

Report 03.150
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Committee Utility Services
Author Andrew Samuel Marketing Manager Greater
 Wellington Water

Smiley Face Mural Consultation - Result and Further Requirements

1. Purpose

To advise the Committee of the findings of the Greater Wellington-run consultation process, and of a change of advice from Wellington City Council regarding the proposal in relation to its District Plan.

To seek a decision from the Committee regarding whether or not recommendation (c) of Report 2.443 (16 July 2002) has been satisfied, and whether the Committee continues to support the proposal in principle, subject to the proposer satisfying Wellington City Council's District Plan requirements.

2. Background

In May 2002 a request was received from a resident of the Region (the proposer), for him to be permitted to paint a Smiley Face on the top surface of Greater Wellington's Ngauranga Reservoir, an unpainted concrete structure of approximately 60 metres diameter or 2,700 square metres in area.

On 23 July the Utility Services Committee considered the proposal (as detailed in Report 2.443 – [Attachment 1](#)). That paper noted advice received from Wellington City Council's Environmental Business Control Unit (ECBU) that the proposed mural did not require resource consent under the City's District Plan. The Committee's decision resulting from that paper was to approve the mural proposal in principle subject to five conditions including:

(a) *consultation of Broadmeadows residents is carried out by the Council at the proposer's cost.*

(b) *the proposal being supported by the Wellington City Council.*

And:

(c) the consultation process shows a firm level of support for the proposal, as determined by the Committee.

On 7 August a letter was sent to George Skimming, ECBU Manager, for confirmation of the unit's advice relating to the proposal, and for Wellington City Council's position regarding support for it ([Attachment 2](#)). A written reply from George Skimming, dated 13 August, stated that the mural did not require resource consent under the Wellington City District Plan ([Attachment 3](#)) and that Derek Fry, Director of City Services and Marketing, would provide the City Council's view regarding support in due course.

Derek Fry's letter of 12 September ([Attachment 4](#)) noted that the proposed mural would have lasting visual effects and concluded: *"After reviewing the proposal in line with Council planning policies relating to Ngauranga Gorge the visual effects are considered to be significant and therefore Council can not approve landowner consent."* It should be noted that this opinion assumes that Wellington City Council is the landowner of the Ngauranga Reservoir site. Greater Wellington's property management consultant has confirmed that GWRC is the landowner ([Attachment 5](#)), having purchased the land from Wellington City Council at the time the reservoir was built.

On 15 October 2002, Utility Services Committee considered Report 2.635 ([Attachment 6](#)) and passed a recommendation noting that Wellington City Council did not support the initiative and approving:

"... proceeding to a Council managed consultation of Broadmeadows residents, at the proposer's cost, and considers the results of that process alongside the view of Wellington City Council in determining whether the mural be allowed."

A consultation process was devised by GWRC officers and conducted between mid February and early March 2003.

3. Wellington City Council District Plan Requirements

As noted previously, the advice from Wellington City Council at the time the above decision was taken was that resource consent was not required for the proposal under its District Plan.

At the beginning of March 2003 GWRC officers received informal notification from officers at Wellington City Council that it had received a legal opinion that resource consent for the proposal would be required under its District Plan. This notification ([Attachment 7](#)) and the underlying legal opinion were formally presented on Monday 17 March. In light of this new opinion, any recommendation of continued support for the proposal by the Utility Services Committee would require the proposer to gain resource consent from Wellington City Council before the painting could proceed. This has been conveyed to the proposer.

4. The GWRC Consultation Process Design

Based on the advice from Wellington City Council of 13 August 2002, that the proposal did not require resource consent, it was concluded, in consultation with Wayne Hastie (GWRC Council Secretary) and Paula Hammond (GWRC Manager, Consents Management) that there were no specific requirements for the consultation design. A short postal questionnaire was designed in-house and provided to Wayne Hastie, Paula Hammond and Jude Varcoe (Account Director at research consultants NFO New Zealand) for their comment. The final consultation document (Attachment 8), incorporating the recommendations of these individuals, comprised a short questionnaire together with a brief background to the proposal and a visual representation of how the Smiley Face might look if applied to the reservoir. Planning called for all recipients to be provided with a reply-paid envelope, to facilitate their participation, with 10 days allowed for the return of completed questionnaires to GWRC. A Public Notice advising of the consultation was placed in the Independent Herald, a community newspaper delivered free to households in the Broadmeadows area.

5. Consultation Area

A commercial mailing house, The Letterbox Channel, provided detail of New Zealand Post's Broadmeadows postal delivery area. In addition, households in Maldive Street, Imran and Shastri Crescents, and parts of Ghurka Crescent, Rangoon Street and Burma Road – all in the near vicinity of the reservoir - were also canvassed, as were residents of units at the northern end of the Malvina Major Retirement Village. Distribution was to be by New Zealand Post's posties in the Broadmeadows postal area. GWRC staff delivered to the remaining streets, as these were only small parts of other postal areas.

6. Distribution Management

The Letterbox Channel (part of Kiwi Mail Group Ltd.) was contracted to manage delivery of the consultation document to every household in the Broadmeadows postal area between 10 and 14 February inclusive. The method of delivery was by New Zealand Post posties, as part of the regular mail delivery service; this was thought to be a reliable method of reaching all Broadmeadows' households.

Following 14 February, GWRC was advised by Letterbox Channel that households with “no circular” signs on their letterboxes had not received the consultation document. Letterbox Channel acknowledged this as their error and delivered to 28 of these addresses on 20 February and the remainder on 22 February, at their cost. Subsequently, it was identified that a handful of these households had received two copies of the questionnaire. I have since been advised by Letterbox Channel that duplicated delivery was isolated to no more than 11 addresses in the John Sims Drive area.

Subsequent to 14 February, calls were also received (including from the proposer) indicating that three addresses other than the “no circular” cases (noted above) did not receive the consultation document. Two of these were sent questionnaires and have since replied; the third was identified too late to be included in this analysis. Based on the number of delivery points in the Broadmeadows postal area, the number of items delivered and the number of duplicated items, The Letterbox Channel has advised that up to nine addresses may not have been delivered to at all. This represents 1.4% of the total number of questionnaires distributed.

While these errors are unfortunate, they were isolated events and, after analysing the address details provided by respondents to the questionnaire, their impact appears negligible. I do not believe that the distributor’s errors have resulted in a significant bias to the results outlined below.

7. Consultation Results

- **32 percent response.** 758 questionnaires were distributed, with 239 being returned.
- **Opinion evenly split.** Of the 239 respondents, 43 percent supported the proposal, 44 percent opposed it and 13 percent indicated neither support nor opposition.
- **Less than one-in-five households can see the reservoir.** Of the 239 respondents, 16 percent said they could see some part of the reservoir from their residence, 80 percent said they could not and four percent did not answer that question.
- **Strong opposition typical from those who can see the reservoir.** Of the 16 percent who could see the reservoir from their residence (39 respondents), 67 percent opposed the proposal (64 percent strongly opposed it), 23 percent supported it (18 percent strongly supported it) and 13 percent were neutral.

A full summary of numerical responses can be found in Attachment 9.

The comments offered by respondents, whether in support or opposition to the proposal, have been provided in full separately to Utility Services Committee councillors. Most answers can be summarised as covering one or more of the following:

- **Supporters said:** typical answers included the proposal being described as fun, cheerful, innovative, friendly and positive: that anything was better than grey concrete and the proposal was consistent with Wellington’s *Absolutely Positively* image, was a great welcome to visitors and would prove a landmark and positive talking point. One reply noted that the surrounding environment was already significantly modified.
- **Opponents said:** typical answers included the proposal being described as garish, crass, childish, passé and trite: that the bright nature of the painting would render the reservoir a large and obtrusive eyesore for locals and out

of keeping with its green surroundings. Other points raised were: (1) that a Smiley Face was not unique/appropriate/relevant for New Zealand/our culture; (2) that Wellington had much greater things to offer visitors; (3) that the money being spent (and GWRC resources committed) could be put to a more worthwhile purpose; (4) that property prices would be adversely effected; (5) that relatively few visitors would actually see the mural, as planes approach from the south in northerly conditions and only one side of any aircraft approaching from the north would have a view of it.

- **Maintenance:** Both opponents and neutrals expressed concern about maintenance issues, including who would be responsible for the painting's upkeep and who would pay for it.

8. Summary

The consultation process has shown that opinion about the proposal is evenly divided, however, there is strong opposition from a clear majority of the households that claim to have a view of the reservoir. Almost a third of the questionnaires distributed were completed and returned: a healthy response for a postal survey.

Wellington City Council has recently reversed its advice of 13 August 2002 and determined that the proposer will have to obtain consent from the City before the mural can be painted. This reversal has come as a result of legal opinion sought by the City, which concludes that a Smiley Face mural would constitute a sign under the definitions contained in the City's District Plan.

Derek Fry's letter of 12 September 2002 outlines Wellington City Council's opposition to the proposed mural. While the City is not the landowner of the site that Ngauranga Reservoir occupies, other reasons are given in support of its stated position.

9. Communication

There will be considerable public interest in the content of this paper. A media release should be issued once the Committee has determined its recommendation in this matter.

10. Recommendation

That the Committee:

- (1) *Notes that resource consent approval is now required, under Wellington City Council's District Plan, before the proposed Smiley Face mural could be painted on Ngauranga Reservoir.*
- (2) *Notes that Wellington City Council does not support the proposed mural being painted on Ngauranga Reservoir.*
- (3) *Notes the results of the Greater Wellington-run survey of opinion about the proposal, conducted in the Broadmeadows area.*
- (4.1) *Declines Greater Wellington's further support for painting the proposed mural on Ngauranga Reservoir, in light of the survey results and Wellington City Council's viewpoint.*

Or

- (4.2) *Reaffirms Greater Wellington's support for the proposed mural, subject to the proposer gaining the appropriate resource consent from Wellington City Council.*

Report prepared by:

Report approved by:

Report approved by:

Andrew Samuel
Marketing Manager
Greater Wellington Water

Murray Kennedy
Strategy and Asset Manager
Greater Wellington Water

David Benham
Divisional Manager
Utility Services

Attachments

- 1 Report 02.443
- 2 Letter to Wellington City Council's Environmental Business Control Unit Manager
- 3 Letter from Wellington City Council's Environmental Business Control Unit Manager, 13 August 2002
- 4 Letter from Wellington City Council's Director of City Services and Marketing
- 5 Email from O'Brien Property Services
- 6 Report 02.635
- 7 Letter from Wellington City Council's Environmental Business Control Unit Manager, 14 March 2003
- 8 Smiley Face consultation document
- 9 Summary table of consultation results