

# **Whangamata Council Owned Marina Land - Investigate Declaring as Reserve**

## **Purpose of the Report**

To provide information and recommendations in response to a Whangamata Community Board request to investigate turning Council owned land on Hetherington Road next to the Whangamata marina into a district reserve. The report also addresses wider considerations associated with the request to turn the land into reserve.

## **Recommendation**

That the Whangamata Community Board:

1. Receives the report.
2. Determines that it believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of section 79 of the Act determines that it does not require further information prior to making a decision on this matter.
3. Recommends to Council the Whangamata Community Board's preferred option(s) for the future use of the Council owned land adjacent to the Whangamata Marina at 326 Hetherington Road, Whangamata.
4. Recommends to Council the Whangamata Community Board's preferred option(s) in terms of sale, lease, retention some other appropriate mechanism of control and/or disposal to achieve the Whangamata Community Board's recommended options for the future use of the Council owned land adjacent to the Whangamata Marina at 326 Hetherington Road, Whangamata.
5. Recommends to Council that the Whangamata Community Board's preferred options for the future use of and decisions associated with the continued ownership or disposal of the Council owned land adjacent to the Whangamata Marina at 326 Hetherington Road, Whangamata be the subject of public consultation.
6. Determines that the decision that it is making in relation to this matter constitutes a significant decision in accordance with the provisions of the Local Government Act 2002.

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**TO** Whangamata Community Board

**FROM** Sam Marshall - Area Manager Whangamata/Tairua/Pauanui

**APPROVED BY** Darla Blake - Acting Group Manager, Policy and Planning

**DATE** 12 May 2010

**SUBJECT** **Whangamata Council Owned Marina Land - Investigate Declaring as Reserve**

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**REPORT PURPOSE***For Decision***Decision-Making Requirement** *Decision-making Requirements Met**Significance has been considered and the decision is deemed* *Significant*  *Non-Significant***Purpose of the Report**

To provide information and recommendations in response to a Whangamata Community Board request to investigate turning Council owned land on Hetherington Road next to the Whangamata marina into a district reserve. The report also addresses wider considerations associated with the request to turn the land into reserve.

**Issue Definition**

The Whangamata Community Board has expressed concern in relation to the future of the remaining undeveloped Council owned land adjacent to the Whangamata marina site. This report provides information relating to the site and options for the future of the land.

**Recommendation**

That the Whangamata Community Board:

1. Receives the report.
2. Determines that it believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of section 79 of the Act determines that it does not require further information prior to making a decision on this matter.
3. Recommends to Council the Whangamata Community Board's preferred option(s) for the future use of the Council owned land adjacent to the Whangamata Marina at 326 Hetherington Road, Whangamata.
4. Recommends to Council the Whangamata Community Board's preferred option(s) in terms of sale, lease, retention some other appropriate mechanism of control and/or disposal to achieve the Whangamata Community Board's recommended options for the future use of the Council owned land adjacent to the Whangamata Marina at 326 Hetherington Road, Whangamata.
5. Recommends to Council that the Whangamata Community Board's preferred options for the future use of and decisions associated with the continued ownership or disposal of the Council owned land adjacent to the Whangamata Marina at 326 Hetherington Road, Whangamata be the subject of public consultation.
6. Determines that the decision that it is making in relation to this matter constitutes a significant decision in accordance with the provisions of the Local Government Act 2002.

## Background

The resolution of the Whangamata Community Board on 11 March 2010 to which this report relates is provided below:

### Discussion Points

- *The Board does not support any Council owned land surrounding the Whangamata Marina to be sold.*

### Resolved

*That the Whangamata Community Board:*

1. *Received the report.*

**Moved/Seconded By:** *Minogue/Kerr*

2. *Asked the Area Manager to investigate turning the land on Hetherington Road next to the marina currently zoned Extra Density and Marine Activities into reserve, taking into consideration the Council decision to turn Taylor's Mistake in Whitianga into a district reserve.*

**Moved/Seconded By:** *Taylor/McCabe*

The Whangamata Community Board 7 February 2008 minutes state as discussion points on the lease of 326 Hetherington Road, Whangamata to the Whangamata Marina Society:

### Discussion Points

- *Could the area of land beside Hetherington Road be excluded from a lease to the area of land beside the Marina Society?*
- *Public access to the site should be retained.*

### Recommendation:

*That the Whangamata Community Board:*

1. *Receives the report*
2. *Determines that it requires further information and time prior to making a decision on the proposed lease to the Whangamata Marina Society and seeks as a minimum, further information in its considerations of the options including:*
  - *Lease term advice.*
  - *Areas of land that could be retained by TCDC.*
  - *Control of subletting.*
  - *Protection of public access.*
  - *Road designation implications.*
  - *Community views and preferences e.g. letters from Iwi.*
  - *Situation with associated facilities e.g. ski lane and TCDC boat ramp.*
  - *Confirmation of consented marina plans compared to proposed marina development.*
  - *Fuel consent status.*
  - *Investigate commercial versus community components of the development and how that could be addressed under TCDC lease policy and any relevant precedent examples.*

**Moved/Seconded By:** *Taylor/Minogue*

An Extraordinary Whangamata Community Board meeting was held on 26 February 2008 to consider the further information, with the minutes recording the following:

**Discussion Points**

- *Board members would like the Hetherington Road portion retained as a community reserve.*
- *There would need to be a District Plan change to change the 0.25ha portion beside Hetherington Road into a reserve.*

**Resolved:**

*That the Whangamata Community Board:*

3. *Recommends to Council that if it determines that it is prepared to grant a lease to Whangamata Marina Society Inc, the lease should be for an initial term of 11 years, 8 months and 18 days, commencing 1 April 2008, with two further rights of renewal for 11 years so that the term is concurrent with Whangamata Marina Society Inc's resource consent which will expire 18 December 2041.*

**Moved/Seconded By:** *Minogue/Wells*

**Resolved:**

*That the Whangamata Community Board:*

5. *Recommends that Council retain the 0.25ha area adjoining Hetherington Road as open space for its amenity value.*

**Moved/Seconded By:** *Taylor/McCabe*

The 9 July 2008 minutes state as a discussion point:

- *The Council owned area of land beside the marina site in Hetherington Road is kept as public space.*

The Whangamata Harbour Committee has also expressed concern regarding the future of this land. The Committee discussed this area at their 14 September 2009 meeting. Relevant extracts from the meeting minutes are provided below:

**Discussion Points**

- *Committee was encouraged to keep an eye on the Council Order Papers regarding the Whangamata trailer boat overflow parking and to ensure their elected members are aware of the communities feeling towards the overflow parking land.*

**Resolved**

*That the Whangamata Harbour Committee:*

4. *Seek consultation in any Council decisions regarding the future use of the Southern portion of 326 Hetherington Road (previously used as trailer boat overflow parking).*

**Moved/Seconded By:** *Summerell/Wells*

At the Whangamata Harbour Committee meeting of 15 March 2010 the minutes record the following:

- *The Harbour Committee were very concerned to hear that council may be selling Council property adjacent to the Whangamata marina and would fight to retain the overflow boat parking area.*

It should be noted that the land has been subject to Council consideration and at the Thames-Coromandel District Council (TCDC) meeting held on 12 August 2009 the following resolution was made:

**Resolved**

*That the Thames-Coromandel District Council:*

1. *Asks the Chief Executive to investigate options for the future use of the reclaimed land behind the Whangamata Marina in Hetherington Road and bring a report back to Council.*

**Moved/Seconded By:** *Bartley/Sieling*

At the time of writing a report had not been provided to Council on this issue. As a result no decision has yet been made by Council as to the future use of this land.

**Whangamata Trailer Boat Association**

The Whangamata Trailer Boat Association (the Association) has continually advocated that the overflow boat trailer parking area should remain. The Association submitted to the TCDC Ten Year Plan regarding their concerns. The Association's view is that the Aickin Estate sold the land to Council on the basis of the land being utilised as a reserve parking area and that Council should honour this position.

**Strategic Fit**

**Community Outcomes for the Thames-Coromandel District**

Relevant community outcomes include:

*The natural values of our coast and beaches are respected and enhanced.*

- *Appropriate coast and beach access and facilities are provided.*
- *The needs of both local and visitor communities is met through sound planning, ahead of growth and development.*
- *Our parks, reserves, sport and active recreation facilities are provided, maintained and developed to meet future growth.*

**Whangamata Community Plan**

The Community Plan states the following:

*Growth and Development*

- *To balance development with limits on infill and multi storey development to protect the "beachy" casual atmosphere.*

*Leisure and Recreation*

- *To provide appropriate recreational amenities to meet community needs.*

**Whangamata Reserve Management Plan**

While the land is not reserve, the Whangamata Reserve Management Plan for the nearby Beach Road Reserves includes the following:

- *The boat ramp is the main launching facility for the Whangamata area and receives considerable use; particularly during the summer holiday period. Parking for vehicles and trailer can be an issue. Vehicles park on adjoining undeveloped which is identified for high density development.*
- *The surrounding area is currently undergoing major housing development including apartments. The use of public open spaces, particularly along the foreshore, will increase proportionally over the next years. Where possible, the undeveloped Crown land must be retained to provide for summer parking of vehicles and trailers so that*

*the beach front reserves can provide for open space for public use.*

- *Develop a concept plan for the public use area, once the marina development plans have been finalised.*
- *Allow for the parking of vehicles and trailers on the land at 601 Beach road,*
- *Retain a large area of the adjoining Crown land to use as a local reserve for parking and public use.*
- *Transfer Crown reserve to Council for control and management.*

## **Factors to Consider**

### **Land Description**

The Council Owned land being referred to in this report is the balance land adjacent to the Whangamata Marina and Breakers Motel and adjoins Hetherington Road (the land). The land then extends along the rear of the land-based facilities of the marina through to and including the area known as the overflow boat trailer parking area. The land is directly adjacent to the approximately 1.3 hectare area leased to the Whangamata Marina Society.

Legally, the balance land is referred to as part of the property 326 Hetherington Road, Whangamata, part section 13 Block XVI Tairua Survey District and is approximately 2.12 hectares in total area. Approximately, 2500m<sup>2</sup> of the land is currently zoned Housing Zone Marine Activity Policy Area (HZMAPA) and the remainder Housing Zone Extra Density Policy Area (HZEDPA) under the District Plan (**Attachment A**). These zonings provide for a wide range of activities (for example residential development and/or a range of commercial activities) to be undertaken on the site.

### **Historical Purchase and Current Value**

Council records show the land (including the portion now occupied by the marina) was purchased by Council from the Aickin Estate for \$25,000 via a deposit of \$5,000 in 1979 and balance being paid via instalment over a period of six years. The property title records Council formally becoming the landowner in 1985.

Based on the valuation for rental purposes provided by Curnow Tizard on behalf of Council in 2008, the value of the land was approximately \$1.4 million per hectare. For an approximate balance land area of 2.12 hectares a gross estimate for the land would be approximately \$2.97 million. A plan showing the approximate location and area of the balance land is provided as **Attachment B**.

### **Reason for Acquisition**

From Council records the property was historically acquired for the purposes of a parking area and marine activities.

Letters from the then Council General Manager to the lawyers representing the landowner and Council state that it was Council's intention to acquire the land for the purposes of marine recreation and formation of a parking area (**Attachments C and D**). One of the letters stated that Council did not consider that the land had residential potential, although it was suggested that it may be possible for one or two residential sections to be created at some time in the future.

At the time of the acquisition the land had an underlying zoning of residential "A" and was designated Proposed Recreation Reserve and Proposed Parking in the then District Scheme (**Attachment E**). A layout plan was also located in the property file that illustrates a proposed combination of parking and marine activities on the site (**Attachment F**).

It should be noted that references are made to the preparation of a sale and purchase agreement in the historical correspondence by the lawyers acting on behalf of Council. However, the original agreement has not been located at the time of writing. It would appear prudent for Council to attempt to locate and check the original sale and purchase agreement for any restrictive or otherwise applicable conditions prior to making any decision

as to the future use of the balance land.

Council later entered into a heads of agreement with the Whangamata Marina Society to enable development of the marina to proceed.

### **Community Views**

Strong community views have been expressed in relation to both the Whangamata Marina and the Council owned land of which the marina occupies a part. For example, at its 27 February 2008 meeting Council considered a report relating to the proposal to lease a portion of the Council owned land to the Whangamata Marina Society for development of the marina's land based facilities. Following initial deliberations on the item Council determined that its preferred option was to sell the land to the Marina Society. It also agreed to proceed to community consultation on the proposal.

Some 244 submissions were then received through the community consultation process with the following approximate breakdown:

- Fifteen percent (15%) of submitters agreed with the sale of the land.
- Seventy-three percent (73%) of submitters disagreed with the sale of the land.
- Twelve percent (12%) of submitters did not approve of use of the land by the Marina Society.
- 1 submission was classified as miscellaneous.

Council heard verbal submissions at its meeting on 14 April 2008. Following presentation of the verbal submissions, Council determined that it would lease, rather than sell, the Council owned land to the Whangamata Marina Society.

A staff report in August 2009 relating to a Council decision whether to lease or sell a portion of the subject land to the Whangamata Marina Society noted the following:

*In early 2008 Council went through a community consultation process to seek feedback on whether it should lease or sell the land to the Marina Society. Initially Council went out with a proposal to sell the land to the Society. Following the consideration of public submissions the decision was made to lease the land.*

*There were a wide range of views presented during the hearing process. The majority of the feedback received, however, suggested that:*

- *The land should be leased to the Society rather than sold;*
- *A number of submitters saw it as important that waterfront land be retained in public ownership. It would appear that this represents a shift in public attitude since the original HOA was agreed in 1995;*
- *A number of submitters saw that any lease should be at market rental given that they saw the marina as being more of a commercial activity.*

The report also stated the following in reference to the balance land (the land that would remain post construction of the marina and which is the subject of this report):

*The original Council resolution highlighted the benefits that would be provided to Council as a result of fill from the marina being used to 'fill' the balance land and make it usable for residential development as provided by its zoning. It is fair to say that historically the Council of the day saw the potential benefits from this land being subdivided and developed for residential purposes.*

*Since this time, however, it would seem that community views have shifted as was reflected in the feedback that Council received to the community consultation process last year where considerable emphasis appeared to be placed on the importance of 'waterfront' land being retained in public ownership.*

*It is to be expected that there will be a number within the community who would expect a good proportion of this land to be retained as a trailer boat parking area and/or open green space. Note that a portion of the land has, up until the start of the marina construction, been used for 'overflow' parking from the main trailer boat parking area. There were a number of issues caused, over the recent summer period with this land being no longer available due to the marina construction works.*

The TCDC Chief Executive has advised the Whangamata Trailer Boat Association they will be consulted prior to any decision being made on the future uses of the land. Further he has advised that prior to any decision the future needs of the community in relation to trailer boat parking will be considered in the decision-making process.

The extracts from various Whangamata Community Board, Whangamata Harbour Committee and Council meetings provided earlier in this report also provide an insight into some community views on the future of this land. The previous feedback received by Council regarding the future of the land has generally supported continued Council ownership and public access rather than the sale of land.

### **Consultation**

No specific public consultation has been carried out in relation to the future of the balance land. Given the high level of community interest and the views expressed in the consultation process associated with the portion of the land now occupied by the Whangamata Marina, it would seem appropriate that Council consider some form of public consultation in making a decision on the future of the balance land.

Further, it appears that the primary reasons for the original acquisition of the land (particularly parking, marine activities/recreation reserve) are different to the most likely use of the land should it be sold unencumbered to a private party. For example, under the current district plan zoning, development of the site as intensive housing is likely on the portion zoned Housing Zone Extra Density Policy Area and a variety of activities are possible on the portion zoned Housing Zone Marine Activity Policy Area (which provides for industrial type marine business activities and housing).

### **Relevant Council Decisions - Taylor's Mistake**

The land commonly known as Taylor's Mistake in the Whitianga town centre provides an example of the process to convert Council owned freehold land into a reserve.

The Mercury Bay Community Board considered a staff report at its meeting held 15 June 2006 to consider options for changing the status of Taylor's Mistake and the process involved in transferring property holdings between different Council activities.

In July 2006, when considering a report on the development of a new Service Centre in Whitianga, Council discussed the issues relating to the future development of Taylor's Mistake as reserve and whether the land should be transferred to the Mercury Bay Parks and Reserves Activity. Council subsequently passed the following resolutions:

1. *Determines that its preferred option is to transfer the land being Section 1, SOP 59830. 6432m<sup>2</sup>, known as Taylor's Mistake, to a District Reserve.*
2. *Asks the Chief Executive to prepare a report outlining the process required to achieve District reserve status and the implications of the proposal.*

In September 2007, Council received a further report and decided to continue to declare Taylor's Mistake a reserve rather than freehold property. In that case the land was declared Local Purpose - Community Use reserve. A funding transfer from the local Parks and Reserves Activity to the District Land and Buildings Activity was not required by Council (see further discussion later in this report).

Council's decision in relation to Taylor's Mistake could be seen as having set a precedent for the way in which Council will deal with the internal transfer of capital assets between different activities. It should be noted that this treatment is, however, inconsistent with the current Revenue and Financing Policy and has not been subjected to formal community consultation through the Ten Year Plan. Council is however entitled to make decisions that are inconsistent with its adopted policies and in doing so the inconsistency of the decision and the reasons for it are recorded.

While Taylor's Mistake provides an example of how Council has addressed the issues associated with that site, Council will consider each case on its merits and adopted Council policy.

### **Funding Considerations and Activity Status of the Balance Land**

Subsequent to the Council decisions regarding Taylor's Mistake, Council has changed its approach to the management of property in terms of property and the Council activity to which it is allocated. The key change is the removal of the Land and Buildings Activity and the allocation of land to the activity to which it is most closely aligned. In simple terms a Council activity can be considered to be an area of the 'business' that Council is involved in. Activities provide a cost centre where the income, expenditure and proposed future projects are accounted for and the funding mechanisms recorded.

The Council activity to which any piece of Council land has been allocated is important in relation to any potential requirement for a funding transfer between Council activities should Council determine, for example, to retain or sell the land. For example, in some property transactions within Council, a transfer from a locally funded activity (i.e. funded by local Community Board area ratepayers) to a district funded activity (funded by the wider district ratepayers) or vice versa may be required. In situations where Council sells land, the general practice has been to credit any funds remaining after the payment of expenses to the relevant Council activity. For example, should Council decide to sell the balance land it would be usual practice to credit any surplus funds after the payment of expenses to the relevant activity.

In the Taylor's Mistake example, that land sat within the then Land and Buildings Activity (district ratepayer funded) and the Council decision was to transfer the site from freehold land into land with a reserve status. The general Council practice would have been to require a transfer of funds from the Mercury Bay Parks and Reserves Activity (locally funded) to the Land and Buildings Activity. In simple terms this means that Mercury Bay ratepayers would have been required to buy or 'pay for' the land to become a local reserve. However, Council made a decision not to require such a funding transfer (which would have been in excess of \$3million based on the capital valuation of the land). The approach in that case was to instead transfer the land from freehold status to the reserves activity.

A similar approach was used in relation to the Barbara Avenue extension. The land on which the extension was built was also owned by the Land and Buildings Activity where as extension of this road was a Local Roding Activity. Council decided to transfer the land to the local roading activity without requiring a transfer of funds between the two activities.

The land has been allocated to the Economic Development Activity (EDA). The two main implications of this are that, should a Council decision be made to sell the land, any proceeds (or loss) from the sale of the land would be credited to the Property Reserve which sits under this activity. Alternatively should a Council decision be made to retain the land for the harbours or parks and reserves activity, for example, Council may require these activities to fund the transfer of the land.

However, beyond the issue of which specific Council activity the subject land should be aligned with, taking a broader perspective on the land as being simply a 'Council owned'

asset means that Council does have a significant investment in this piece of land. Council needs to be satisfied that it is getting an appropriate return (whether that be via non-tangible benefits such as community amenity values or financial) from this asset.

A decision to declare the land reserve will result in a significant financial reduction or write-off in the value of the land. Council would need to make a decision about whether such a write-off was to be funded. Inevitably, this would normally be done via rates.

### **Opportunity Cost**

The balance land is currently held as unencumbered freehold land and is not classified as reserve. This means, in theory at least, that Council could sell the land or use it for an alternative purpose/use. The HZMAPA zoned portion of the site (approximately 2500m<sup>2</sup> of land adjoining Hetherington Road and Breakers Motel) is relatively permissive in terms of allowing residential and/or commercial/industrial development associated with marine activities (for example, boat building and engine servicing or boat user accommodation).

However, beyond direct financial considerations, local government has wider responsibilities to consider in fulfilling its responsibilities under the Local Government Act (2002). For example, the fundamental purpose of local government as set out in the Part 2 Section 10 of the Local Government Act 2002 is:

*(a) to enable democratic local decision-making and action by, and behalf of, communities; and*

*(b) to **promote the social, economic, environmental and cultural well-being of communities, in the present and for the future** (emphasis added).*

### **Potential Future Uses of the Land**

A variety of future options exist for the subject land. For example this could include:

- Commercial development(s) particularly within the portion zoned for marine activities.
- Community facilities, for example, childrens playground and/or picnic areas.
- Retention of the land or portions of it as public open space and access ways.
- Housing development(s). Both zonings applying to the land allow for housing development. The HZMAPA zoning allows for high density housing to occur. For example, a concept plan was prepared in 1998 that showed a potential housing layout including approximately 42 high density residential sections with section sizes down to 300m<sup>2</sup> (**Attachment I**). This layout may not be considered best practice from an urban design and a general liveability perspective.
- Trailer boat parking.
- A combination of all or some of the above.
- Alternative uses potentially approved by Council under the District Plan and Resource Management Act.

The Community Board should carefully consider and provide detailed feedback with justifications to Council on the potential future uses it sees for the land. For example, any area for open space and/or amenity areas should be shown and justified on the basis of the need for such an area in that particular location (for example, the approximately 2500m<sup>2</sup> piece of land adjoining Hetherington Road and Breakers Motel) given the projected residential population in this area.

For the parts of the site that may be proposed to become reserve (for example, a reserve classification would be suitable for uses such as public open space and trailer boat parking) justification should be provided as to why it should be classified as reserve or used in some other way. For example, the area needed for trailer boat parking should be based upon a future demand projection for trailer boat parking.

In terms of existing TCDC analysis relating to trailer boat parking, the most recent was provided by Rosaleen Ward of Progressive Business Consulting Limited in a report "*Trends and Issues: Commercial and Recreational Use of Harbour Facilities Within the TCDC District*". In summary, this report noted that as Whangamata dwelling numbers increase the number of boats will also increase. The report provided four potential scenarios based on 20-35 percent of dwellings having a boat ranging from an estimated 982-1719 boats in Whangamata in 2006 increasing up to 1280-2240 by 2026. An extract from the report is provided as **Attachment H**. Based on this analysis it appears logical that there will be increasing demand for trailer boat parking in Whangamata and this should be considered in decision making associated with the subject land.

The Community Board may wish to develop concept plans for the site showing a range of options for the future use of the land. Such plans could help inform any consultation exercises associated with the site.

### **Conversion of the Land into Reserve**

Pursuant to the Reserves Act 1977 and a delegation from the Minister of Conservation, Council freehold land can be classified as reserve through a resolution of Council. Council then gives notice of the resolution. An example of the required resolution is provided below:

*"That, in exercise of the powers conferred on it by section 14 of the Reserves Act 1977, the Thames-Coromandel District Council hereby resolves that the parcel of land held by Council in fee simple and described in the Schedule hereto, shall be, and the same is hereby declared to be, a (add description) reserve within the meaning of the said Act".*

While there are further detailed steps to complete the process, the Council resolution is the primary action required.

It should be noted that a change in classification, for example, to reserve would limit what could be developed on the land in the future. A commercial marine activities service area (for example boat servicing, sales and chandlery etc) would not be possible with a reserve classification on the land. However, an alternative option would be a combination of reserve classification and current zonings to allow a combination of uses and protection to some areas of the site.

In any option for the land that would require subdivision of the site into additional titles, consideration should be given to the cost associated with such subdivision(s) and any necessary resource consents.

### **Whangamata Marina Landscape Plans**

Landscape plans that apply to the balance land were approved as part of the wider Whangamata Marina consenting and approval process. Consideration should be given to the requirements of the plans in relation to the future use of the balance land and the approved plans are provided as **Attachment I**.

### **Blueprint and Local Area Blueprint Implications**

The Council and three other partner agencies (Department of Conservation, Hauraki Whaanui and Environment Waikato) are currently carrying out a public planning process for the District to provide an integrated plan for the water, land, coast and marine uses. Essentially the first stage to determine the high level future vision for the district has been completed. The significant outcome of this process for Whangamata is that Whangamata

has been identified as one of three future residential, industrial and commercial hubs. The other two are Whitianga and Thames.

The second stage of the Blueprint process is the Local Area Blueprint Plans (LABs). The plans provide further detail and direction on managing growth and development at a local (catchment, settlement, harbour) scale consistent with the higher level Blueprint outcomes. The Whangamata LAB is currently being developed. The outcomes of the Whangamata LAB process will be relevant to Council decision-making in relation to future provision and management of infrastructure including harbour facilities. For example, the LAB may identify boating related recreational activity as an important component of the Whangamata both now and into the future. Such an outcome is likely to be relevant for decision-making associated with the balance land.

### **Options**

The following options exist:

**Option A** - Do nothing, take no further action.

**Option B** - Provide feedback to Council on the preferences of the Whangamata Community Board in relation to the Whangamata Marina balance land.

**Option C** - Not provide feedback to Council on the preferences of the Whangamata Community Board in relation to the Whangamata Marina balance land.

**Option D** - Some other option as determined by the Community Board.

### **Assessment of Options**

**Option A** - In this option the status quo would apply. In essence this means that the previous feedback from the Community Board to Council would be the Board's representation on the issue to Council. The Board could then become involved at the stage at which Council develops a paper identifying future options for the use of this site.

**Option B** - Under this option the Community Board would provide feedback to Council including, for example, its recommendations for the future of the land and whether it supports public consultation on the future of the land. Under this option the Board should also give specific consideration to and preferred options for the future use(s) of the balance land.

**Option C** - In this option the previous feedback to Council from the Community Board would be the feedback provided to Council.

**Option D** - This option is not assessed as the Community Board may determine another option not assessed by this report.

### **Preferred Option**

The preferred option is **Option B**.

### **Significance Assessment**

Council is required to comply with the decision making provisions outlined in Part 6 of the Local Government Act 2002. Council's Policy on Significance details the thresholds and criteria that Council has determined it should consider in deciding whether a decision is significant.

The decision that the Community Board is being asked to make in relation to the future of the Council owned land at 326 Hetherington Road does not meet any of the thresholds

in Council's Determining Significance Policy. This does not necessarily mean, however, that the decision is not significant.

The criteria that Council is required to consider in determining whether or not a decision is significant include:

- *The extent and quality of the decisions impact on individuals and/or groups.*
- *The number of people affected.*
- *Consistency with existing Council plans and documents.*
- *Potential for the promotion of Community Plans.*
- *Levels of public interest.*

The development of the Whangamata Marina has been a high profile, and at times controversial, issue in the Whangamata and broader district community for a number of years. The high level of interest has been seen, for example, by the number of objections and appeals that were lodged with the regulatory agencies and Environment Court during the resource consent process. There was also a high level of focus given to the decision by the Minister of Conservation on granting of the coastal permit and the subsequent judicial review of his first decision. Strong community views were also evidenced through submissions received on Council's public consultation associated with the proposed sale of a portion of the site to the Whangamata Marina Society. The remaining land is directly adjacent to the marina and is part of a high profile, wider site which may have many future uses in the ongoing growth and development of the Whangamata community. Generally, the wider level of national public interest in decisions associated with publicly owned coastal land also indicates there will be public interest in the outcome of this process. As such it can be expected that there will be a high level of interest in the recommendation(s) of the Whangamata Community Board and ultimately the decision made by Council regarding the land.

Accordingly, staff are of the view that the decision that Council is making in relation to this matter constitutes a significant decision in accordance with the provisions of the Local Government Act.

In making a decision on this matter Council needs to be satisfied that it has met the decision-making provisions of the Local Government Act. These provisions are outlined in sections 77 to 82 of the Local Government Act 2002 which deals with:

- Section 77 - reasonably practicable options;
- Section 78 - views of persons likely to be affected;
- Section 79 - degree of compliance with decision making provisions;
- Section 80 - inconsistent decisions;
- Section 81 - participation by Maori in decision making;
- Section 82 - principles of consultation.

In determining whether or not it has complied with these provisions Council is required, under section 79 of the Act, to have regard to the significance of the decision that it is making. If it accepts the staff view that this decision constitutes a significant decision then the threshold that needs to be met before Council can be satisfied that it has met these requirements is significantly higher than it otherwise would be.

Given that in the past there has clearly been a high level of community interest in the development of the Whangamata Marina and that a number of parties have chosen to get actively involved in, for example, the Resource Management Act process that it has had to follow, it may be appropriate for the Community Board and Council to consider whether it needs to seek further community views on this decision via, for example, a community consultation process. The fact that the Resource Management Act process has been very public also means, however, that it would not be unreasonable for elected members to have

developed a good understanding of the different community views on this issue. Ultimately, the different decision-making bodies (Whangamata Community Board, Service Delivery Committee and Council) need to determine whether they believe they have a good understanding of the different community views on this issue before they make their decision.

### **Next Actions**

Any recommendations by made by the Community Board will be provided to Council for its consideration in determining the future uses of the site.

### **References-Tabled/Agenda Attachments**

- Attachment A** *District Plan Map of Whangamata Harbour Area*
- Attachment B** *Whangamata Marina Land Proposed to be Leased from the Crown and TCDC*
- Attachment C** *Letter from TCDC Stating Agreement to Purchase F C Aickin Estate Land and TCDC's Future Intention for that Land Dated 23 March 1979*
- Attachment D** *Letter Expressing TCDC's Intention for the F C Aickin Estate Land Dated 2 April 1979*
- Attachment E** *Historic Map of Land Showing Zonings and Designations at Time of Purchase by TCDC*
- Attachment F** *Historic Layout Plan at Time of Purchase by TCDC*
- Attachment G** *Whangamata Marina Balance Land Proposed Layout for Subdividing Sections by Montgomery Watson 1998*
- Attachment H** *Potential Boat Ownership in Whangamata 2006-2026*
- Attachment I** *Whangamata Marina Landscape Plans by SOUL*