

Report 04.117
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Committee Policy, Finance and Strategy
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Harvey Norman stopbank crossing approval

1. Purpose

To recommend to the Committee that a licence be granted to Harvey Norman Stores (NZ) Pty Limited (Harvey Norman) that authorises the construction and use of a vehicular crossing over the stopbank at Melling, Lower Hutt.

2. Background

On 19 November 2003 the Landcare Committee considered report 03.696 (**Attachment 1**) regarding Harvey Norman's request to construct and use a crossing over the stopbank at Melling, Lower Hutt.

Following discussion of the report the Landcare Committee resolved as follows:

- (1) *That the report be received and the contents noted.*
- (2) *That the proposal be approved in principle, recognising the exceptional circumstances involved and the support of the Hutt City Council.*
- (3) *That officers be requested to bring back to Council the proposed conditions and terms of the arrangement in the light of the matters in Report 03.696 and discussions at the meeting.*
- (4) *That the matter be determined at the earliest practicable Council meeting.*

In essence the Landcare Committee determined that it would like more certainty on a number of details before it was prepared to sign off the agreement.

Since 19 November officers have been working with Harvey Norman and Hutt City Council (HCC) to prepare a Heads of Agreement to bring back to Councillors for approval. That process is now concluded and the proposed agreement is included as **Attachment 2**.

3. Proposed terms and conditions

The proposed Heads of Agreement has been prepared on the basis of the parameters included in report 03.696 (see **Attachment 1**). In addition, Councillors raised some further matters at the Landcare Committee meeting.

We consider that all matters have now been addressed. For convenience this report will concentrate on those matters raised by the Landcare Committee, rather than repeating report 03.696. However, if Councillors wish, a short presentation will be made to explain how the clauses in the Heads of Agreement address the matters covered in report 03.696.

The Agreement provides for an annual licence fee of \$14,000 plus GST to be paid.

4. Matters raised at 19 November 2003 Landcare Committee meeting

4.1 Liability and indemnity

Councillors wished to satisfy themselves that Greater Wellington was not putting itself at risk from legal action over Harvey Norman's use of the land. The Heads of Agreement requires Harvey Norman to indemnify Greater Wellington against such claims and actions. It also requires Harvey Norman to maintain at least \$1M in public risk insurance for each event.

4.2 HCC support

Councillors were also concerned that it was made clear to HCC that if Greater Wellington granted this licence then there was less likelihood that the central city upgrade of the Hutt River flood defences could be brought forward. HCC were advised of this matter and asked to confirm their position. The HCC Chief Executive's response is included as **Attachment 3**.

4.3 Park and ride

At the Landcare Committee meeting councillors noted that the car park area to be leased to Harvey Norman was used as a park and ride area. Councillors requested that we look into the use as a park and ride area and determine whether the lease would reduce the opportunity for the use of public transport.

This matter was raised with the Transport Division who noted that the Harvey Norman proposal will not have a significant effect on park and ride facilities. There is unused park and ride capacity nearer the Melling station.

4.4 Possible replacement or upgrade of Melling Bridge

The proposed stopbank crossing is very close to the Melling Bridge. In essence the Landcare Committee was keen to ensure that the crossing did not fetter the ability of transport infrastructure providers to upgrade the bridge to a higher flood protection standard (the 2800 cumec standard of the Hutt River Floodplain Management Plan).

Report 03.696 noted that the current best estimate in terms of the timeframe for any upgrade or replacement of the bridge was that it was 30 years away. Following the Landcare Committee meeting we sought further advice from Greater Wellington's Transport Division. They have confirmed that while there is a possibility that the State Highway 2/Melling intersection upgrade will happen in a 10 to 20 year timeframe (i.e. after 2014) all indications are that the existing Melling Bridge will remain for a further 30 to 50 years.

The Heads of Agreement has been drafted to allow flexibility to upgrade or replace the bridge. For example it allows Greater Wellington to temporarily suspend the licence prior to 2015 for the upgrade or replacement of the Melling Bridge, or for the purpose of any other public work. In addition, after 1 January 2016 Greater Wellington can terminate the licence if it requires the land for any flood protection, river control or public work. It is important to note that while the termination right is largely unfettered, the Heads of Agreement confirms our intent to allow the licence to run its full term if this can be reasonably facilitated.

5. Riverside car park lease to HCC

The stopbank crossing agreement represents our direct discussions with Harvey Norman. However, their proposal also required us to make adjustments to a longstanding agreement that we have with HCC for the use of the riverside car park. Greater Wellington owns the land on which the riverbank car park is situated. That land is leased to HCC to allow car parking.

As part of the Harvey Norman proposal we have now formalised the HCC lease by adding a second schedule to the 1996 generic lease to HCC, including a provision for HCC to sublease some of the riverbank car park to Harvey Norman. This process is now complete including the negotiation of a satisfactory commercial arrangement (see **Attachment 4**).

6. Summary

The proposed Heads of Agreement meets both Harvey Norman's and Greater Wellington's needs. It allows the Harvey Norman development to take place while making it very clear that Greater Wellington retains unfettered rights to upgrade and/or replace the stopbank at a time Greater Wellington deems most appropriate. We have also ensured that the proposal will not unduly compromise other future flood protection or transport options in the area.

7. Communication

At this stage no further communication is required. Once matters are confirmed we will look at a joint press release with HCC and Harvey Norman.

8. Recommendations

That the Committee:

1. **Receive** the report.
2. **Note** the contents of the report.
3. **Approve** the granting of a licence to Harvey Norman Stores (NZ) Pty Limited for the proposed stopbank crossing at Melling in accordance with the Heads of Agreement provided as Attachment 2.
4. **Authorise** the Chief Executive to approve the stopbank crossing licence when he is satisfied that the formal licence is in accordance with the approved Heads of Agreement.
5. **Note** that the lease of the Riverbank Car park to Hutt City Council (both pay and display, and Harvey Norman sublease areas) has been formalised by adding a second schedule (Attachment 4) to the existing 1996 generic lease agreement with Hutt City Council.

Report prepared by:

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Attachment 1: Report 03.696

Attachment 2: Heads of Agreement for stopbank crossing

Attachment 3: Letter from Rik Hart, Hutt City Council, dated 8 December 2003

Attachment 4: Second Schedule: Terms and conditions for Riverbank Carpark, Lower Hutt