a specific point of the site, he would be open to doing an accompanied visit.

At the invitation of the Commissioner, Mr Gulab Bilimoria made a PowerPoint presentation with an overview of the location of the subject site, detailing plans and photographs.

Mr David Radich (Reporting Officer) read the summary of his report for the application.

Mr Alasdair Gray made a PowerPoint presentation summarising the traffic situation concerning the intersection.

On the 'intersection options' slide on the PowerPoint presentation, the Commissioner asked for clarification on the drawing of the additional lane option, to which Mr Gray replied the slide had poor graphic production, and clarified the aspects of the option.

Mr Alasdair Gray completed his PowerPoint presentation.
As there were no questions, the Commissioner invited Mr Jim Milne to begin his presentation for the applicant.

**IN ATTENDANCE FOR THE APPLICANT**

Present:  
Mr Jim Milne, Counsel for the Applicant.  
Mr John Sofo, Architect.  
Mr Leo Hills, Traffic Engineer.  
Mr Owen Burn, Planning Consultant.

Mr Jim Milne read his written Opening Submissions by Counsel for the Applicant.

After an interpolation made by Mr Milne noting that there was only one submitter present that morning, the Commissioner asked Mrs Margaret Southgate if she had something to add, to which she replied that she was the only member of the public present because people did not realise that they could come at 9 o’clock on the first day, and thought that they could only come and do their submission and then go away. She thought if it had been added in the invitation that members of the public could be at the Hearing on the first day at 9 o’clock, that more people would have done so. The Commissioner assured Mrs Southgate that he would be making his decision based on issues rather than numbers, and invited Mr Milne to continue with his opening submissions.

Mr Milne completed reading Opening Submissions by Counsel for the Applicant.

The Hearing adjourned from 10.10 am — 10.30 am for the morning tea break.

The Commissioner invited Mr Milne to continue, and Mr Milne called Mr John Sofo.

Mr John Sofo read his written Statement of Evidence.

When Mr Sofo referred to Appendix G in 4.1, which was a letter written by the Hamilton Urban Design Advisory Panel, the Commissioner asked Mr Sofo to describe the Design Panel’s role, to which Mr Sofo replied that a Design Panel is usually comprised of a group of well qualified experienced people with a range of different areas of specialisation, such as traffic, urban design, heritage, and landscape. Applicants bring a project to the panel pre-application to run it by the panel, not as a test of whether the project complies in terms of the plan, but to seek a positive response to the sorts of issues that the panel has expertise in. The Commissioner then clarified that Mr Sofo’s role is as an Architect to the Developer, responsible for the conceptual design and for the detailed design, which Mr Sofo confirmed was correct.

Mr Sofo completed reading his Statement of Evidence.

Mr Leo Hills read his Statement of Evidence.

The Commissioner sought to clarify if Mr Hills strongly supported the recommendations that Mr Alasdair Gray made as to what the Council should do, and Mr Hills advised that in terms of the Grey Street median he strongly agreed that it should be extended, and for the Clyde Street median he agreed that it should be extended, but would need further investigation into the operation of the shopping centre opposite, in regards to right turning traffic. But, other than that he strongly supported Mr Gray’s recommendations.

Mr Hills completed reading his Statement of Evidence.
Mr Bilimoria comments that they need to discuss Condition 22, because amendments have been made to that condition, and that they will discuss that later.

**Mr Cedric Owen Burn** read his Statement of Evidence.

Mr Gray commented that there was a minor point that might be relevant while considering Condition 22, and that in his conclusions his view was that there were parking effects, but they could be managed so that they were less than minor. He advised that he and Mr Burn reached the same conclusion, but using different methods.

The Commissioner suggested that in regards to Condition 22, after the lunch break he be advised where the discussions had arrived at, and deal with that then.

Mr Milne advised that that completed the Evidence in Chief for the Applicant.

**SUBMITTERS**

The Commissioner called submitter Ms Judy McDonald for Living Streets Hamilton, and asked her to explain her relationship to the group. Ms McDonald advised she was the coordinator for Living Streets Hamilton, which is a branch of Living Streets Aotearoa based in Wellington, a pedestrian advocacy group. The Commissioner asked Ms McDonald if her job as coordinator was a full or part time position, to which she replied it was a totally unpaid voluntary position. He asked her if she had expertise in coordination or in pedestrian movement, and she replied she did not claim particular expertise in either of those areas, though she had attended conferences and workshops on pedestrian issues.

Ms Judy McDonald read her written submission.

Mrs Margaret Southgate asked if she could add her comments to the submission; the Commissioner confirmed that she was a member of Living Streets and speaking on behalf of that group.

Mrs Southgate said what stood out clearly to her was that Hamilton City Council and the developers had not undertaken any substantial research about pedestrian safety. It was her opinion that the proposed development was back to front. She advised that there was a high level of pedestrian movement in the area from students from surrounding schools, and that the Hamilton City Council had admitted that the development would increase the traffic levels in the area, and that there had been newspaper articles publicising the need to get more people out of their cars. Therefore, she believed this project should not be granted approval until this important research had been undertaken. She believed that the points that should be covered in the research should be up to date best practice and overseas trends, that pedestrian routes are not hidden, and that crossings be appropriately placed.

At the invitation of the Commissioner if any Council Officer’s had any questions for Ms McDonald or Mrs Southgate, Mr Radich asked where it said that there were twenty two submissions in support of the proposal, to which Ms McDonald replied they were in the Planning Guidance Report which had the submissions in it, on pages 2 and 3, and they counted the submissions themselves for and against. Mrs Southgate also commented that all but one of those in support were not from Hamilton, and none of them had any comments of why they support the development. Mr Radich clarified that although he may have made an error on
page 2 and 3, that on page 8 and throughout the report it clearly states the number of submissions in support and opposition.

Mr Bilimoria advises that they had a late submission in support of the proposal for a Mr or Mrs Chapman, and the Council staff recommend that submission be accepted as ‘in time’. With no objection from the Applicant, the Commissioner allows this.

The Hearing adjourned from 12.25 pm — 1.55 pm for the lunch break.

The Commissioner called Mrs Christine Versluys, representing the Versluys family.

Mrs Christine Versluys read her written submission.

The Commissioner clarifies that in Mrs Versluys paragraph 1 when she talked of the lower floor of unit one facing Grey Street being designated, that she meant it was shown on the plan as such, and she was not using that as a technical or legal meaning.

The Commissioner advised he understood that the trees would have to go for the Council’s road widening proposals on that corner, regardless of this development, and confirmed this with Mr Cliff Newton-Smith, who advised that the trees have already gone. Mrs Versluys commented that she understood why some trees would have to go for the widening of the road, but not all of them. Mr Barry Livingstone advised that he was not the owner of the land at the time the trees were removed, but said that it was his understanding from the previous owner that all the trees were in the land space that the Council were looking at taking in terms of the land take.

The Commissioner confirmed with Mr Gray that when Mrs Versluys had referred to the one or two lanes turning left out of Grey Street into Clyde Street, that that was something that the Council was investigating regardless of this development.

The Commissioner asked Mrs Versluys the location of Beale Cottage, to which she replied it is on the corner of Beale and Grey Streets, and that it was the oldest surviving residence in Hamilton.

The Commissioner advised Mrs Versluys that he understood that the wall was to be utilised in the proposed building if it proceeds, and Mr Livingstone advised that it was their intent to use the bricks as per Jeremy Salmond’s sketch and recommendation. Mr Bilimoria said this information was on page 42 of the Planner’s Report, with information in Conditions 24, 25, and 26. Mrs Versluys thought that this was a token gesture. The Commissioner clarified that the entire wall was to come down, but some of the bricks would be utilised.

Mr Radich commented that they had put in Condition 24 on page 42, and that it was about recording the history of the site and surrounding sites in the form of signage. Mrs Versluys commented that she was concerned that all that was going to be left of the history of Hamilton East was going to be signs of what used to be there.

The Commissioner asked if there were any procedural issues before the adjournment of the Hearing today, to which Mr Radich replied they had resolved Condition 22, and had come to an agreement on the wording, and it would be presented in writing at the Hearing the following day.

The Hearing adjourned at 2.15 pm until Wednesday 17 December 2008.
The Hearing resumed at 9.00 am on Wednesday 17 December 2008.

The Commissioner gave an opening statement and welcomed all to the Hearing, he went through the days outline procedure, and introduced the parties present.

The Commissioner advised that Mrs Margaret Southgate had presented a document to support what she had spoke to yesterday, which was handed out to the Council Officer's and the Applicant.

The Commissioner called submitter Dr Merilyn Manley-Harris.

Dr Merilyn Manley-Harris made her submission speaking to a PowerPoint presentation. She stated that the Clyde, Grey and Bridge Streets intersection is viewed as problematic by city planners. She said she had viewed a survey from the City Council, and question 9 said ‘what approach should be taken to enhance the Bridge Street — Grey Street link for pedestrians, motorists and businesses?’ She stated that after the public had been consulted that there hadn’t been any great inspirations at the official level at the moment, and if you looked at the Applicant’s traffic survey you wouldn’t think there was a problem. Dr Manley-Harris advised this is an extremely busy intersection, with traffic, cyclists and pedestrians, some which behave dangerously in regards to crossing. She questioned how a second lane for turning left onto Clyde Street would be of any assistance to cyclists. She advised she had read two traffic assessment reviews, the original one and the one from Gray Matter, and that they expressed the view that green surface cycle lanes kept all cyclists safe against all possible contingencies. She then showed slides of photographs she took in a five minute timeframe of vehicles driving in and using the cycle lane, and stated that a lot of cyclists use the footpath rather than contend with the traffic. Dr Manley-Harris felt that adding entrances and exits on this busy footpath would increase risk and inconvenience pedestrians and cyclists.

The Commissioner queried where Dr Manley-Harris resided and for how long, to which she replied she has lived in Cotter Place off Nixon Street since 1996, and uses the intersection regularly, both as a motorist and a cyclist.

Mr Warren Stace read his written submission.

The Commissioner asked who from the Council could explain for the benefit of submitters the position regarding left in/left out vehicle access and light controlled pedestrian crossings. Mr Gray replied that the left in/left out access is a condition that he has recommended, and it has gone into the staff report for the Commissioner to determine the outcome, and that the left in/left out on Grey Street has a review decision so that the out component is reviewed once it’s operating, and it’s set up so that it is left in only. He advised that as the intersection is a very complex place to set up the correct crossing signal sequencing, Transportation Manager Roger Ward will be investigating in next year’s budget how best to operate the light controlled pedestrian crossings at the combination of intersections.

Mr Stace commented that median strip in Clyde Street will restrict right hand turns for the Clyde parking area, and Mr Gray replied that yesterday he gave an explanation which showed two possible arrangements for an extended median strip, one permitted right turns into the shopping centre opposite, and one didn’t.

Mr Stace commented that any traffic manoeuvres across two lanes, especially a right hand turn, was near suicidal and not well advised even in quiet times, to which Mr Gray replied that the removal of the right turn also allows more space for the through traffic and cycle lanes, and this was subject to investigation for the decision.
The Commissioner advised that Mr Gray had made recommendations, and that it is the City Council's Roading Department that makes the decision on the public roads, and likewise the Applicant cannot force things to happen on a public road.

The Commissioner called the Hamilton East Business Association.

Mr Chris Rollitt made a verbal submission on behalf of the Hamilton East Business Association, whom he has been the elected President of for 4 years. He advised that he owns a business in Hamilton East, The Cook Cafe & Bar. Mr Rollitt advised that traffic was a major concern, and though the Traffic Engineer has done a thorough analysis, it really needed to be put into context that the report is based on current flow, and uses models that provide a favourable outcome for the client commissioning the report, and it was his opinion that whoever paid for this report would get the favourable result. He advised that the Deloitte's Building was going to open in March, and that they would see the impact of another 120 cars parking in and around the Hamilton East area for the employees of the building, not including the visitors. He advised that the former BP site had just been sold, and that a McDonalds was to be put into operation there with a drive through, and it will have a huge impact on the Grey Street crossing, which is already a crossing under pressure. Mr Rollitt said that it was unclear who the 120 or so car parks in the design for 490 Grey Street were for, if they were for customers, then where do the employees park, and vice versa? He stated that the disaster that the Clyde Street Shopping Centre is should be looked at and learned from; to exit the car park can sometimes take 20 minutes. He said that the business owners in the Clyde Street Shopping Centre had tried everything with that site, including clamping, which gave Hamilton East a huge negative publicity for about 2 years. He said that the question the Business Association would put to Council Planners is why would you allow a change of zoning, which would allow this to happen all over again? Mr Rollitt said that they don't see a problem with the land being used for what purposes it was intended for, the change of zoning will allow for a greater density of occupancy, and greater pressure on the resources in the area, and that there is nothing from the developer for putting more resources into the area to cater for that load. He stated that by choking the entranceway to the Hamilton East Shopping Centre, it jeopardises the rights and investments that existing business owners and operators possess. Mr Rollitt advised he had been in business in Hamilton East for 15 years, and there was now a great balance of shops and amenities for visitors and residents, and did not want the village feel to be compromised by a very ugly and unnecessary development at the entranceway to Hamilton East. He stated the developer bought the land having full knowledge of its zoning issues, yet went ahead anyway, and to further distance himself from the local community he cut down the trees that were synonymous to the entranceway of Hamilton East. Mr Rollitt advised that it goes against the wishes of the Hamilton East Business Association for the development to go ahead, and the benefit would only go to one entity, that being Homes For Living, and that the Hamilton East business community will be unfavourably affected.

The Commissioner advised Mr Rollitt for clarification that it was actually a previous owner that removed the trees.

The Commissioner asked if the wheel clamping was a Council initiative, to which Mr Rollitt replied it was done out of frustration by the business owners in the Clyde Street shopping area, and that the Hamilton East Business Association was against it.

Mr Radich asked Mr Rollitt to confirm that he had no objection to the land being used for what the zoning was intended for, to which Mr Rollitt replied that they can't object to that, that there was no grounds to object to that.
Mr Radich asked Mr Rollitt if they were happy with the Certificate of Compliance, which allowed for healthcare, to which Mr Rollitt replied they could put healthcare there, and that it was zoned for community facilities, but why they would put healthcare there when there was already healthcare 200 metres down the road he did not know.

Mr Chris Rollitt made a verbal submission on behalf of himself. He stated that he lived in Hamilton East, and owned a house and a business there also, and was passionate about the community he lives in. He advised he wanted to protect and maintain the community, and see good growth, and he didn’t see any good coming from this particular development. Mr Rollitt stated that he couldn’t understand why they would put in a second shopping centre with traffic digress out on to Clyde Street, right into the transit point between two schools and a boarding facility for students. He advised the Sisters are concerned about this development, and that the residents and business owners don’t wish it to go ahead. It was Mr Rollitt’s opinion that the design of the development was absurd, and to put the car park at the rear and hidden away from view was a security nightmare, and that it would be a magnet for street gangs and boy racers at night. He said the design stated that there will be provision for looking through the front and rear windows to give visibility to the car park, but he believed that shop fit out, amenities like toilets, changing rooms and offices, would be like a barrier there and you wouldn’t be able to see through. Mr Rollitt stated that the materials used in the design are completely at odds with the rest of Hamilton East, go against the projected streetscape and diminish the impact of the newly renovated cathedral as the gateway to Hamilton East.

The Commissioner called the Hamilton East Community Trust, represented by Ms Lois Livingston and Mr Mark Wassung.

Ms Lois Livingston made a verbal submission; she advised she was the Chair of the Hamilton East Community Trust, which is a trust that has been involved in trying to preserve the heritage of Hamilton East, creating heritage trails, and they are also the people who have created the streetscape plans for Hamilton East. She advised as they had already put in an extensive written submission, she really wanted only to make some additional comments. Ms Livingston introduced Mr Mark Wassung, who is an Architect for the firm Design Engine, and is part of the Trust, and owns a property in Hamilton. She advised Mr Chris Rollitt is also on the Community Trust, and is the owner of Cook Cafe & Bar, which is one of Hamilton East’s category one heritage buildings, and it had been preserved beautifully by him.

The Commissioner asked Ms Livingston to explain to him where the Cook Cafe & Bar was situated, to which she replied it was on the other side of the village from this development in Cook Street, by Steele Park.

Ms Livingston stated that people live in Hamilton East because of its atmosphere and its trees, which is why there was so much horror when the people woke up one morning to find that the iconic one hundred year old trees on the entranceway into Hamilton East had been taken down. She believed this was criminal, whether it was by the previous or present landowner. She advised Hamilton East have a flawed District Plan, as quoted by Hamilton City Councillor Saunders, and that the plan was about to become under full review. Ms Livingston advised that they had been contacted by the Applicant, and they met with Mr Burn and Mr Sofo in September of 2007 with an open mind. She said that they didn’t have a huge objection to a shopping centre, they wanted to see what the Applicant came up with, and they showed them their streetscape design and all of the things they were doing for heritage in Hamilton East, and advised the Applicant that if they could design something the community could buy into, especially because the trees were cut down, something that could mitigate, something that would look like it is the entranceway to Hamilton East, then the Trust may be able to support the project. She stated that they then came up with the worst design she had ever seen, and
that they had not produced a landscape design or plan. She advised that when they first got the plans they organised an open meeting, inviting around 150 friends of the Trust, and put the plans on the wall. She said that over 50 people turned up, and they were asked if they approved of the design, and that 50 percent were happy with a shopping centre, but only if the traffic issues were resolved, and the other 50 percent did not want a shopping centre. She said that any consultation had with the developer and their team was to no effect whatsoever. Ms Livingston advised that the traffic issues in Hamilton East were horrendous, especially with all the schools in the surrounding areas all feeding through the intersection. She believed that the car park at the back of the building was designed like a raceway, and that based on what she had researched on Crime Prevention through Environmental Design, everything about this development was the wrong way around and back to front.

Mr Mark Wassung made a verbal submission; he stated that he was an Architect, involved with the Rotary and that he had been a member of the Hamilton East Community Trust for 4 years, and was a Hamilton East resident for 3 years. He advised that he was not there to talk about the architecture, as it was against the Architects Code of Conduct to do so, and he was purely there for an urban design point of view. He advised of a document from 29 February 2008, ‘Hamilton Urban Design Advisory Panel Comments’, and stated that he would like to highlight ten issues that he felt hadn’t been addressed in regards to the development design. The first item was road widening; he said that road widening was seen as a problem because of the traffic issues and restriction of the sidewalk, so there would be a compromising of pedestrian route and a bottleneck created. The second item was the double frontage; Mr Wassung believed that it would be quite difficult to set up the sense of transparency, with many things likely to block visibility. The third item was Crime Prevention through Environmental Design; he stated that the internal courtyard had no surveillance, and that the car park after hours would likely have pedestrians taking a shortcut route through there to take the most direct route to and from the city, which could be dangerous in the dark. The fourth item was traffic; he advised he had read the traffic reports, and he believed a lot of traffic reports were just tokenism, and that he did not hold much faith in traffic management studies or traffic impact assessments. The fifth item, Mr Wassung believed to put a mixed use facility at the gateway of Hamilton East would be contrary to the area. The sixth item was the landscape plan; he advised that there had been some landscape plans provided to the Applicant pre his own involvement, the plan had included trees, paving, lamp stands, canopies, and a lot of information for consideration, a lot of which was ignored, and he believed that there could have been a lot more communication between the parties. The seventh item was materials; he advised that the materials are not defined on the drawings so hard to comment on. He stated that the brick wall was historic, and that there were a lot of ideas of how the wall could be integrated into the development, but there had only been a token gesture for use of part of the wall. The eighth item was connectivity, internal and external; Mr Wassung advised he had studied the Land Transport New Zealand Pedestrian Planning and Design Guide, December 2007 Report, and summarised that it was all about encouragement for people getting to destinations by foot or by cycling, and he believed there should be some gesture towards pedestrians and cyclists. The ninth point was regarding environmental sustainable design; he did not see any evidence of sustainability other than a couple of skylights. The tenth item was regarding historic context; he stated that Hamilton East is a historic area, and he is not anti-development, but felt that the heritage of the area needed to be considered.

Ms Livingston noted that of all of the submitters in support of the development, none of them lived in Hamilton East, apart from one who lived on the outskirts, and that none of them gave any reason for their support, and that they were just tick the box submissions. She advised that she was very disappointed with the staff report, where the only comment that showed that
staff were trying to get this through from the Urban Design Panel was that ‘the quality of architecture is appropriate to an important corner site’. She thought that it was appalling that that was the only comment the officer put in the report regarding the Urban Design Panel, as the Urban Design Panel had said they had very serious concerns with the road widening issue, courtyards, car parking after business hours, double frontages, the fact it was inward facing, none of which was mentioned in the officers report. Ms Livingston commented on the removal of the car parks on Grey Street in front of the shops to provide a second lane for traffic heading south, which she believed was ridiculous. She noted to the Commissioner that she understood it could be very difficult to take community concerns into account when you’re dealing with a flawed District Plan, and she believed that the proposal should not be allowed to go through until a review of the plan was done, because it was a non-complying proposal.

The Commissioner asked Ms Livingston if it was correct that she had been a Councillor, to which she replied that she was a defrocked Councillor, and she had previously chaired the Policy and Strategy Committee of Environment Waikato, and had sat on more than 100 hearings.

The Commissioner stated that whatever misgivings anybody might have about the plan, it is still the plan.

The Commissioner noted that Ms Livingston had mentioned the notification of the Deloitte’s building, and asked her if she was challenging the extent of notification of this proposal, to which she replied she was not, and she accepted that this proposal was adequately notified.

The Commissioner stated that he experienced the traffic situation last week between the hours of 3 and 4, so does understand the concerns about traffic.

The Commissioner asked how many trustees there were on the Trust, to which Ms Livingston replied there were ten, and that they facilitated public meetings on any major public concern.

Mr Gray comments that in regards to the parking in front of the shops on Grey Street, it is one of the challenges for fixing the intersection, and that the Hamilton City Council has a review of the parking strategy going on now. He noted that he stood by the integrity of his report.

Ms Livingston tabled the document ‘Design Standards for Urban Infrastructure, 17 Shopping Centres and Other Public Urban Spaces.’

The Hearing adjourned from 10.35 am — 10.50 am for the morning tea break.

Mr Steve Bland read his written submission.

Mr Bland asks if there is a imposed completion date for the developer should this project go ahead, as he is concerned the site would be left undeveloped for years, to which the Commissioner replied that the application is not for re-zoning, it’s for a development, so his decision on behalf of Council will be to either approve the application subject to conditions, or to fail to approve it, and he advised that he did not have any power regarding the zoning, it was simply for this proposal. The Commissioner advised Mr Bland that the Council could not force the developer, and if the project is approved it is up to the developer how and when they elect to exercise that consent, it did not have a time limit.

Mr Gray clarified that there were median islands proposed as part of the application to prevent right turns northbound on Grey Street and on Clyde Street, so it would be left in/left out for both entranceways. He advised that the two lane layout isn’t planned as part of the
development, it is a way that Council has assessed how much land they may need in the future, and so that is not a firm proposal.

Mr Don Edwards read his written submission.

Ms Jane Landman read her written submission on behalf of Waimarie Community House.

Mr Gordon Yates made a verbal submission. (Mr Yates written notes which were spoken to have been tabled: Item #015.)

Ms Dianne Yates made a verbal submission; she advised that she resided in Cook Street, and that her great-great grandfather had had a tree planted in his honour in Steele Park for his part in the Fourth Waikato Regiment, and that she was very concerned with the history and preservation of Hamilton East. Ms Yates advised that she wanted to concentrate on the role of the Council and on positives rather than negatives. She stated that she did not see any strong arguments for changing some of the provisions around community zoning. Ms Yates stated that it was important in Hamilton to try and make it attractive, rather than just complying with the law and doing the minimum to get resource consent. She was concerned that there had been no public consultation in Hamilton East on what the community wanted done with community land, and what people would like to see in that area, and also noted that many of the supporters of the plan do not live in Hamilton East, and very few have given reasons for their support of the plan. It was Ms Yates suggestion that the Councillors ignore the recommendations and come with a less biased view and make their own decisions on the five factors she considered need to be looked at; attractive design, location, sustainability, accessibility, and utility. She stated in summary that the Council should look at the mark they could leave on the city; that the historical value in Hamilton East be added to, that the design of the building and materials used are looked at so that they are consistent with what is already in that area, that the traffic problems be looked into, and that the City Council look at the value of the city and what they leave to posterity. (Ms Yates basic points in written notes have been tabled: Item #016.)

Mr Bilimoria shows the area zoning using a plan, showing that the subject site is community zoning.

The Commissioner noted that there had been a contradiction drawn between zoning and use, and that they are two different things.

The Hearing adjourned from 12.00 pm — 1.05 pm for the lunch break.

Mr Rob Davidson read his written submission on behalf of Cycle Action Waikato, and made a PowerPoint presentation.

Mr Bilimoria commented that the provision for bicycle parking is only required when it is a parking lot, and in this case it was a parking requirement not a parking lot.

Mr Gray noted that if it was a requirement or not he would expect bicycle parking spaces to be considered as part of the Travel Demand Management Plan.

The Commissioner asked Mr Gray if he was suggesting that even though there may not be a requirement in the plan, it perhaps could be covered by an amendment of a condition, to which Mr Gray responded that he would have expected it to be part Travel Demand Management Plan or Car Park Management arrangements, but he would have a think about it.
The Commissioner called Mrs Rosemary Allbrook. Mrs Allbrook advised that her submission she had lodged on the 21st of September had been lost by the Council. The Commissioner advised that he had her submission now, and that it would be given the same weight in his determination, and invited Mrs Allbrook to speak to her submission.

Mrs Rosemary Allbrook read her written submission.

The Commissioner advised that that completed the submissions, and apologised to the Applicant for allowing submitters to discuss matters relevant only to the Council, but thought it was useful while the submitters actually had a chance to speak to Senior Council Officers.

STAFF REPORT

Mr Bilimoria advised that the re-draught of Condition 22 had been done, and that the Applicant had a copy, and that the Commissioner would also receive a copy.

Mr Bilimoria requested a 5 minute adjournment to discuss amendments to the conditions with the Applicant. The Commissioner confirmed that the Applicant was happy to do this.

The Hearing adjourned at 2.05 pm — 2.20 pm for Council Staff discussions.

The Chairperson stated that there had been some discussions during the adjournment between the Council’s representatives and the Applicant’s representatives, that he was not party to those, and that he was about to be told how conditions might be amended to make them acceptable to both the Applicant and the Council Officer’s, but also adds that just because they agree, does not necessarily mean that he will agree.

Mr Bilimoria advised that after hearing the evidence of the Applicant and the submitters, they wished to make amendments to some of the conditions, mostly referring to the traffic issues.

Mr Gray reiterated a couple of points from his report.

Mr Gray read out the suggested amendments to the conditions, the Commissioner confirms with Mr Gray that this will be presented in writing to him.

Mr Bilimoria read out the additional amendments to the conditions.

Mr Radich read out the amended version of Condition 22.

Mr Bilimoria added finally that number (b) in the notification should be changed from 34 submissions to 35, 23 in opposition, and 12 in support.

RIGHT OF REPLY

Mr Milne advised that the proposed changes from Council are accepted by the Applicant, and that also deals very much with the submission of Cycle Action Waikato. He advised there were other matters raised by Cycle Action Waikato that were matters for the Council as road controlling authorities, and not to do with this proposal. Mr Milne acknowledged the thought that had gone into Cycle Action Waikato’s submission.
Mr Milne referred to Mrs Allbrook’s submission, he stated that Mrs Allbrook referred to the possibility of a park or a library for the subject site, and he noted that this was not and never has been public land and that it is in private ownership, and the application was for a particular use, and also that since 1948 until recently it had been owned by the Sisters of Our Lady of Les Missions, until they no longer had use for the site. He stated that an application for resource consent is to be determined on its own merits, and without comparison to other possible uses, and it is not necessary for the Applicant to establish that its use is the sites best possible use.

Mr Milne referred to Living Streets Hamilton’s submission; he stated that under the plan this site is entitled to access, and that no access, which is what Living Street’s Hamilton seemed to want, would sterilise the site for any possible purpose. He stated that two accesses on 147 metres of frontage is reasonable and is permitted under the plan, and are located as far away as possible from the intersection. Mr Milne also pointed out that pedestrians already safely use the light controlled crossings at the busy intersections, and that there is no evidence to any risk to life or limb. He suggested that the submission as a whole was long on assertion and emotion, short on fact and supporting technical detail, and that the qualified traffic experts who had investigated the application were unanimous in their conclusions and recommendations.

Mr Milne referred to the second part of Living Streets Hamilton’s submission by Ms Southgate; he noted that she wanted the matter put off until there could be some research done on pedestrian safety. He stated that Traffic Engineers are specialists, but they are not so specialised that one deals only with cars, another with cycles, and another with pedestrians, and should the traffic effects considered by these experts include, cars, cycles and pedestrians, there is no credible evidence being of any relevance in that regard.

Mr Milne referred to Mrs Versluys submission; he stated that the application defines activities in terms of definitions of the plan, and as to the various plans that were before the Commissioner, different plans had different purposes, and he gave the example of overlays on the aerial photograph showing trees, because the aerial photograph that is available was of an age when the trees were still there, and some show access details, and some don’t. He stated that it was clear from the evidence lodged what the proposal involved, and in particular the provision of the two median strips shown in TDG3. Mr Milne stated that Mrs Versluys was entitled to her opinion of the design, but noted that she lacked the professional training and experience of Mr Sofo, who has explained in detail the reasons for having arrived at that design. He stated that Mr Jeremy Salmond, the foremost Heritage Architect of the country, confirmed that the proposal does not have an adverse effect on the heritage buildings in the locality, and that the design had also been approved by the Urban Design Advisory Panel. Mr Milne stated that the wall is required to be removed by the development, and he noted that the wall would be removed even for passive use such as a park, and also had to be removed to accommodate the road widening. He noted that the car park is no more attractive to boy racers than any other car park, and any matters of crime are matters for the Police, as were the jaywalkers and errant cyclists and motorists photographed by Dr Manley-Harris, and not a relevant consideration while determining resource consent. He noted that this last comment also covered Dr Manley-Harris’ evidence.

Mr Milne referred to Mr Stace’s submission; he advised Mr Stace had said that a condition requiring solid medians would satisfy that part of his submission, and that such a condition is put forward by the Applicant. Mr Milne noted that the time cycles of the pedestrian lights and also the pedestrian crossing were not the subject of this application, and under the Hamilton City Council’s control. He stated that Mr Stace was entitled to his opinion on the design, and commented that in his opinion Mr Stace’s design bears no relationship to the existing Hamilton East design.
Mr Milne referred to the Hamilton Business Association’s submission; he noted that they had made reference to the possible use of the old BP site for a McDonalds drive through, and that that would undoubtedly require resource consent because of the amount of vehicle movements it would involve. He stated that an activity that was to be the subject of future resource consent could not form part of the environment. Mr Milne referred to Mr Rollitt’s comment that business would be unfavourably affected, but noted that he gave no detail or evidence in support of that comment.

Mr Milne referred to Mr Rollitt’s personal submission; he stated that Mr Rollitt had asserted the importance of following rules, and noted that there are no rules of design and appearance in the plan. Mr Milne stated again that in regards to crime, if ever there was a venue for potential crime, it was the site as it exists now.

Mr Milne referred to Hamilton East Community Trust’s submission; he stated that in terms of 36A of the Act (introduced in the 2003 Amendment Act), neither the Applicant nor the Councillor’s consent authority is under any duty to consult with any person in respect of the application. Mr Milne stated that without debating with Ms Livingston’s submission that whether or not the Hamilton East community is 100 percent against the design or it isn’t; that that it is not a relevant consideration under the Act or the plan. Mr Milne referred to Mr Wassung’s submission for the Trust; he noted that Mr Wassung stated he was an Architect but not here to talk about the architecture, and Mr Milne thought this a remarkable statement given that was the one area in which he claimed expertise. He stated that the attack that Mr Wassung made on the integrity of the Traffic Engineers demonstrated that no weight whatsoever could be given to his opinions.

Mr Milne referred to Ms Yates submission; he noted that Ms Yates acknowledged that much of her submission was directed at the Council rather than the Applicant.

Mr Milne referred to Mr Edwards submission; he stated that Mr Edwards raised mainly matters which have been canvassed in the response to other witnesses.

Mr Milne advised that brought him to the end of his closing submissions.

The Commissioner advised that the Hearing had now ended, and that he would very carefully consider the proposal, and issue his decision in writing as soon as he could.
DECISION

That pursuant to the provisions of sections 19, 94 & 104B of the Resource Management Act 1991 and the Hamilton City Proposed District Plan (References Version), the Commissioner grants consent to the application (being Non-Complying Activity No. 2008/075) by Homes for Living Limited – under the Proposed District Plan (References Version) to establish an Integrated Commercial Development comprising of retail activities, offices, healthcare services, licensed premises and restaurants, within the Community Facilities Zone (assessed as a Non-Complying Activity) situated on Lot 3, DP 316850, 490 Grey, Hamilton, subject to the following conditions:

CONDITIONS

Use
1. That the development be in general accordance with the information submitted with the application on 10 September 2008.

Lighting
2. The spill of light onto any other site within the zone shall not exceed 10 lux (horizontal and vertical) when measured at or within the boundary of any other site.
3. Artificial lighting shall not result in illumination on roads that may dazzle or distract road users.

Parking, Loading & Access
4. The plans for engineering works are to be submitted to the Planning Guidance Unit and approved prior to the issue of the building consent. The plans for the roading works are to include (but are not limited to):
   (a) Car park and access layout plan, Drainage plan Long sections Cross sections showing: type of surface, construction material, sub-grade, column dimensions and spacing, manoeuvring space and clearances, including additional cycle facilities and parking where desirable to support the travel demand management plan required in condition 6.
   (b) Layout plans for median islands on Grey and Clyde Streets, including construction details of islands, signage and road marking. (Refer advice note 2 under roading regarding early liaison with HCC Transportation staff regarding extension of the median)
   (c) Layout plans and construction details for the proposed vehicle crossings on Grey and Clyde Streets, including contrasting materials to highlight the potential conflict at the crossings to pedestrians and vehicles and demonstrating how the Grey Street vehicle crossing may readily be modified for one way (entry only) operation.
   (d) Plans shall be submitted showing the layout of green synthite cycleway surfacing or similar approved product and cycle symbol (Transit NZ MOTSAM, RG 26) pavement markings at the proposed vehicle crossings on Grey and Clyde Streets.
5. That a parking management plan be submitted to the satisfaction of the Manager Transportation Unit, HCC before building consent is released, ensuring that approximately 120 spaces are protected from long term/commuter parking by time controls or a similar mechanism. This should include all surface parks.
6. That a travel demand management plan be prepared to the satisfaction of the Transportation Unit Manager for the site that demonstrates how car traffic generation from the site can be minimised. This shall be submitted before building consent is released.

7. A construction traffic management plan shall be submitted to Planning Guidance Unit for approval by the Manager Transportation Unit and approved prior to the issue of the Building Consent. The construction traffic management plan shall be submitted as part of the engineering plans. The construction traffic management plan shall be in accordance with the Council’s requirements and New Zealand Transport Agency’s code of practice for temporary traffic management (COPTTM) including matters such as:
   - the amount and nature of construction traffic expected during each phase of construction;
   - access for construction vehicles onto and off the road network from the site and measures to be adopted at these access points to ensure a safe traffic environment for other road users, including pedestrians and cyclists.
   - any damage to the road, footpath, street furniture, walls or fences shall be made good at the consent holder’s expense.
   - routes to be used by construction traffic to access and egress the site and to avoid right turns.
   - parking for contractor vehicles on the development site thereby ensuring on-street parking is avoided.
   - how construction will be timed to avoid conflict with peak traffic conditions and any special events that may generate a high amount of traffic.

8. A commercial/industrial vehicle crossing shall be constructed to the requirements of the Hamilton City Council Development Manual and modified to provide a smooth transition across the kerb and channel for cyclists on Grey and Clyde Streets in accordance with the detailed design submitted. When the commercial lowered kerb and channel is concreted, the edges are to be boxed with a minimum width of 500mm. The existing road surface is to be concrete cut and removed. The road surface is to be reinstated with basecourse and asphalt.

9. The consent holder shall construct a raised median island as per approved plan opposite the proposed vehicle crossings on Grey and Clyde Streets.

10. Any service relocation (street light/power pole and fire hydrant), road pavement marking, and road signage required as part of the installation of the vehicle crossing will be at the consent holder’s expense and to the satisfaction of the Manager Transportation Unit.

11. Green synthite cycleway surfacing or a similar approved product and cycle symbol (Transit NZ MOTSAM, RG 26) pavement markings shall be applied to the road surface at the proposed vehicle crossings on Grey and Clyde Streets. The extent of this work shall be detailed on the submitted engineering plans.

12. That provision be made on site for a minimum of 5 accessible spaces for parking for disabled persons vehicles with a minimum width of 3.5 metres each.

13. That all 149 on-site car parking spaces, loading and associated vehicle manoeuvring areas and access(es) be formed and drained and thereafter maintained with an all-weather, dust-free surface such as concrete, cobblestones, chip seal or asphalt.
14. That 2 loading bays be provided, with manoeuvring areas, sufficient to accommodate those vehicles which will normally visit the site and that are adequate for the volume of goods involved.

15. All 149 required on-site car parking spaces, cycle and motorcycle parking spaces and loading spaces are to be delineated with white/yellow painted lines as applicable or any other method as approved by the Manager, Transportation Unit. Accessible car parks and loading spaces shall be delineated with yellow paint.

16. That where any sealed carpark or landscaped area adjoins a road, kerbing or similar barrier not less than 125mm shall be provided.

17. The Consent Holder shall arrange for a detailed design road safety audit (in accordance with the LTNZ Road Safety Audit Procedures for Projects Guideline November 2004) to be carried out on the medians and entranceways for Grey and Clyde Streets and submitted to the Manager Transportation Unit for approval. The audit shall be completed prior to the submission for approval of the plans for engineering works required in condition 4.

18. The Consent Holder shall arrange for a post-construction road safety audit (in accordance with the LTNZ Road Safety Audit Procedures for Projects Guideline November 2004) to include an assessment of the safety and effectiveness of the left turn vehicle crossing out onto Grey Street. The Consent Holder shall advise HCC 2 weeks prior to the audit commencing. Preparation for the audit should include video monitoring of the interaction between vehicles, cyclists and pedestrians at the site frontages and crossings. The safety audit shall be submitted to the Manager Transportation Unit for approval.

19. The audits, and any amendments resulting from the audits, and monitoring shall be undertaken at the expense of the Consent Holder.

20. That Hamilton City Council may give notice pursuant to Section 128(1) of the Resource Management Act 1991 of the intention to review the conditions of this resource consent at any time for the following purposes:

(i) To review the effectiveness of this resource consent in avoiding, remedying or mitigating any adverse effects on the environment particularly with respect to Whether the Grey Street vehicle crossing should be made one way, being entry only. The review shall consider the performance of the left out merge/weave area on Grey Street and the effects of traffic leaving the site via the Grey Street vehicle crossing.

(ii) If necessary to avoid, remedy or mitigate such effects by way of further amended conditions.

(iii) To address any other adverse effect on the environment which has arisen as a result of the exercise of this consent; and If necessary and appropriate, to require the Holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the surrounding environment due to the activity.

21. That all works shall be done to the requirements of the Hamilton City Development Manual and/or to the satisfaction of the General Manager Works and Services.

Tenancy Restriction
22. The amount of GFA used for “Offices” as defined under the Proposed District Plan be 1000m².
23. The maximum amount of retail (excluding outdoor retail) permitted on the site shall be 1140m$^2$.

Amenity
24. To record the history of the site and its former association with Heritage Items H10 St Mary’s Convent and H50 Notre Dames des Mission at 47 Clyde Street a sign shall be displayed to the general public in the covered entrance to the shopping centre. The text, location, pictures, and size of the sign shall be approved by Hamilton City Council before the sign is erected.

25. That existing perimeter wall bricks be reused in accordance with the submitted plans named RC_502 approved perimeter wall and shall be in accordance with the recommendations included in Jeremy Salmond SALMOND REED ARCHITECTS LIMITED dated 2 September 2008. In particular the new wall be modelled on the existing wall including the top rendered edge with particular attention given to the junction with the existing in forming a return corner.

Landscaping
26. A detailed landscape plan, including an implementation and maintenance programme, shall be submitted by a member of ‘The Fellowship of Landscape Architects’ to Hamilton City Council for approval prior to building consent being released. The plan shall include details of the plant sizes at the time of planting and intended species and appropriate measures for the screening of the activity. The landscaping shall be implemented and maintained in accordance with the approved landscaping plan within the first planting season following the completion of the works on the site.

Waster and Waste Services
27. Prior to release of a Building Consent for this site, a plan of the proposed water and drainage service connections shall be provided to the HCC Water and Waste Services Unit and amended as required until approval is given. (refer advisory notes).

28. That the following refuse requirements be met:
   (a) An area for refuse and recycling collection shall be provided on the site with sufficient area to accommodate the number of refuse bags, recycling crates, and recycled paper bundles turned out from the development.
   (b) The refuse area shall be screened by solid screen fencing of at least 1.8 metres in height.
   (c) The users will be responsible for ensuring that all units utilise the refuse and recycling area, and that refuse or recycling material is not placed on the kerbside.
   (d) The area shall be of a sufficient size to accommodate the required number of refuse bags, recycling crates, and recycled paper bundles.
   (e) It shall be screened from the street and adjoining properties by a minimum of a 1.0-metre wide planting strip to a minimum height of 1.8 metres such that it is not visible from the street.

Archaeological
29. While undertaking earthworks on the site, if any archaeological feature(s) (including human remains) are encountered, all work on the site shall cease immediately and the following persons/parties shall be contacted:
   - The Police (only in the event that human remains are encountered);
   - Nga Mana Toopu O Kirikiriroa (NAMTOK);
The earthworks shall not re-commence until written authorisation has been obtained by the Consent Holder from Council’s Planning Guidance Unit Manager.

REASONS FOR THE DECISION

Weighting
a) There are no references lodged against the provisions of the Proposed District Plan relevant to the assessment of this application therefore, the provisions of the Proposed District Plan are deemed to be operative. Therefore, in accordance with section 19 of the Resource Management Act 1991 (post-2003 amendment) no assessment has been carried out of the application with regard to the provisions of the Transitional District Plan.

Notification
b) Notification of the application was undertaken in accordance with Section 94(1) of the RMA. As a result of this process 35 submissions were received 23 in opposition, 12 in support).

Noise
c) Noise level restrictions and limits on the hours of operation serve to reduce adverse noise effects that may be generated from the site.

Traffic
d) The traffic conditions of consent will ensure that adequate access, parking, loading and manoeuvring is provided to the site, with formation requirements allowing for all weather access and the protection of the amenity values of neighbouring properties.

e) A review condition will ensure that any potential effects can be mitigated by way of additional or amended conditions particularly with regard to the access and parking provisions.

f) Examination of the engineering plans and auditing of the works will allow council to confirm that the engineering aspects of the work have been satisfactorily completed.

g) Commercial /industrial standard crossings are required to accommodate the expected volume of vehicular traffic, with smooth channels to provide for safe crossing by cyclists.

h) Dispensation is given for 37 parking spaces as it is has been supported by a detailed report from a recognised traffic engineer.

Effects
i) The effects of the development have been assessed as no more than minor. In reaching this conclusion the effects on submitters in terms of the bulk and location, character, noise and traffic effects of the integrated commercial development have been considered in relation to the effects from an equivalent activity permitted in the community facilities zone.

j) The Traffic report submitted indicates that vehicle movements that will be generated from the development can be accommodated within the surrounding road network, and the level of on-site parking provided is adequate to accommodate the likely demand for on-site parking generated by the activity. Access to and from the site is adequately provided for. Proposed landscape planting and fencing, along with boundary fences, will
also serve to visually screen the facility from adjoining properties and from the road, thereby protecting the visual amenities of the locality.

RMA

k) With the information submitted to Council at time of lodgement, the proposal meets the tests under the Resource Management Act 1991. It does not compromise the integrity of the Proposed District Plan (References Version). The development is consistent with Part II of the Resource Management Act 1991. In regards to section 5(a) the proposal will sustain the potential of natural resources by maintaining amenity values and utilising a vacant Community Facilities Zoned site. Concerning section 5(b), the proposal will not compromise the life supporting capacity of air, water, soil and ecosystems as the site is already heavily modified and the proposed activity will not significantly alter this situation. In regard to section 5(c) the development will avoid, remedy or mitigate adverse effects on the environment for the reasons provided in the assessment section of this report, through the imposition of appropriate conditions if Council choose to grant consent.

l) Having regard to section 104(1)(a) of the Act, the nature of the activity, the site layout and design are such that subject to the consent conditions any actual and potential adverse environmental effects from this proposal can only be deemed minor.

Section 104B

m) After assessment of the information received by Council the proposal appears not to be contrary to the relevant objectives and policies of the Hamilton City Proposed District Plan. It is possible for Council under section 104B of the Resource Management Act 1991 to grant consent to the application as the adverse effect on the environment as a result of the proposal, is considered to be no more than minor and the proposal is not contrary to relevant objectives and policies.

n) The proposal meets the tests under section 104D the Resource Management Act 1991. It does not compromise the integrity of the Proposed District Plan (References Version), and will not affect the public confidence in the consistent administration of the District Plan if Council chooses to grant consent.

Statutory Provisions Considered in the Assessment of This Application

o) Part II and Sections 19, 94, 104 and 108 Resource Management Act.

Relevant Plan Provisions Considered in the Assessment of This Application

p) Hamilton City Proposed District Plan (References Version):
   i. Rule 4.2 Suburban Centre
   ii. Rule 4.6 Community Facilities
   iii. Rule 5.0 City-Wide Standards
   iv. Policy 5.5 Community Facilities
   v. Policy 6.2 Suburban Business

Principal Issues in Contention

q) Submissions in opposition raised issues of the level of traffic, visual amenity, character and heritage.

Main Findings of Fact

r) Subject to the above conditions of consent, the proposal will result in a minor adverse effect on adjoining properties in terms of character and additional traffic movements. A traffic report indicates that while there will be an increase in the number of vehicle
movements to the site, the additional traffic can be accommodated by the existing road network without loss of efficiency or safety. The proposed building is adequately separated from neighbouring sites, and will not affect adjoining properties in terms of sunlight/daylight loss, or loss of privacy over and above the level permitted by the District Plan. The provision of landscape planting and boundary fencing will maintain visual amenity values of the locality. With the above conditions, the commercial retail development will not adversely affect adjoining properties or create a visual nuisance to the wider community. The development will, however, provide new employment opportunities to the Hamilton East/CBD locations.

ADVISORY NOTES

General

- That compliance in all other respects with Council Bylaws, all relevant Acts, Regulations, and rules of law be met.
- A Building Consent may be required for this development. Please contact Council’s Building Unit on 838 6677 for information on Building Consent matters.
- The preparation, handling and sale of food is subject to the Food Act 1981. You are advised to contact Council’s Environmental Health Team for further information.
- The sale and supply of liquor is subject to the Sale of Liquor Act 1990. You are advised to contact Council's Citysafe Operations Team for further information.
- All construction noise shall comply with the provisions of New Standard NZS 6803:1999 “Construction Noise Standard” and shall be measured and assessed in accordance with NZS 6802:1991 “Assessment of Environmental Sound”.
- Due to the car parking shortfall, a business Travel Plan could identify alternative modes of transport, particularly as the site is well placed for travel behaviour change initiatives due to proximity to the CBD, existing pedestrian and cycle links and the number of public bus movements passing on a daily basis in each direction of the site.
- In a situation where the commercial nature of the business is based on off street ‘drop in’ visitors (CYF, IRD and WINZ), control is lost over the frequency of visitors, and subsequently demand for on-site parking is high. The identified preferred commercial tenants (e.g. solicitors, accountants and brokers) more often than not work by an appointment system where visitors are staggered through the day, this then allows the business to better manage the availability of on-site parking space.

Water and Waste Services

- Provision should be made for storage area(s) for recyclable materials to facilitate separation and collection.
- The Plan RC201 Rev 4 seems to indicate that the road is proposed to be widened over an existing watermain and hydrant. If these road works are approved then the water infrastructure will require relocation by HCC at the applicants expense.
- All operations affecting in-service Hamilton City Council water, wastewater or stormwater pipelines are to be carried out by Hamilton City Council staff (Utilities Unit) unless specific approval is given as outlined in the Hamilton City Development Manual (Volume 1, section 2.3.12.)
- Include with your servicing plan submission, 1. A stormwater management plan incorporating soakage report/design for a 10 year storm event (5min-24hour duration); 2. CCTV investigation report on waste water pipe line (WWMH 049 - 048, WWMH047 -
046); and 3. Plans showing all proposed and existing connections on the site, existing HCC pipework and the proposed basement carpark.

- An application for trade waste discharge is likely to be needed in relation to this development.
- Road Reserve then a streets landscape plan needs to be prepared by the applicant for the review and approval of the Manager Parks and Gardens or nominee.

**Landscaping**

- Should proposal incorporate landscape planting within the existing or proposed Road Reserve then a streets landscape plan needs to be prepared by the applicant for the review and approval of the Manager Parks and Gardens or nominee.
- If this property is on-sold to a new owner(s) please ensure that a copy of this resource consent is forwarded to the new owner(s).

**Roading**

- The Consent Holder is advised that some roading specifications have been upgraded and are available from the Hamilton City Development Manual via Council's web site. It is the responsibility of the Consent Holder to ensure that the correct specifications are used in the construction. In particular there are increased depths of basecourse and of the concrete thickness. See Volume 3, Standard Technical Specifications, Drawing, TS 310 and under, Volume 2, Guide Design, clause 3.11.
- The consent holder shall liaise with the Manager Transportation Unit prior to detailed design of the median islands as to whether the raised medians in Grey and Clyde Streets should be extended.
Minutes of a meeting of the
Statutory Management Committee — OPEN

Time and date: 9.45am, Wednesday, 4 February 2009.

Venue: Committee Room1, 1st Floor, Council Building, Garden Place, Hamilton.

Committee Members: Councillors
J R Gower (Chairperson)
P A Bos
K L H Gregory
P M Mahood
G M Saunders
M J Westphal
Planning Guidance Manager, Senior Planner and Technical Leader-City Planning.

In Attendance:
Graham Pariff - Graham Parfitt & Associates
Major June Sunkel - Salvation Army
Captain Peter MacDonald - Salvation Army

Secretary: Mrs S D Collins

Apology: Councillor O'Leary

Resolved: (Crs Saunders/Gregory)
That the apology be accepted.

SECTION A: DECISIONS MADE UNDER DELEGATED AUTHORITY FOR NOTING BY COUNCIL

1. **Confirming the Agenda**
The Committee to confirm the agenda.

Resolved: (Crs Gregory/Westphal)
That the agenda be confirmed.

2. **13/3/11. Publicly Notified Application for Land Use Consent at 227 Baverstock Road, Hamilton - to establish a Managed Care Facility for up to 20 people and 7 staff.**
The Committee to consider a report from the General Manager City Planning & Environmental Services concerning the above application.
Prior to the commencement of the Hearing, the Committee undertook a site visit from 9.00am to 9.45am.

The Chairperson welcomed those in attendance and outlined the meeting procedure.

The Chairperson ascertained that no member of the Committee had any conflict of interest.

It was noted that a late submission had been received and a decision was required whether to allow it.

Resolved: (Crs Mahood/Saunders)
That in accordance with Section 37 of the Resource Management Act 1991 late submission by P. Tait be allowed as it was not considered that any person would be affected by extending the time limit to take the out of time submission into account.

Minute Note: Mr Ade who was the spokesperson for the submitters was concerned that the 150 submitters concerning Variation 13 had not received notification of this hearing, and Councillors may have attended the opening of the Baverstock Road Centre. The Chairperson confirmed that the application had been processed correctly.

PLANNER’S REPORT

At the invitation of the Chairperson, the Planning Guidance Manager, Gulab Bilimoria and the Senior Planner, Jason Wright, presented an overview of the report, the location of the subject site detailing plans, photographs and the issues to be considered.

EVIDENCE BY THE APPLICANT

Appearances: Graham Parfitt - Graham Parfitt & Associates, on behalf of the Applicant.
Major June Sunkel, Salvation Army
Captian Peter MacDonald, Salvation Army

The Committee Advisor presented a letter to the Chairperson from Mr. & Mrs Devoy concerning their submission. The Chairperson ruled that the Committee was unable to consider the letter.

Major June Sunkel spoke from a written report prepared by Stephen Scott Director of The Salvation Army Addiction Treatment Services for Waikato and Midland, Mr Scott was unable to attend the hearing.

The following answers were given to questions raised by the Committee.

In response to a question concerning clients with young children and if they would be accommodated with their parents on site, Major Sunkel stated that only the clients would stay for the detox programme.

The Salvation Army had employed a contractor to keep the grounds in good repair and once the clients moved into the facility they would also be part of their maintenance programme.

The Salvation Army had only had one meeting with the submitters to discuss the application at the Salvation Army’s Grandview Road site.
Neighbours on the western side of the boundary had conducted informal meetings with the Salvation Army concerning the boundary fence, submitters preferred a hedge fence as opposed to the normal post and rail fence that would normally be constructed by the Salvation Army.

At any one time only two clients would be detoxing in the centre. Only 1 staff member would be required at night.

There was no need for an area for staff to sleep as they would not be sleeping on site. The Salvation Army has documented complaint processes which staff must adhere to.

Mr Paifitt read from his written evidence.

Mr Palfitt advised that when the home was constructed it belonged to the owners of an electrical business and they had used it both a residence and for their business.

SUBMITTERS

Mr Ade read from his written evidence.

Issues

The fears of the local community concerning allowing certain classes or groups of people into their midst could (as a matter of law) be regarded as giving rise to adverse effects on the environments.

Reg RM104.10-Regard has to be had to the particular circumstances of each case in deciding whether the noise standards in a district plan will provide adequate protection for the amenities that the plan seeks to protect. The test is not whether the noise levels are met, but whether the potential adverse effects of the noise are going to detract from the residential amenity of the neighbourhood, and whether the noise will be reasonable.

Mr Emmett read from his written evidence.

Mr Emmett felt that the Salvation Army should only have 7 to 10 people in the home at any one time.

The Hearing adjourned (12.30pm - 1.30pm) for lunch and adjourned at (2.00pm - 2.35pm).

Changes made to the recommendations were discussed.

RIGHT OF REPLY

Council Staff were given a right of reply to the changes to the recommendations and accepted the changes.

Mr Palfitt stated that the applicant was happy with the changes that had been made to the recommendations.

The Chairperson then proceeded to sum up the Hearing and expressed his thanks to all those concerned.

Resolved: (Crs Saunders/Westphal)
That the deliberation take place in public.

Motion: (Crs Saunders/Westphal)

That pursuant to the provisions of sections 19, 94 & 104B of the Resource Management Act 1991 and the Hamilton City Transitional and Proposed District Plans and Variation 13, Council grants consent to the application (being number 010/2008/19788 — 2008/074) by the Salvation Army to —

- Under the Hamilton City Transitional and Proposed District Plans to establish a Managed Care Facility (drug and alcohol rehabilitation) for up to 20 beds in an existing dwelling within the Residential Zone (assessed as a Discretionary Activity).

Situated on Lot 1 DP 337962 located at 227 Baverstock Road Hamilton, subject to the following conditions:

General Information
1. That the development be in general accordance with the information submitted with the application on 8 August 2008, and the information submitted at the Council Hearing on the 4 February 2009.

Visitation Hours
2. That visitation hours shall not be operated so as to attract pedestrian or vehicular traffic between the hours of 2100hr and 0700hr, the following day.

Staff Supervision
3. That seven qualified staff members consisting two senior officers (including a registered nurse) and five case workers shall be on site during day hours (Monday to Friday 8:00a.m to 5:00p.m). A supervision worker shall be on-site over the two night ‘awake’ shifts (Monday to Friday 5:00p.m to 8:00a.m) with a senior duty officer on call. From Saturday 8:00a.m to Monday 8:00a.m a supervision worker shall be on site over six shifts providing ‘awake’ supervision with a senior duty officer on call.

Facility Contact Officer
4. That the name of a person who can be contacted in the event of any disturbance be available to Council’s Planning Guidance Unit and those people that appear in the submitter list attached as Appendix A of this consent.

Community Liaison Group
5. The submitters and Salvation Army shall agree to form a community liaison committee to meet quarterly, and to provide a copy of the minutes to the Planning Guidance Manager for the purpose of the Review Condition (Condition 14).

Noise
6. Noise generated from any activity undertaken on the subject site shall not exceed the following noise levels when measured at any point at or within the boundary of any site in the Residential Zone:
Access and Parking

7. That all 8 on-site car parking spaces (inclusive of two drop-off spaces) and associated vehicle manoeuvring areas and access(es) be formed and drained and thereafter maintained with an all-weather, dust-free surface such as concrete, cobblestones, chip seal or asphalt.

8. That all 8 required on-site car parking spaces are to be re-delineated with white painted lines or any other method as approved by the Manager, Transportation Unit, Hamilton City Council. The accessible car park shall be re-delineated with yellow painted lines and identified with appropriate ground or free standing signage.

9. That all vehicles in association with the Managed Care Facility be accommodated within the subject site.

10. That all works shall be done to the requirements of the Hamilton City Development Manual and/or to the satisfaction of the General Manager Works and Services.

Landscape Planting and Screening

11. That a 1 metre wide permeable planting strip consisting shrubs and trees (capable of growing up to 2 metres in height or more) shall be established along the western boundary fence, up to and including the section of fence in-front of the hard surface parking area. That a 1 metre wide permeable planting strip consisting shrubs and trees (capable of growing up to 2 metres in height or more) shall be established along the full length of the eastern boundary. That a 1.8 metre high solid screen be established or a 1 metre wide permeable planting strip consisting shrubs and trees (capable of growing up to 1.8 metre in height) shall be established along the southern boundary. All landscape planting shall be implemented within the first planting season following completion of works on the site. All landscape planting shall be maintained on a continuing basis, and to the satisfaction of the Hamilton City Council.

12. That the existing 1.5 metre high solid fence screen around the perimeter of the pool and deck area shall be increased by 0.300m to a finished height of 1.8 metres measured from the pool decking.

Building Function

13. That the building containing the Managed Care Facility shall be for Salvation Army - Bridge Programme purposes. No lock up or confinement of any person shall be undertaken within the building structure or the site. No Court Ordered Persons shall be accepted into the Salvation Army Bridge Programme.

Condition Review

14. That the Hamilton City Council may give pursuant notice to Section 128(1) of the Resource Management Act 1991 of its intention to review the conditions of this resource consent at any time for the following purposes:

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<thead>
<tr>
<th>Time Period</th>
<th>Noise levels measured in L10</th>
<th>Noise levels measured in Lmax</th>
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<td>Monday to Saturday</td>
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<td>0600 - 0700 hr</td>
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<td>0700 - 2000 hr</td>
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<td>2300 - 0600 hr</td>
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<td>Sunday &amp; public holidays</td>
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<td>0700 - 2300 hr</td>
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<td>2300 - 0700 hr</td>
<td>40 dBA</td>
<td>75 dBA</td>
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</tbody>
</table>
• To review the effectiveness of this resource consent in avoiding, remediaying or mitigating any adverse effects on the environment particularly with respect to noise and parking, and if necessary to avoid, remedy or mitigate such effects by way of further amended conditions.

• To address any adverse effect on the environment which has arisen as a result of the exercise of this consent; or

If necessary and appropriate, to require the holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the surrounding environment due to the activity.

**Signage**
15. That a site sign incorporating the Salvation Army ‘Red Shield’ and site street number shall measure no more than the dimensions of an A4 paper. The sign shall be no more than 2 metres from the adjacent ground level.

**Detoxification Beds**
16. That not more than three detoxification beds be established on the site at any one time.

**REASONS FOR THE DECISION**

**Weighting**

a) There are no references (submissions) lodged against the provisions of the Residential Zone in the Proposed District Plan and the outstanding references to the Plan do not relate to matters relevant in the assessment of this application. Therefore, the Residential Zone provisions of the Proposed District Plan are deemed to be operative.

Variation 13 (Residential Centres, Managed Care Facilities and Rest Homes) was notified on the 7 July 2007, and is still progressing through the appeals period. As such, provisions of the Hamilton City Transitional District Plan have been considered along side Variation 13 assessment of this application.

**Assessment**

b) The development is consistent with Part II of the Resource Management Act 1991 as development of the land in the manner proposed will allow a Managed Care Facility to be established in the residential building. In regard to section 5(a) the proposal will sustain the potential of natural resources by maintaining amenity values and utilising land in the Residential Zone efficiently. Concerning section 5(b), the proposal will not compromise the life supporting capacity of air, water, soil and ecosystems as the site is already heavily modified and the proposed activity will not significantly alter this situation. In regard to section 5(c) the development will avoid, remedy or mitigate adverse effects on the environment for the reasons provided in the assessment section of this report, through the imposition of appropriate conditions.

c) Having regard to section 104(1)(a) of the Act, the nature of the activity, the site layout and design are such that subject to the consent conditions any actual and potential adverse environmental effects from this proposal can only be deemed minor.

d) The proposal meets all the tests under the Resource Management Act 1991. It does not compromise the integrity of the Transitional or Proposed District Plan, and will not affect the public confidence in the consistent administration of the District Plans.
e) Subject to the above conditions, the proposal is not contrary to the relevant objectives and policies and assessment criteria of the Hamilton City Transitional or Proposed District Plans.

f) The site is restricted to a rehabilitation centre only, as this activity was deemed to have similar effects to the original residential activity, particularly when considering existing character and amenity levels.

g) Condition (3) will ensure the facility is adequately staffed with appropriately qualified personal 24 hours a day and seven days a week.

h) A facility contact person will be available to discuss and/or investigate any issues relating to disturbances regarding the Managed Care Facility.

i) The Community Liaison Group will ensure surrounding neighbours and other community groups have access to a formal discussion forum with the Salvation Army (Bridge Programme) to discuss any issues associated with the site activity.

j) Noise level restrictions serve to reduce adverse noise effects to neighbouring residential sites, while safeguarding neighbourhood amenity levels.

k) Formation of the parking and manoeuvring areas allows for all-weather use and helps to protect the amenity values of neighbouring properties.

l) Adequate provision for on-site parking and manoeuvring will ensure safe and efficient access for the functioning of the road network and neighbourhood amenity.

m) The boundary planting/screening will help enhance visual harmony to surrounding sites, particularly subject site living spaces.

n) A review condition will ensure that any potential effects can be mitigated by way of additional or amended conditions, particularly with regard to noise.

o) That the sign shall not extend out over the site boundary onto the road reserve or neighbouring site.

Dispensation

p) Dispensation is granted for a maximum site occupancy rate of up to 20 people. For a permitted activity up to seven people can occupy a Managed Care Facility in the residential zone. However the proposal will accommodate up to 20 people under the same activity. The redeeming feature of the proposal is the 472m² dwelling and 4235m² site, which is considerably larger than a standard residential site, and therefore more than capable of accommodating a higher intensity of occupation. The proposal will not alter existing gross floor area, while areas of open space coupled with planting buffers will guarantee adequate separation to neighbouring sites. As such, it is anticipated the site can adequately absorb a higher intensity/occupation level with minimal effects to location character and neighbourhood amenity.

Notification

q) Notification of the application was undertaken in accordance with Section 94(1) of the RMA. As a result of the notified process, twelve submissions in objection were received. An assessment of the activity has determined that the adverse effects on persons deemed to be potentially affected by the application will be no more than minor.

Relevant Statutory Provisions Considered in the Assessment of this Application
r) Overall this application was considered to be a discretionary activity and was considered in terms of sections 104, 104B and Part II of the Act.

**Relevant Plan Provisions Considered in the Assessment of this Application**

s) Hamilton City Proposed District Plan (References Version):

   i. Rule 4.1 Residential Zone  
   ii. Rule 5.0 City-Wide Standards  
   iii. 4.0 Transportation and Accessibility Objectives and Policies  
   iv. 5.1 Residential Areas Objectives and Policies

**Principle Issues in Contention**

t) Council received twelve submissions objecting to the proposed activity. The objections highlighted issues with the change of activity, potential effects to existing amenity, privacy and site/Neighbourhood security.

**Summary of the Evidence Heard**

u) Evidence on behalf of the applicant was given by:

   Peter McDonald — highlighted operation procedures of the existing rehabilitation activity run by the Salvation Army in Hamilton. He also spoke and compared a similar activity run in Auckland.

   Joan Sunkel — gave evidence on behalf of Stephan Scott. The bulk of the evidence highlighted operation procedures of the Bridging Programme, including resident selection, daily activities, rules and regulations. The presentation also addressed specific submitter objections including boundary fencing, intensity numbers, supervision, noise and security.

   Graham Parfitt — gave evidence regarding the landuse application, features of the Bridging Programme, District Plan provisions and Resource Management Act considerations.

Evidence on behalf of the submitters was given by:

Roderick Ade — gave evidence on behalf a group of submitters, and identified issues with the facility location, occupant intensity, noise, privacy and security. He also raised issues with Variation 13, and weighting of that variation in the decision making process. Various issues were also raised with matters in the Reporting Officer's Report.

Douglas Emmet — gave evidence regarding lack of community input and communication around the proposal. He also wanted reassurance that the proposal could fit safely into the existing community. Additional concerns were with future building additions and Neighbourhood character. Signage, site parking, supervision and the detoxification programme were also issues in contention.

**Main Findings of Fact**

v) The main findings of fact determined by the Statutory Management Committee that have led to the above decision and the reasons for that decision. They have reached after considering the application, visiting the site, the evidence and submissions heard at the hearing, the report prepared by the reporting planner, all the relevant statutory and planning provisions, as well as the principle issues that were in contention. It is considered that the proposal would have no more than minor effects to those Neighbouring properties adjacent the subject site.
Advisory Notes

1) Planning

- That compliance in all other respects with Council Bylaws, all relevant Acts, Regulations, and rules of law is met.
- Any plans submitted to Council for approval must be addressed to the Manager, Planning Guidance Unit.
- The activity is permitted a single site sign, which is within the site boundary.
- Council’s rating policy charges rates based on the actual “use” or “uses” of a property as at 1 July each year, not the zoning. If the property is currently being used for residential purposes and is to be changed to commercial use, there will be a change in the rating of the property from residential to commercial. If you wish to discuss the rating impact, or other rating issues, please contact the Rates Department on (07) 838-6688.
- The consent holder is made aware that if any building changes are made or more than 20 Bridge-Programme people (residence) occupy the on-site building, a Change of Condition or new Resource Consent application to Hamilton City Council’s Planning Guidance Unit will be required.
- If this property is on-sold, please ensure that a copy of this resource consent is forwarded to the new owner(s).

Building

- **This is not a Building Consent.** However, a Building Consent is required before giving effect to this Resource Consent. Please contact Council’s Building Unit on 838-6677 for information on Building Consent matters.
- Because of requirements under the Building Act 1991, Council may request a soil report (by a registered geotechnical engineer) with building consent applications for any building works on the site. Please contact Council's Building Unit on 838-6677 for information on Building Consent matters.

Noise

- All construction noise shall comply with the provisions of New Zealand Standard NZS 6803:1999 “Construction Noise Standard” and shall be measured and assessed in accordance with NZS 6802:1991 “Assessment of Environmental Sound”. Please further note that this New Zealand Standard restricts the noisy activities to the hours of 7.30am - 6.00 pm Monday to Saturday, excluding public holidays. For all day on Sundays and Public Holidays, and at night (defined as after 8pm weekdays, after 6pm Saturday) any noisy activities are effectively prohibited.

Parks and Gardens

- Please request approval from Hamilton City Council’s Arborist (Doug Rowe ph 838 6671 or 021 967 377) if the development will have a potential impact on any of the existing street trees in the vicinity of the site.

Water and Waste

- If a stormwater connection is proposed, then submit with your building consent, a stormwater soakage test report in accordance with the NZ Building Code E1 compliance document Section 9: Disposal to Soak Pit or an equivalent design report by a suitably qualified and experienced professional engineer.
- All operations affecting in-service Hamilton City Council water, wastewater or stormwater pipelines are to be carried out by Hamilton City Council staff (Utilities Unit) unless specific approval is given as outlined in the Hamilton City Development Manual (Volume 1, section 2.3.12.)
Due to the elevation of this site, the applicant may apply for a larger diameter water supply connection if desired.

It appears as if the existing wastewater easement does not accurately reflect the actual alignment of the wastewater line. Therefore the applicant has the choice of:

1) Relocating the wastewater line to be within the easement.
2) Relocating the easement to be over the wastewater line.
3) Relocating the wastewater connection parallel to the eastern boundary as a public connection not requiring an easement (which is Council’s preference).

Please contact Council’s Water and Waste Services Unit on 838-6999 for further discussion.

Water and drainage service plans and applications for connection should comply with the Water and Waste Services Connections Guide.

Prior to release of a Building Consent for this site, a plan of the proposed water and drainage service connections shall be provided to the Hamilton City Council Water and Waste Services Unit and amended as required until approval is given.

Compliance and Monitoring

This resource consent allows the land use to be carried out at the site specified in the consent, provided the conditions of the consent are met. Under section 35 of the Resource Management Act 1991, Council will monitor and enforce compliance with resource consents it has granted.

Pursuant to section 127 of the Resource Management Act 1991, consent conditions may be amended or cancelled on application to Council if there has been a change in circumstances making the conditions unnecessary or inappropriate.

Lapse of Consent

This resource consent lapses on the expiry of five years after the date of this letter, unless the consent is given effect to by the end of that period. To give effect to this consent, the activity, allowed by this consent must be established and the conditions contained in this consent complied with. Please note that there must be compliance with all of the consent conditions once the land use has been established.

The meeting was declared closed at 2.45pm
Minutes of a meeting of the
Statutory Management Committee — OPEN

Time and date: 1.00pm, Thursday, 12 February 2009.

Venue: Committee Room 1, 1st Floor, Council Building, Garden Place, Hamilton.

Committee Members:

Councillors J R Gower (Chairperson)
P A Bos
G M Saunders

In Attendance:

City Safe Unit Manager
Animal Care & Control Manager

Committee Advisor: Mrs S D Collins

SECTION A: DECISIONS MADE UNDER DELEGATED AUTHORITY FOR NOTING BY COUNCIL

1. Confirming the Agenda
The Committee to confirm the agenda.

Resolved: (Crs Sunders/Bos)
That the agenda be confirmed.

The Chairperson welcomed those in attendance and outlined the meeting procedure.

2. 6/4. Dog Owners Objection to Disqualification - Robert Keaney
The Committee to receive the above report.

The Animal Control Manager presented the report and outlined its purpose and recommendations.

At the invitation of the Chairperson, Mr Robert Keaney gave evidence and answered questions about the dog ‘April’.

RIGHT OF REPLY
Council staff were asked if they had any further comments at this stage.

Mr Keaney was asked if he had any further comments before a decision was made. He just wanted the committee to remember that ‘April’ was a member of their family.

The Chairperson then proceeded to sum up the hearing and expressed thanks to all those concerned.
3. **Exclusion of the Public**

**Resolved:** (Crs Gower/Sunders)
That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<table>
<thead>
<tr>
<th>General subject of each matter to be considered</th>
<th>Reasons for passing this resolution in relation to each matter.</th>
<th>Ground(s) under section 48 (1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Dog Owners Objection to Disqualification</td>
<td>Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987</td>
<td>Section 48 (1) (a)</td>
</tr>
</tbody>
</table>

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 the relevant part of the proceedings of the meeting in public are as follows:

Item 1. On the grounds of right of appeal lies to any Court or Tribunal against the final decision of the Local Authority in this matter. Section 7 (2) (a) (i)
Minutes of a meeting of the
Transport Committee — OPEN

Time and date: 9.30am, Tuesday, 10 February 2009.

Venue: Committee Room1, 1st Floor, Council Building, Garden Place, Hamilton.

Committee Members: Councillors D G Macpherson (Chairperson)
D L Bell
G D Chesterman
G Di Maio
J R Gower (part only)
K L H Gregory
R E Hennebry (part only)
A R O’Leary

General Manager Works & Services, Transportation Manager, Transport Services Manager, Traffic Engineering Supervisor and Senior Project Manager

In Attendance: Councillor Westphal
Kaye Clark - Regional Manager, NZ Transport Agency,
Clare Crickett, Deputy Chief Executive, Environment Waikato
Bevan Dale, Programme Manager, Land Transport Operations, Environment Waikato

Committee Advisor: Mrs S D Collins

Apology: Cr J R Gower (Lateness)

Resolved: (Crs Macpherson/Hennebry)
That the apology be accepted.

SECTION A: DECISIONS MADE UNDER DELEGATED AUTHORITY FOR NOTING BY COUNCIL

1. Confirming the Agenda
   The Committee to confirm the agenda.
   
   Resolved: (Crs Macpherson/O’Leary)
   That the agenda be confirmed.
2. **13/16/25. Chairperson’s Report**  
The Committee to receive the above report.

Resolved: (Crs Macpherson/Bell)  
That the report as circulated be received.

3. **13/16/24. Resolution Monitoring Report**  
The Committee to receive the above report.

Resolved: (Crs Macpherson/Gregory)  
That the report as circulated be received.

4. **13/16/24. New Zealand Transport Agency - Update**  
The Committee to receive a verbal presentation from Kaye Clark, Regional Manager, New Zealand Transport Agency, giving an update on future work being carried out by the Agency.

Resolved: (Crs Macpherson/Hennebry)  
That:

a) the report as circulated be received, and

b) Kaye Clark be thanked for her informative presentation.

5. **13/16/24. Passenger Transport Subcommittee Meeting - 3 February 2009**  
The Committee to receive the above minutes.

Resolved: (Crs Macpherson/Bell)  
That:

a) the minutes as circulated be received,

b) the Transport Committee acknowledge the proposal by Environment Waikato to increase the Fares on the Hamilton Bus Services for the reasons discussed at the meeting, and

c) request staff of both organisations to progress the formal establishment of a Political Reference Group consisting of Councillor Representatives and to report back via the Passenger Transport Subcommittee on progress next month.

6. **16/16/24. Regional Transport Committee Meeting**  
The Committee to receive a report from the General Manager Works & Services concerning the above and minutes of the Regional Transport Committee meeting held on 2 February 2009.

Resolved: (Crs Macpherson/Gregory)  
That the report as circulated be received.

Councillor Hennebry (10.50am) retired from the meeting at the conclusion of the above item. He was present when the matter was voted on.
7. **44/61. ACCESS Hamilton Update.**
The Committee to consider a report and recommendations from the General Manager Works & Services concerning the above.

Resolved: (Crs Macpherson/DiMaio)
That the report as circulated be received

8. **13/16/24-4. Parking Management Subcommittee Minutes.**
The Committee to receive the minutes of the parking Management Subcommittee meeting held on 14 January 2009.

Resolved: (Crs Chesterman/DiMaio)
That:
   a) the Parking Management Subcommittee Minutes dated 14 January 2009 be received, and
   b) the following parking restrictions be adopted:

<table>
<thead>
<tr>
<th>Location</th>
<th>Proposed Control</th>
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</thead>
<tbody>
<tr>
<td>Collingwood Street</td>
<td>- P120</td>
</tr>
<tr>
<td>Norton Road</td>
<td>- P60</td>
</tr>
<tr>
<td>Harwood Street</td>
<td>- P120</td>
</tr>
<tr>
<td>Alexandra Street</td>
<td>- P60</td>
</tr>
<tr>
<td>Victoria Street</td>
<td>- Bus Stop, P5</td>
</tr>
<tr>
<td>Commerce Street</td>
<td>- No Stopping</td>
</tr>
<tr>
<td>Vialou Street</td>
<td>- P120</td>
</tr>
<tr>
<td>Camilla Place</td>
<td>- No Stopping</td>
</tr>
<tr>
<td>Clyde Street</td>
<td>- No Stopping</td>
</tr>
<tr>
<td>Norman Haywood Place</td>
<td>- No Stopping</td>
</tr>
<tr>
<td>Vercoe Road</td>
<td>- No Stopping</td>
</tr>
<tr>
<td>Lower Hall Street</td>
<td>- No Stopping and P10 loading zone</td>
</tr>
</tbody>
</table>

Councillor Hennebry (11.45am) rejoined the meeting during the consideration of the above item. He was present when the matter was voted on.

9. **13/16/24-4. CityHeart - Victoria Street Trial - Final Report.**
The Committee to receive a report and recommendations from the General Manager Works & Services concerning the above.

Jason Harrison, Senior Project manager gave a final update on the Victoria Street Trial to the Committee. In his presentation he provided a summary of the trial and a summary of the public feedback.

Resolved: (Crs Macpherson/O’Leary)
That:
   a) the report as circulated be received together with the presentation,
   b) a further report be presented to the Transport Committee once the construction is completed in May 2009, and
   c) staff to look at Traffic Flows, along Victoria Street at night.

The Committee to receive a report and recommendations from the General Manager Works & Services concerning the above.

Shaun Peterson, Traffic Engineering Supervisor, gave an overview to the committee to the changes to the Speed Limits 2009 Bylaw.

**Motion:** (Crs Macpherson/Gower)

That:

a) the report as circulated is received, and

b) the submitters be thanked for their input,

c) for the reasons outlined in this report, the proposed amendment to the Hamilton City Speed Limit Bylaw 2007 remain unchanged by the submissions,

d) the existing Speed Limit Bylaw 2007 be amended in accordance with this report, and with minor wording changes as discussed at the meeting, and

e) the Hamilton City Speed Limit Amendment Bylaw 2009 be adopted by Council and come into force on the 1 March 2009 following public notice in accordance with the Local Government Act 2002.

The Motion was declared carried on the voices as the Committee's recommendation for adoption by the Council.

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The Meeting was declared closed at 1.05pm.
The following minutes of a Subcommittee Meeting of the Transport Committee are attached:

Parking Management Subcommittee 14 January 2009
Passenger Transport Subcommittee 3 February 2009
MINUTES FOR A MEETING OF THE
PARKING MANAGEMENT SUB-COMMITTEE

Time and Date: 10.30am Wednesday 14th January 2009
Location: Miro Room, Fifth Floor, Municipal Building
Committee members: Councillor Gordon Chesterman
Committee members: Councillor Joe Di Maio
In attendance: Shaun Peterson - Transportation Unit
In attendance: Kirsty Horridge - Transportation Unit
Apologies: Janice Burns - Parking Enforcement

1.0 INTRODUCTION

1.1 The need has arisen to review on-street parking at various locations throughout the city. (See Attachment 1).

2.0 REPORT

2.1 Collingwood Street

A new development proposal requires an existing ‘P120’ space to be relocated for a new access way into the property. The development fully meets the requirements in the District Plan and its resource consent.

2.2 Norton Road

A safety audit and consultation with business owners after the recent upgrade works in Norton Road have resulted in the request to install 5 P60 parking spaces. This will increase turnover in the area by removing all day parking.

2.3 Harwood Street

A new development proposal requires an existing ‘P120’ parking space and meter to be relocated for a new access way into the property. The relocation of this space and the closure of the original access way will also generate an
additional ‘P120’ parking space and meter. The development fully meets the requirements in the District Plan and its resource consent

2.4 Alexandra Street

A new development proposal requires an existing ‘P60’ parking space and parking meter to be relocated for a new access way into the property. The development fully meets the requirements in the district plan and its resource consent.

2.5 Victoria Street

A new development proposal requires two ‘P5’ parking spaces to be installed outside Trevellyn Retirement home. This will increase traffic turnover and allow an existing post service box to be serviced. This proposal also includes the extension of the bus stop, to be able to better cater for buses.

2.6 Commerce Street

A new development proposal requires the existing non restricted parking to be altered and the addition/ modification of the existing no stopping lines to allow for a new access way into the property. The development fully meets the requirements in the district plan and its resource consent.

2.7 Vialou Street

As a direct request from businesses and patrons, staff propose to extend 5 existing ‘P60’ spaces to a ‘P120’ time limit. This will better service the business in the area and is consistent with the CBD parking layout.

2.8 Camellia Place

As a direct request from residents, staff proposed to install ‘No Stopping’ restriction on both corners of Camilla Place and Hibiscus Avenue. This will increase safety by improving sight lines.

2.9 Clyde Street

As a direct request from residents, staff proposed to install approximately 6m of No Stopping lines, effectively removing one parking space. This is to increase the sightlines for the people exiting the Right of Way alongside 95 Clyde Street.

2.10 Norman Hayward Place

As a request from businesses, staff proposed to introduce a No Stopping restriction on two corners of Norman Hayward Place. This is to improve traffic flow and increase the safety of the area.

2.11 Vercoe Road

As a direct request from residents, staff propose to introduce a No Stopping restriction, over the driveway of 43B Vercoe Road. Typically no stopping lines are not installed over driveways as it is illegal to park over or within one metre. However this property is located next to the
shopping centre which has a reasonably high demand for parking and the illegal parking is causing significant difficulty for the residents.

2.12 Lower Hall Street

As a request from residents and businesses, staff proposes to install a No Stopping restriction along the cul-de-sac head of the street. A P10 ‘Loading Zone’ will also be installed to accommodate for the business in the area.

3.0 RECOMMENDATIONS

It is recommended that:

3.1 this report be received

3.2 the following parking restrictions be adopted:

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>3.3.1</td>
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</tr>
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<td>Norton Road - P60</td>
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</tr>
<tr>
<td>3.3.4</td>
<td>Alexandra Street - P60</td>
</tr>
<tr>
<td>3.3.5</td>
<td>Victoria Street - Bus Stop, P5</td>
</tr>
<tr>
<td>3.3.6</td>
<td>Commerce Street - No Stopping</td>
</tr>
<tr>
<td>3.3.7</td>
<td>Vialou Street - P120</td>
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<tr>
<td>3.3.8</td>
<td>Camilla Place - No Stopping</td>
</tr>
<tr>
<td>3.3.9</td>
<td>Clyde Street - No Stopping</td>
</tr>
<tr>
<td>3.3.10</td>
<td>Norman Haywood Place - No Stopping</td>
</tr>
<tr>
<td>3.3.11</td>
<td>Vercoe Road - No Stopping</td>
</tr>
<tr>
<td>3.3.12</td>
<td>Lower Hall Street - No Stopping and P10 loading zone</td>
</tr>
</tbody>
</table>

G Chesterman
Councillor
Parking Sub-Committee Chairperson
3.0 INTRODUCTION

1.1 The need has arisen to look into requests and changes to passenger transport services in Hamilton.

4.0 REPORT

2.1 TOMIN ROAD BUS SHELTER

An aerial photograph of this area and picture of this shelter is attached (refer to Attachments 1 and 2). Residents are concerned about safety due to the attraction of undesirables, boy racers etc at this location. Staff recently received a petition from 14 residents (Attachment 3). This stop services the Glenview route and has a passenger numbers of 11 per day, which meets HCC Levels of Service requirements. The overall condition of this shelter is good with very minimal maintenance being required. The residents want the bus shelter to be removed however are happy for the stop to stay in place. A letter of support from the Police has been provided (Attachment 4). A similar issue has been raised in the past with the Totara Drive bus shelter.
A resident of Tomin Road attended the Subcommittee meeting and expressed concerns regarding undesirables, boy racers, and gang member fights at this location, all of which she believes is affecting nearby residents quality of life. It was also stated that the Police were regularly contacted by residents but nothing seemingly has been done.

Councillors felt that enforcement of anti-social behaviour by the Police is required in this location to solve the root cause of the problem. Removing parts of the Passenger Transport network was not seen as the long term solution.

Actions to be undertaken:
- Councillor Gower will provide input into a staff response to the recent letter from the Police, requesting Police to take immediate action into this matter. The letter will be addressed to the Police City Area Controller.
- Councillor Gower will raise this issue with Police City Area Controller at the next Governance meeting.
- Staff will obtain updated passenger numbers for this stop from Environment Waikato (EW).
- Staff to include this item on the next Subcommittee meeting agenda.

2.2 114 Ohaupo Rd Bus Shelter Relocation

Working with the community through the Neighbourhood Accessibility Planning program, it is proposed that the committee discuss the relocation of an Ad shell type shelter at a 114 Ohaupo Road (see Attachments 5 and 6 - plan and photo). The desired relocation is due to a recent history of criminal activities in the underpass directly below the shelter. The shelter’s location above the underpass and the network of buses that pass by are lending a legitimate excuse to loiterers in the area and prevents the local police from removing this type of behaviour. Transportation and community development staff, local police, three school Principals and community figures recommend that Council relocates this bus shelter from 114 to 98 Ohaupo Rd.

Recommendation:
- Councillor Gower requested that staff review the CPTED report on this issue.
- Councillors asked staff to progress work on fencing as soon as possible, in partnership with neighbouring schools.
- Staff to carry out consultation with residents of number 96, 98 and 100 Ohaupo Road.
- Staff report back to the next meeting with results of consultation to aid in the decision making process.

2.3 PTPG meeting Items of interest

2.3.1 Night Rider stops in central city — Private vehicles have been parking on bus stops outside Iguanas at 203 Victoria Street which makes it difficult for services like the night rider to operate. NightRider runs from 12.00 midnight to 3.30am on Friday nights and from 7pm to 3.45am on Saturday nights. CityHeart development may address this problem however parking enforcement still remains an issue and was recently highlighted at a taxi federation meeting. EW suggested this was also an issue at the Grand Hotel on Collingwood Street. Staff will raise this matter with City Safe. EW will advise bus drivers of appropriate contacts.

2.3.2 West side route realignment — HCC/EW have carried out site investigation regarding all the changes to bus routes. A list of changes has been agreed on by HCC/EW and currently HCC is implementing all changes to the stops. The route changes from 02 February
affect the Nawton, Mahoe, Glenview, Frankton, Dinsdale, Fitzroy, Temple View, and Pukete and Te Rapa services. Route realignment plans were tabled at the Passenger Transport Subcommittee meeting (and are available from the Transportation Unit on request, contact Philip King or Dharmendra Singh).

2.3.3 Hamilton Zoo Terminus - due to the changes on the 2nd of February to the Hamilton bus network the Dinsdale service will be operating till 10pm. Currently this route terminates and turns around inside the Zoo compound. However the Zoo gates are only open till 5pm. Staff and EW propose that after 5pm the Dinsdale service will be shortened and terminate at the intersection of Farnborough and Highbury Street (at the roundabout).

2.4 Bus Patronage Report
See Attachment 7.

2.5 Service Update — Orbiter and CBD shuttle tender

2.5.1 Orbiter and CBD shuttle contract has recently been awarded to Pavlovich. The tender included some innovation to speed up the number of passengers who exit and enter into the bus at peak times. This innovation will be trailed on the Huntly service before a launch on the Orbiter. EW has confirmed that there will be no change to livery with the change of operator.

2.5.2 EW stated that Sunday services continue to grow in popularity. The long term aim is to achieve passenger numbers 50% of Saturday services. This is currently at 46%, representing a large increase in use of services that have only been running for a couple of months.

2.6 Fare Increases
The committee continues to discuss this issue and will report to Transport Committee.

2.7 Operational Agreement between HCC and EW
Staff at HCC and EW continue to discuss this following the rates transfer discussions in 2008 and will report to a future meeting.

2.8 Bikes on Buses
To be added to next meeting agenda.

2.9 Accessible Journey Trial
Evaluation report to be circulated to councillors and added to the next meeting agenda.

5.0 Recommendation
It is recommended that:

3.1 this report be received.

Councillor Daphne Bell
Chairperson, Passenger Transport Sub-Committee
Minutes of a meeting of the
Community and Environment Committee — OPEN

Time and date: 9.30am, Wednesday, 11 February 2009.

Venue: No 1 Committee Room, 1st Floor, Council Building, Garden Place, Hamilton.

Committee Members: Councillors D L Bell (Chairperson) G Di Maio K L H Gregory D G Macpherson (Part only) M J Westphal

In Attendance: General Manager Community Services, Parks & Gardens Manager, Director of Hamilton Gardens and Cemeteries & Crematorium Manager.

Committee Advisor: Ms F M Yates

Apologies: Councillors Bos, Chesterman and Mahood

Resolved: (Crs Bell/Di Maio)
That the apologies be accepted.

SECTION A: DECISIONS MADE UNDER DELEGATED AUTHORITY FOR NOTING BY COUNCIL

1. Confirming the Agenda
The Committee to confirm the agenda.

Resolved: (Crs Di Maio/Gregory)
That the agenda be confirmed.

2. 13/16/25. Chairperson’s Report
The Committee to receive the above report.

Resolved: (Crs Bell/Di Maio)
That the report as circulated be received noting that revised figures concerning WEL Energy Trust’s grant will be circulated to Councillors.

Councillor Macpherson (9.35am) joined the meeting during consideration of the above item. He was present when the matter was voted on.
The Committee to receive the above report.  

Resolved: (Crs Westphal/Gregory)  
That the report as circulated be received.  

4. 33/70. Hamilton Gardens Development Trust  
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.  

Rt Hon Simon Upton, Chairman of the Hamilton Gardens Development Trust, made a presentation to Members of the Committee concerning the development of a Fantasy Garden Collection at Hamilton Gardens which would include Tropical, Tudor and Surrealist Gardens.  

Motion: (Crs Gregory/Westphal)  
That:  

a) the report as circulated be received,  

b) Council note the formation of the Hamilton Gardens Development Trust formed for the specific purpose of fundraising for the Fantasy Garden Collection,  

c) funding of all or some of the proposed garden development at Hamilton Gardens be considered with other priorities within Council’s review of the Long Term Council Community Plan 2009-19,  

d) the Hamilton Gardens Development Trust be invited to make a submission to the Draft Long Term Council Community Plan 2009-19, and  

e) the Friends of Hamilton Gardens and the Gardens Development Trust be thanked for their work and commitment to the development of the Fantasy Garden Collection at Hamilton Gardens.  

The Motion was declared carried on the voices as the Committee’s decision for noting by the Council.
SECTION B: RECOMMENDATIONS OF THE COMMITTEE FOR ADOPTION BY THE COUNCIL

5. 11/4/3. Request for Denominational Burial Area for Jewish Community
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Recommended: (Crs Westphal/Gregory)

That:

a) the report as circulated be received, and

b) a designated area, with a nominal twenty year supply of plots, within Hamilton Park Cemetery be set aside for the interment of people from the Jewish Community in order that they may observe Jewish customary burial rites.

The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Mrs Kathy Moody, on behalf of the Hamilton Roller Skating Club Inc, addressed the Members of the Committee. She advised that the Club approved the proposed concept plan but requested Council’s assistance with funding.

Motion: (Crs Di Maio/Macpherson)

That:

a) the report as circulated be received,

b) the concept plan for enclosure of the Melville Park skating rink as presented by de Lisle Jenkins Architects be accepted,

c) Council grants the Hamilton Roller Skating Club Inc approval to enclose the skating rink in accordance with the concept plan prepared by de Lisle Jenkins Architects subject to:
   • the proposed additional lease area being advertised in terms of the Reserves Act 1977 with any objections received being reported back to Council
   • the enclosure approval lapsing if not given effect within two years
   • the project being fully funded by the Hamilton Roller Skating Club Inc.
   • any necessary Building and Resource Consents being obtained prior to construction
   • the Lease being amended to show the additional area required by the Hamilton Roller Skating Club Inc
   • the Hamilton Roller Skating Club Inc be required to make the rink available to public sessions at least eight hours per week
- the Hamilton Roller Skating Club Inc. being responsible for all maintenance of the building including the proposed enclosure, and

d) the Hamilton Roller Skating Club Inc in conjunction with Council staff explore other funding options before the Long Term Council Community Plan is finalised.

The Motion was declared carried on the voices as the Committee’s recommendation for adoption by the Council.

7. 33/45. Minogue Park Netball Courts — Proposed Warm-Up Area
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Recommended: (Crs Westphal/Bell)
That:

a) the report as circulated be received,

b) the Hamilton City Netball Centre be advised that Council is unable to take any further action to provide additional court space at Minogue Park due to the constraints of the site resulting in the high cost of constructing additional courts,

c) Council advise Hamilton City Netball Centre consideration will be given to develop further significant netball courts and facilities in the North East on the land in North City Road, and

d) staff continue to work with the Hamilton City Netball Centre to identify optimum timing and costing for development of netball courts at North City Road.

8. 33/56. Overnight Parking for Motor Caravans
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Recommended: (Crs Gregory/Bell)
That:

a) the report as circulated be received,

b) a District Plan consent be sought to permit overnight parking on Porritt Stadium subject to:

• a maximum of six motor caravans be permitted to park there at any one time
• individual motor caravans cannot be parked there for more than 3 nights in any month
• the car park is available for overnight parking only between 5pm to 9am each day, and
c) if consent is granted a trial of overnight parking is implemented for a period of one year with staff reporting back to Council on the results of the trial.

9. 33/70. Proposed Dutch Tulip Festival
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Motion: (Crs Westphal/Di Maio)
That:

a) the report as circulated be received,
b) Council agree to the Dutch Tulip Festival being held annually at Hamilton Gardens in conjunction with a special tulip display, and
c) Council expresses its appreciation to the New Zealand Netherlands Society.

The Motion was declared carried on the voices as the Committee’s recommendation for adoption by the Council.

10. 40/5/1. Community Organisation Deed of Lease
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Recommended: (Crs Di Maio/Gregory)
That:

a) the report as circulated be received noting the title sentence (refer to page 89 of the report before the Committee): ‘2.2.3.3 Clause 35.0 is to be replaced with the proposed new wording ‘Notices’:’ be amended to read: ‘2.2.3.3 Clause 35.0 as follows is to be replaced with proposed new wording ‘Notices’:’ and

b) the proposed Community Organisation Deed of Lease (Appendix 1 of the report before the Committee) be adopted.

11. 33/75. Lugton Park Combined Sports Association Inc — Sub-Lease
The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

Recommended: (Crs Di Maio/Westphal)
That:

a) the report as circulated be received, and

b) Council approves the Eastlink Badminton Society Incorporated being a Sub-Lessee of the Lugton Park Combined Sports Association Inc. in terms of the sublease agreement (Appendix A) attached in the report before the Committee.
12. **40/5/1. NZ Model Powerboat Association Inc — Lease**

The Committee to consider a report and recommendations from the General Manager Community Services concerning the above.

**Recommended:** (Crs Di Maio/Gregory)

That:

a) the report as circulated be received, and

b) the New Zealand Model Powerboat Association Inc be granted a lease for a Council building at Hamilton Lake (Allot 74, Hamilton West Town Belt) for a term of five years plus five years, at a rental in terms of Council's Community Building Rental Policy.

13. **Resolution to Exclude the Public**

**Section 48, Local Government Official Information and Meetings Act 1987**

**Resolved:** (Crs Bell/Di Maio)

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<table>
<thead>
<tr>
<th>General subject of each matter to be considered</th>
<th>Reasons for passing this resolution in relation to each matter.</th>
<th>Ground(s) under section 48 (1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kirikiriroa &amp; Fairfield Esplanade Management</td>
<td>) Good reason to withhold information exists under Section 7 Local Government</td>
<td></td>
</tr>
<tr>
<td></td>
<td>) Official Information and Meetings Act 1987</td>
<td></td>
</tr>
</tbody>
</table>

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 the relevant part of the proceedings of the meeting in public are as follows:

<table>
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<tr>
<th>Item 1</th>
<th>To prevent the disclosure or use of official information for improper gain or improper advantage</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Section 7 (2) (j)</td>
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</tbody>
</table>
Minutes of a meeting of the
City Development Committee — OPEN

Time and date: 9.30am, Tuesday, 17 February 2009.

Venue: No. 1 Committee Room, 1st Floor, Council Building, Garden Place, Hamilton.

Committee Members: Councillors G M Saunders (Chairperson) G D Chesterman J R Gower R E Hennebry P M Mahood A R O’Leary M J Westphal

In Attendance: His Worship the Mayor Mr R M Simcock and Councillor Di Maio. Chief Executive, Deputy Chief Executive, General Manager Communication & Marketing, General Manager Environmental Services & City Planning, General Manager Works & Services, City Safe Unit Manager, Unit Manager Strategy & Research, City Strategy Team Leader, Emergency & Community Safety Manager, Land Use Team Leader, Property Manager and Strategic Land Manager.

Committee Advisor: Ms F M Yates

SECTION A: DECISIONS MADE UNDER DELEGATED AUTHORITY FOR NOTING BY THE COUNCIL

1. **Confirming the Agenda**
The Committee to confirm the agenda.

   **Resolved:** (Crs Hennebry/O’Leary)
   That the agenda be confirmed.

The Committee to receive the above report.

   **Resolved:** (Crs Gower/O’Leary)
   That the report as circulated be received.

The following items were taken out of order to accommodate the attendance of submitters.
3. **15/4-2. WVEOA (Waikato Valley Emergency Operations Area) Emergency Management Committee**

The Committee to receive the open minutes of a meeting of the WVEOA Emergency Management Committee held on 28 November 2008.

**Motion:** (Crs Mahood/Gower)

That the minutes as circulated be received noting that there are changes to Item L. (refer points c. and d.) and a further report will be submitted to the City Development Committee for consideration in April.

The Motion was declared carried on the voices as the Committee’s decision for noting by the Council.

4. **13/5/2. Petition Received by Council — “Keep the Waipa Delta in Hamilton”**

The Committee to consider a report and recommendations from the General Manager Environmental Services & City Planning.

The Petition Organiser, Mr Ron Harsant, addressed the Members of the Committee concerning the petition expressing his support for the service.

**Motion:** (Crs Hennebry/Chesterman)

That staff meet with Mr Goudie to explore the new options as outlined in the report before the Committee to keep the Waipa Delta in Hamilton.

**Amendment:** (Crs Mahood/Gower)

That:

a) the report as circulated be received, and

b) Council acknowledge receipt of the petition, but despite the options available to him, Mr Goudie has confirmed that the Waipa Delta will be leaving Hamilton.

The Amendment was declared carried 4-3 on a show of hands.

The Amendment as the Motion was then put and declared carried 4-3 on a show of hands as the Committee’s decision for noting by the Council.

Councillors Chesterman, Hennebry and O’Leary dissenting.

5. **13/16/22-3. Economic Development Agency**

The Committee to consider a report and recommendations from the General Manager Communication & Marketing.

Mrs Sandra Perry, Chief Executive, Business Development Centre was in attendance to present her report and address the Members of the Committee. She advised that the Economic Summit is now to take place on 23 March 2009 and not on 11 March 2009 as advised in her report.
Resolved: (Crs Westphal/Gower)
That:

a) the report as circulated be received, and

b) the Business Development Centre’s report for the period October to December 2008 be received.

The Committee to hear submissions and consider a report and recommendations from the General Manager Environmental Services & City Planning.

The following submitters were in attendance and addressed Members of the Committee:

**Mr Des Fahey, Chairman, Council of Elders:**
The Council of Elders supports the use of a bylaw to regulate the outdoor dining and trading activity in public places. Supports the principal of clearways for easy pedestrian access. Suggests that there is an opportunity to increase the width of the footpath in the southern end of Victoria Street. Supports the proposed concept of markets such as the Farmers Market and the vendors such as the Potato Seller but does not agree with only allowing mobile shops outside the CityHeart area.

**Mr Les Vuletich & Mrs Gloria Langworthy:**
Submitters supports the proposed concept of markets. Would like to hold an antique and collectables market in Garden Place once a month on a Sunday over summer. Requested that Council consider a way of fixing awnings or shelter for the markets in a more permanent way as gazebos unable to be secured create a safety hazard. Supports clearways for easy pedestrian access but raised the problem of vehicles driving through to the Pascoes Apartment Block and parking in front of the library and along the pedestrian walkway. Would like to see much stricter bylaws enforced on the use of skateboarders and the riding of cyclists on footpaths, especially through the alfresco dining areas.

**Messrs Allan Prestidge and Alan Thomas:**
Submitter wished to ensure that the preaching of the gospel remains a permitted activity in garden place and other places in the central city.

**Mrs Judy McDonald, Living Streets:**
Submitter’s main concerns lie in two areas: Safety and convenience of use of footpaths for pedestrians and how the proposed bylaw and policies will actually effect the “life and vibrancy” of the central city. Submitter emphasised the need for careful consideration of potential tripping hazards caused by fixing points for street furniture. By making it harder rather than easier for small traders and stalls to be part of the regular day to day life of the CBD, the proposed policies may be counterproductive.

**Recommended:** (Crs Westphal/Gower)
That:

- a) the report and the attached submissions as circulated be received,
- b) the submitters be thanked for their input,
- c) the proposed amendments to both the draft Hamilton Public Places Bylaw and the draft Public Places Policy (as outlined in 4.0 and 5.0 of the report before the Committee) be supported,
d) as an exception to the clause in the Public Places Policy that will prohibit mobile shops from trading in the CityHeart area, the existing vendor operating in Civic Plaza be granted existing use rights and be allowed to continue to trade,

e) from 1 July 2009, the existing vendor be subject to the fees and charges relating to mobile shops as outlined in the proposed 2009-19 LTCCP and that this exemption to trade in the CityHeart ceases on the sale or closure of this business,

f) the CityHeart Project Manager investigate options for clearly delineating the continuous pedestrian clearway and that businesses utilising the footpath for outdoor dining be asked to contribute to this cost,

g) the amended draft Hamilton Public Places Bylaw 2009 and draft Public Places Policy be adopted,

h) the Hamilton City Public Places and Signs Bylaw 1996 and the Hamilton City Trading in Public Places Bylaw 1999 be revoked,

i) the Garden Place - Use Control Policy and the Footpath Advertising - Fee Remission Policy be deleted,

j) the Hamilton Public Places Bylaw 2009 and Public Places Policy come into force on 1st July 2009,

k) the section 2 of the Licensed Premises Policy be amended to “This approval applies between the hours of 7.00am to 1am for both dining and/or the consumption of liquor on the footpath and in accordance with the Sale of Liquor Act”, and

l) the alfresco dining trial for Victoria St and Hood St and associated conditions cease 1 July 2009.

The Meeting adjourned for lunch 12.35pm-1.05pm.

7. 290/S79. Sylvester Road - Stopping
The Committee to consider a report and recommendations from the General Manager Works & Services.

**Recommended:** (Crs Hennebry/Gower)

That:

a) the report as circulated be received, and

b) pursuant to Section 116 of the Public Works Act the Hamilton City Council resolves to consent to the stopping of Section6, SO Plan 61524 of 2508m² and further pursuant to Section 117(3)(b) certifies that it considers it equitable to amalgamate the stopped road with the adjoining land in Computer Freehold Register 179934 (owned by CDL Land New Zealand Limited).
8. **290/R56. Ruffell Road - Stopping**

The Committee to consider a report and recommendations from the General Manager Works & Services.

**Recommended:** (Crs Chesterman/Gower)

That:

a) the report as circulated be received, and

b) pursuant to Section 116 of the Public works Act 1981, the Hamilton City Council consents to the Minister of Land Information declaring the portion of road described in the schedule, to be stopped and remained vested in Council.

South Auckland Land District — Hamilton City

**SCHEDULE**

<table>
<thead>
<tr>
<th>Area</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>65m²</td>
<td>Section 1 on SO Plan A11630</td>
</tr>
</tbody>
</table>

9. **33/2. & 290/T23. Purchase of 616m² Land at Te Rapa Road for Planting Strip**

The Committee to consider a report and recommendations from the Deputy Chief Executive.

**Recommended:** (Crs Gower/Mahood)

That:

a) the report as circulated be received, and

b) Council approve the purchase of 616m² of land from Quadrant Properties Limited at Te Rapa Road for the sum of $169,400 exclusive of GST, if any.
10. Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

Resolved: (Crs Gower/O’Leary)

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

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</thead>
<tbody>
<tr>
<td>1. Purchase of Land</td>
<td>Good reason to withhold information exists under Section 7 Local Government</td>
<td>Section 48 (1) (a)</td>
</tr>
<tr>
<td>2. World Rowing Championships 2010</td>
<td>Official Information and Meetings Act 1987</td>
<td></td>
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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 the relevant part of the proceedings of the meeting in public are as follows:

Item 1. To enable Council to carry out negotiations | Section 7 (2) (i)

Item 2. To prevent the disclosure or use of official information for improper gain or improper advantage. | Section 7 (2) (j)
The following minutes are attached:

WVEOA (Waikato Valley Emergency Operations Area) Emergency Management Committee ........................... 28 November 2008
W.V.E.O.A (Waikato Valley Emergency Operations Area) 
Emergency Management Committee — OPEN

Time and date: 10.00am, Friday, 28 November 2008.

Venue: Emergency Operations Centre, Duke Street, Hamilton.

Committee Members: 
Cr J R Gower (Hamilton City Council) — Chairperson
Cr R E Hennebry (Hamilton City Council)
Cr P M Mahood (Hamilton City Council)
Mr S Fowlds (Environment Waikato)
Mr M Garrett (Waikato District Council)
Mr J Mills (Waipa District Council)
Mr M Taylor (St John Ambulance Services)
Mr S Wakeman (Hamilton International Airport)

In Attendance: Emergency and Community Safety Manager and Emergency Management Officer.

Committee Advisors: Mr A J Dick

Apologies: Mr M Berryman (NZ Fire Service), Mr Roy Breeze (NZ Fire Service),
Mr Trevor Coburn (Waikato District Health Board), Mr Stuart Cockburn
(District Health Board), Ms Freda Grace (NZ Police), Inspector J Kelly (NZ
Police), Mr A Loe (Otorohanga District Council), Mr J Moran (Waitomo
District Council) and Mrs S Vowles (Ministry of Civil Defence).

Resolved: (Mr Garrett/Cr Mahood)
That the apologies be accepted.

DECISIONS FOR NOTING BY THE CITY DEVELOPMENT COMMITTEE

A. 15/4-2. Appointment of Chairperson
The Committee to appoint a Chairperson.

Resolved: (Messrs Wakeman/Garrett)
That Councillor Gower be appointed as the Chairperson of the
W.V.E.O.A meeting to be held on 28 November 2008.
B. 15/4-2. Confirmation of the Agenda
The Committee to confirm the agenda.

Resolved: (Mr Garrett/Cr Hennebry)
That the agenda be confirmed.

The Committee to consider a report from the Emergency and Community Safety Manager.

Resolved: (Mr Wakeman/Cr Gower)
That the report as circulated be received.

D. 15/4-2. Local Controller Subcommittee Minutes 16 October 2008
Minutes of the meeting held on the 16 October 2008 attached for discussion.

Motion: (Crs Mahood/Hennebry)
That:

a) the minutes of the W.V.E.O.A Emergency Management Subcommittee held on 16 October 2008 be received,

b) the Emergency and Community Safety Manager write to the Territorial Authorities to inform them of the commitment of Local Controllers, and the requirement to complete the Training Pathway within two years, and

c) the Subcommittee to meet in February 2009 to establish a review period and ranking of Local Controllers.

The Motion was declared carried on the voices as the Committee’s decision.

E. 15/4-2. W.V.E.O.A Exercise Choking Ash Evaluation
The Committee to consider a report from the Emergency and Community Safety Manager.

Motion: (Messrs Garrett/Mills)
That:

a) the report as circulated be received,

b) additional research be undertaken on internet capabilities for Emergency Management activities, and

c) the Committee acknowledge the work undertaken by volunteers during the exercise.

The Motion was declared carried on the voices as the Committee’s decision.
The Committee to receive the minutes of the Waikato Valley Welfare Advisory Group.

Resolved: (Messrs Wakeman/Garrett)
That the above minutes of the W.V.E.O.A Welfare Advisory Group held on 20 October 2008 be received.

G. 15/4-2. C.E.G. Meeting 7 November 2008 and 11 July 2008
The Committee to consider a verbal report from the Emergency and Community Safety Manager.

The Emergency and Community Safety Manager outlined various programmes available and the importance of information systems.

Resolved: (Cr Hennebry/Mr Wakeman)
That the verbal report be received.

H. 15/4-2. Waikato Valley Community Response Groups Project
The Committee to consider a report from the Emergency and Community Safety Manager.

Resolved: (Cr Mahood/Mr Wakeman)
That the report as circulated be received.

I. 15/4-2. Roles and Responsibilities for the W.V.E.O.A
The Committee to consider a report from the Emergency and Community Safety Manager.

Resolved: (Messrs Fowlds/Mills)
That:

  a) the report as circulated be received,

  b) the Committee accept the Roles, Responsibilities and Delegations for overall Operational Readiness.

J. 15/4-2 C.D.E.M. Glossary of Terms
The Committee to consider a report from the Emergency and Community Safety Manager.

Resolved: (Cr Mahood/Mr Garrett)
That:

  a) the report as circulated be received, and

  b) there be regular reviews undertaken on the Glossary of Terms report.
K. 15/4-2 C.D.E.M. Abbreviations

The Committee to consider a report from the Emergency and Community Safety Manager.

Resolved: (Cr Mahood/Mr Garrett)

That:

a) the report as circulated be received, and

b) there be regular reviews undertaken on the Abbreviations report.
DECISION FOR CONSIDERATION BY THE CITY DEVELOPMENT COMMITTEE

L. 15/4-2. W.V.E.O.A Administering Authority Budget — LTCCP 2009/10 onwards
The Committee to consider a report from the Emergency and Community Safety Manager.

Motion: (Messrs Garrett/Mills)
That:

a) the report as circulated be received,

b) the Committee confirm $615,000 be the total sum required to operate the Emergency Facility and Operations,

c) $40,000 be taken from the group charge, which will require a redistribution of costs, and

d) the distribution being $30,000 from Hamilton City Council and $10,000 from the Waikato Valley, noting that a complete review of the rationale of costs are required for future budgets.

The Motion was declared carried on the voices as the Committee's recommendation for adoption by the individual Councils.

The meeting was declared closed at 11.55am.