

## 2. REVIEW OF POLICY ON SPEAKING RIGHTS - DISTRICT SCHEME CHANGES

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The purpose of this report is to review the Council's policy on speaking rights in respect of District Scheme Changes, as requested by the Council on 26 February 2004.

At that meeting the Council resolved to ask staff to report to the Regulatory and Consents Committee with a review of the Council's policy that speaking rights not be granted by any Community Board, Committee or Council meeting when the matter for consideration is a report which includes a draft of a proposed variation or plan change which is being considered for formal recommendation to or adoption by the Council.

The policy adopted in 1990 was:

- “1. That it be the Council's policy that speaking rights not be granted by any Community Board, Committee or Council meeting when the matter for consideration is a report which includes a draft of a proposed District Scheme Change or Variation which is being considered for formal recommendation to or adoption by the Council.
2. That in the case of a formal request by a party to initiate a particular Scheme Change, that speaking rights be granted to that party, but only at the District Scheme Sub-Committee.”

An opinion on this matter from Aidan Prebble, Solicitor, has concluded for a number of reasons that there is merit in a policy discouraging speaking rights on Council variations and plan changes. However, he believes the Council needs to be mindful that it must consider any request for speaking rights on its merits, notwithstanding the policy. Blind adherence to a policy breaches a principle of administrative law in that it amounts to a fetter of discretion.

It is therefore recommended that the current policy be updated by adding the word “generally” so that it is no longer stated in absolute terms, and by deleting the phrase “District Scheme Changes” and substituting the phrase “Plan Change”.

Clause 2 of the 1990 Policy can be rescinded as the Council does not have a District Scheme Subcommittee. It will be necessary to authorise the Chairperson of the Regulatory and Consents Committee to make decisions under the Policy as part of the Chairpersons role of granting or declining speaking rights.

- Recommendation:**
1. That clause 1 of the policy adopted by the Council on 23 October 1990 be updated as follows:  
  
*“That it be the Council's policy that speaking rights generally not be granted by any Community Board, Committee or Council meeting when the matter for consideration is a report which includes a draft of a proposed Plan Change or Variation which is being considered for formal recommendation to or adoption by the Council.”*
  2. That Clause 2 of the 1990 Policy be rescinded.
  3. That the Chairperson of the Regulatory and Consents Committee and the General Manager Regulation and Democracy Services jointly, be authorised to make decisions under the Policy.