



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

COUNCIL

I hereby give notice that a Meeting of the Council will be held on:-

DATE: **Wednesday, 16 February 2005** **TIME:** **9.30 am**

VENUE: **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the business as set out herein and to take any necessary action connected therewith.

11 February 2005

Audrey Chan
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8603

MEMBERSHIP:

Mayor	RA	Harvey, QSO, JP
Deputy Mayor	CA	Stone
Councillors	DQ	Battersby, JP
	PJ	Booth, OBE
	MFP	Chan, JP
	JM	Clews, QSO, JP
	RI	Clow
	LA	Cooper
	AK	Corban, OBE, JP
	RP	Dallow, QPM, JP
	WW	Flaunty, QSM, JP
	DE	Gilmour
	PA	Hulse
	JP	Lawley
	VS	Neeson, JP

(Quorum 8 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE CIVIC
CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON WEDNESDAY, 16 FEBRUARY 2005
COMMENCING AT 9.30 AM**

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1 APOLOGIES



2 REPORT OF THE TE ATATU MARAE DEVELOPMENT GROUP

PURPOSE OF REPORT

The purpose of this report is to present the report of the Te Atatu Marae Development Group, and to discuss and recommend action connected therewith.

BACKGROUND

As part of its policy of support for a Marae at Te Atatu, Council established a Te Atatu Marae Development Group at the end of 2003. The Group was tasked with undertaking work required for the development of a Marae in advance of a formal Trust structure being established to build and manage the Marae. The Group was required to report back to Council in August 2004.

The Development Group was ready to report back at that time and had advanced all issues referred to them by Council. Unfortunately, due to extant workloads, Council officers were not able to complete their review of the material prior to the election. This has meant that the report back to Council has been delayed until now.

STRATEGIC CONTEXT

Council's support for a Marae at Te Atatu fits well with its overall strategic policy framework. Council has a Marae Support Policy which provides for Council support of the Te Atatu Marae Project. The project also contributes to the acknowledgement of urban Maori in terms of the Treaty of Waitangi principle in the Long Term Council Community Plan, as well as to the Strong Communities Platform.

ISSUES

A1-A8

The Te Atatu Marae Development Group was required to report back to Council in August 2004. The report of the Group was submitted at that time and is now reported to Council with officer comment. A copy of the report is attached at pages A1 to A8. The Chairman of the Development Group, the Honourable Tau Henare, will be present with the rest of the Group to present the key points of the report and to answer any questions.

The Development Group has made good progress on undertaking the work set for it by Council. The preliminary design concept for the Marae has been further developed and staff analysis suggests that it meets Council's goals in terms of integration with Harbourview Park and the visual amenity of the area. It also appears to model sustainable design principles. The Development Group also appears to have a good grasp on the tenure and fundraising issues it needs to deal with.

The Group has made a number of recommendations to Council in order to provide for work on the Marae project to continue. Staff are satisfied that all but one of these recommendations are appropriate and in order for Council to adopt.

The one issue where some further consideration is required is in the area of the timing of the transfer of land to a Trust entity under the Te Ture Whenua Maori Act 1993. The Development Group sees the transfer of the land as vital in allowing fundraising to occur. Staff agree with this assessment. The Development Group would like to see the transfer occur immediately after they have taken the preliminary steps required to in terms of processes with the Maori Land Court. Council's Legal Services Manager has advised that transfer should not occur until after the Environment Court proceedings on the reference to the District Plan Change relating to the Marae have been resolved. This would prevent Council from being in a position where as land owner it had agreed to something not permitted under the District Plan, and would also protect Council from accusations of predetermination, even if such accusations would be unfounded.

This is an issue that Council may want to consider further. Transferring the land in advance of the Environment Court process would allow the Marae project to make significant progress in a shorter time-frame. The Council must weigh this against the risks identified by staff.

Council will also be aware of the approach by the Te Atatu Residents and Ratepayers Association, via the Planning and Regulatory Committee, to have Council change its position with respect to the allocation of a site for a Marae at Harbourview. In terms of environmental effects, upon which decisions relating to the Proposed Plan Change must be based, the staff view is that there is insufficient merit in the representations of Te Atatu Residents and Ratepayers Association to either the Court or Council to warrant a change in Council's position.

In reality, what Te Atatu Residents and Ratepayers Association is really seeking is a change in Council's substantive decision to allocate land at Harbourview for use as a Marae. Their reported position is that they are not opposed to a Marae being sited elsewhere in Te Atatu, but that they are opposed to its location on Harbourview. As a number of Councillors will be aware, it has been seemingly impossible to find any other suitable site for a Marae in Te Atatu.

Consideration of any change to Council's decision on the allocation of land for a Marae is a matter for Council in its landowner role, rather than the Planning and Regulatory Committee acting in a regulatory capacity. The Council has determined, acting on a recommendation from the Planning and Regulatory Committee, to hold a workshop to enable Councillors to be briefed on, and discuss, the broader Marae issue. A workshop for Councillors will be scheduled.

RESOURCES

No additional resourcing is required for this project.

CONCLUSION

The Te Atatu Marae Development Group has now prepared its first report to Council. The Group has made significant progress and is working well. The Group has made a number of recommendations to Council which Council is now asked to consider. The Planning and Regulatory Committee is dealing with the Plan Change issue which will proceed before the Court, subject to any direction given by Council to the Committee. Staff and the Development Group disagree over only one issue which is the timing of the Transfer of the land to a Trust Structure.

RECOMMENDATIONS

1. That the Report of the Te Atatu Marae Development Group be received.
2. That the appointment of the Te Atatu Marae Development Group be extended for two years or until such time a Trust is established in terms of the Te Ture Whenua Maori Act 1993, to enable work to be continued on the development of the Te Atatu Marae.
3. That the preliminary design concept developed be endorsed as providing an appropriate fit with the surrounding park.
4. That the Council authorise its Chief Executive to take all steps necessary to transfer the 2.5 hectares of land at Harbourview identified to be used for Marae purposes to a Trust structure under the Te Ture Whenua Maori Act 1993 as soon as all necessary steps have been taken with the Maori Land Court to enable the transfer to occur and once the proceedings in the Environment Court relating to the District Plan Change in respect of the land have been finalised, providing that the decision of the Court allows for Marae activities to occur on the land.
5. That the Chief Executive continue to work with the Development Group to produce an appropriate Trust structure and documentation.

Report prepared by: Ross McLeod, Director Corporate & Civic Services.



ITEMS 3, 4, AND 5 ARE PUBLIC EXCLUDED

- 3 GROWTH AND TRANSPORT INTEGRATION PROGRAMME - FINAL APPLICATION TO AUCKLAND REGIONAL COUNCIL**
- 4 PROPOSED DISTRICT PLAN CHANGES IN RESPONSE TO THE LOCAL GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004**
- 5 PROPOSED CHANGES TO CHAPTERS 2 AND 4 OF THE AUCKLAND REGIONAL POLICY STATEMENT**

These items will be considered in the Public Excluded Confidential Supplement of the agenda, and have been circulated to members separately with this agenda.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of the proceedings of this meeting, namely, Growth and Transport Integration Programme - Final Application to Auckland Regional Council, Proposed District Plan Changes in Response to the Local Government (Auckland) Amendment Act 2004, and Proposed Changes to Chapters 2 and 4 of the Auckland Regional Policy Statement.

The general subject of the matters to be considered while the public is excluded, the reason for passing this resolution in relation of the matters, 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:

General subject of the matters to be considered.	Reason for passing this resolution in relation to the matters.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"> • Growth and Transport Integration Programme - Final Application to Auckland Regional Council • Proposed District Plan Changes in Response to the Local Government (Auckland) Amendment Act 2004 • Proposed Changes to Chapters 2 and 4 of the Auckland Regional Policy Statement; • 	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"> • enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). 	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

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 Sections 7(2)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *The reports contain information which if released could affect the Council's negotiations.*



6 WAITAKERE RANGES AND FOOTHILLS PROTECTION PROJECT

PURPOSE OF THE REPORT

The purpose of this report is to:

- Provide feedback to Council on the recent consultation programme on proposed legislation for better long-term protection of the Waitakere Ranges and foothills;
- Update Council on the policy framework and draft legislation;
- Seek direction on the approach proposed.

A separate agenda report has been prepared on the boundary.

BACKGROUND

The Waitakere Ranges and Foothills Protection Project was initiated in early 2003 in response to concerns expressed by local people, local MPs, lobby groups, the Parliamentary Commissioner for the Environment (PCE) and the West Coast Plan, that the Waitakere Ranges and foothills continue to be under pressure and further action is needed to ensure more secure protection for future generations.

The goal of the Waitakere Ranges and Foothills Protection Project as agreed by the partners is:

'Through a partnership of iwi, Waitakere City Council, Auckland Regional Council & local Members of Parliament, and in close consultation with stakeholders, to find and implement ways of achieving better long-term protection for the natural and landscape values of the Waitakere Ranges and West Coast'.

Three phases of community consultation have been implemented:

- Phase One: September - December 2003;
- Phase Two: April - May 2004;
- Phase Three: November 2004 - February 2005.

Phase one

The purpose of this first phase of consultation was to share information and facts gathered about the status of the Ranges and foothills with the community, discuss issues including gaps and weaknesses in current management. There was also limited discussion around possible ways to respond to the issues.

This stage comprised presentations to a number of organisations and groups, a series of 15 community workshop meetings, a telephone survey of 400 Auckland region residents, community board displays, and an invitation to send in written responses (102 received). The results showed that most people who participated believed the Ranges and foothills were not protected enough now and for the future and that 'something extra' was needed.

Subsequent policy work

Following this phase, policy work was undertaken to identify or further develop already identified ways to provide that 'something extra'. These were researched and analysed. Those considered most suitable as methods or responses to fill the gaps and eliminate or diminish the weaknesses in the current management system were identified in a 'proposed package' in Phase Two.

Phase two

Phase Two focused the visions and values for the eastern foothills and gained feedback on the proposed package, particularly the legislation component. The package was made up of both regulatory and non-regulatory/voluntary mechanisms.

Regulatory

- Introduce new legislation to apply a more protective management regime over the area to provide long-term certainty that the values and landscapes of the area will not be incrementally compromised or diminished;
- Amend the Auckland Regional Policy Statement and the Waitakere City District Plan as required;
- Amend the Regional Growth Strategy as required.

Non-Regulatory

- Establish a community trust or forum (as a means of accessing additional funds and achieving voluntary protection);
- Investigate World Biosphere status;
- Prioritise projects through the Councils' Long Term Council Community Plans;
- Establish core staff teams within the Councils;
- Develop an implementation plan.

The second programme of consultation included two detailed workshop meetings to which all those who had expressed interest in the project were invited; distribution of a package of information on the individual components, with written feedback invited; and six randomly-selected focus groups.

The final report on the Phase Two consultation was presented at the Environmental Management Committee's July 2004 meeting. No clear direction emerged from this consultation process on which, if any, set of components should be preferred to give further protection to the Ranges and foothills. This was not surprising as little detail was able to be provided at that stage on the implications of the various measures suggested. There was a split of opinion on whether most of the proposed protection components should be further developed.

However, the majority of participants felt that the Ranges and foothills were important and needed to be protected. From the consultation it was evident there was a desire for more detailed information, specifically around the implications of the various components and particularly about the proposed legislation.

Phase three - focus on legislation

Legislation is seen as a component of an overall package of regulatory and non-regulatory instruments. It would provide the direction for the other regulatory components and is thus the focus of the current work within the programme.

This emphasis on legislation was further enhanced in October 2004 by a formal invitation from the Minister of Local Government the Hon Chris Carter, to the Waitakere City Council and the Auckland Regional Council (ARC), to prepare a local bill within the current parliamentary term.

The third phase of consultation began on November 26 as a result of the following resolutions of the 10 November 2004 meeting of the Council on this issue.

"That the consultation process and timeline as outlined in the agenda report for the Waitakere Ranges and Foothills Protection Project be approved, subject to a review of the consultation process and outcomes to be undertaken by the Council in February 2005."

2050/2004

"That the Waitakere City Council write to all resident and ratepayer groups requesting a meeting between the consultation dates and that Council cover all costs that relate to those meetings."

2051/2004

"That the boundary of the Waitakere Ranges and Foothills Protection Project be as shown on the map attached at A1 to the agenda and to mean high water springs on the coast, and that this be consulted on as part of the consultation process."

2055/2004

"That the Council supports independent market research on the effectiveness of the consultation approach regarding the protection of the Waitakere Ranges and Foothills within the Terms of Reference as outlined in this meeting, to be jointly funded by the Auckland Regional Council and the Waitakere City Council."

2056/2004

"That the policy and content of the draft legislation as outlined in the 10th November Council agenda report - "Waitakere Ranges and Foothills Protection Project" form the basis for preliminary drafting of a local bill."

2057/2004

Timeline

The approved timeline envisaged a clear period for feedback on the appropriateness of proposed legislation, with a view to a prompt decision by the Council whether or not to pursue this.

Council recognised that if, following consultation, it was agreed to pursue legislation, then the timeline would allow for this to be substantially progressed within the current session of central government.

If the Council decides to proceed with a local bill the following processes occur:

- Public advertising of draft bill in libraries and the District Court (legal requirement as part of the process of presenting a local bill to parliament; this includes the promoting local authority calling for submissions/comments);

- Draft bill presented to the House of Representatives for First Reading. Bill sent to Select Committee;
- Submissions to Select Committee on the draft bill;
- Select Committee Hearings on the draft bill;
- Recommendations to the House on changes to the bill as a result of Hearings;
- Passage of the bill through the House into law.

Waitakere Ranges and Foothills Working Party

Mayor Bob Harvey and Councillors Hulse and Clews were appointed as the Council's representatives on the project's Working Party (previously called the Political Liaison Group). Councillor Lawley was appointed as an alternate member.

The Working Party also includes elected representatives from Auckland Regional Council and Rodney District Council (RDC), iwi and local Members of Parliament the Hon David Cunliffe and Lynne Pillay. The Hon Chris Carter has recently joined the Working Party, but has not yet attended a meeting.

The purpose of this working party is to provide political oversight and information sharing through the consultation phase and then to take a significant role over the next three years in providing an overview of the implementation of the Waitakere Ranges and foothills project.

The Auckland Regional Council supports pursuing legislation as part of a package of options for achieving long term protection for the Ranges area. The Rodney District Council is currently consulting with its community about the protection of areas within its boundary.

Central government consultation

Regular discussion on drafting legislation processes and/or content are being held with appropriate government ministries and agencies, including the Ministry for the Environment, Department of Conservation, Department of Internal Affairs, Department of Prime Minister and Cabinet, Parliamentary Counsel, Ministry of Economic Development, Treasury and the Office of the Clerk of the House of Parliament. Discussions have also been held with Watercare Services Ltd and tangata whenua.

STRATEGIC CONTEXT

The Waitakere Ranges have long been recognised as a key strategic asset to Waitakere City and the region, with a rich and unique ecology and high biodiversity and landscape values. They are recognised as being nationally, regionally and locally important - both for their intrinsic values, and because of their proximity to the Auckland metropolitan area.

The Waitakere Ranges and Foothills Protection Project is a key project within the Green Network platform of the Long Term Council Community Plan. The 'Green Network' strategic platform contains a vision that would see streams and forests full of life, the Waitakere Ranges permanently protected and a Green Network in place linking the Ranges to the sea, as well as connecting the everyday lives of the people of Waitakere with the natural world.

The Council has indicated a strong commitment to working on the protection of the Ranges, whilst recognising that there are many different values relating to the Ranges, and that much is already being done to achieve protection. As the many tools for protection are varied and community views diverse, a robust process and inclusive process to establish any new measures is important.

ISSUES

Consultation programme

Throughout the time in which the Council has been working on the Waitakere Ranges and Foothills Protection Project, the proposal discussed most has been a local bill to put in place measures which address the issues of permanence and certainty around the management of the project area.

This most recent round of consultation focused on a proposal to introduce local government legislation. In addition the consultation process sought to determine views on the proposed boundary of the project, in particular as it related to the proposed legislation. A detailed report on the consultation process and outcomes is being prepared and a draft will be available at the Council meeting.

In summary, the following communications and consultation programme was undertaken:

- November 17: Council approved consultation programme
- From November 17: Communications: media releases, radio advertising, posters, personal correspondence and contact (telephone, email, in person)
- From November 26: Distribution of special joint Waitakere City Council and Auckland Regional Council newsletter/publication
- From December 6: Community-organised meetings
- From December 6: Area-specific pamphlets on implications
- From December 7: Letter from Mayor and Deputy Mayor
- January - February 4: Market research and telephone polls undertaken
- February 4: Deadline for comments and questionnaires
- February 11: Council workshop

The consultation process had three main components:

- A questionnaire;
- Other feedback (via letters, email, fax, feedback at meetings);
- Market research and telephone poll.

Information provided

Consultation began with the production of a special publication including a questionnaire. It was distributed city-wide and placed on the Waitakere City Council website with links from the Auckland Regional Council site. The newsletter asked specific questions on whether people supported the boundary and whether they supported legislation as a key method for achieving further protection of the ranges and foothills. Space was provided for comments, and people were encouraged to provide their comments in any other format they were comfortable with.

The questionnaire was not designed as a scientific piece of market research, but as an easily accessible and optional framework for the public to offer feedback to the Council to support its decision making processes.

The publication provided specific information about why further protection was required, what the benefits of legislation would be, and a general outline of what the legislation might contain. The questionnaire sought feedback on a proposed boundary.

A letter was sent from the Mayor and Deputy Mayor to all ratepayers within the current and previous project areas. About 10,000 letters were sent.

Detailed maps of boundary areas were posted on the Waitakere City website, along with information sheets about the implications the legislation would have on specific locations within the project area. A draft outline of the possible content of legislation was also placed on the Waitakere City Council website. This information was also available through the call centre and at community meetings. (Available through call centre, website, personal contact, community meetings).

The information on the Waitakere City Council website was available through a link on the Auckland Regional Council website, which included some information on the project.

The communications channels were designed to enable those requiring more detailed information to drill down to it either on the website, or through the opportunity to discuss details with elected members or Council staff in person, on the telephone or through letters or emails.

Officers and elected members responded to a large number of phone calls throughout the consultation time period, and to a smaller number of requests for individual or small meetings. Some of these meetings were organised in advance or by people calling into the Council reception to discuss the project.

Community meetings

Council invited all resident and ratepayer associations in the city hold a special meeting to discuss the project and details of legislation. Other groups were also able to organise meetings for council representatives to meet with interested parties to discuss the project with and to hear their views.

These meetings were at the request of, and facilitated by the various groups. Invitations were developed and distributed by the individual groups.

Representatives of the Working Party and officers have attended the following meetings. These meetings were at the request of, and facilitated by, the various groups.

- Swanson Residents and Ratepayers 06 Dec 2004
- Taupaki Hall, Rodney 06 Dec 2004
- Huia Residents and Ratepayers 05 Jan 2005
- Muriwai, Rodney 19 Jan 2005
- Structure Plan Advocates Network 20 Jan 2005
- Piha Residents and Ratepayers 21 Jan 2005
- Landowners Rights for Opanuku 25 Jan 2005
- Titirangi Residents and Ratepayers 26 Jan 2005
- Henderson Valley Residents and Ratepayers 27 Jan 2005
- Bethells Community Beach Day 30 Jan 2005
- Bethells Community 01 Feb 2005
- Oratia Residents and Ratepayers 02 Feb 2005
- Structure Plan Supporters Network - Swanson 22 Feb 2005
- Structure Plan Supporters Network - Waitakere 02 Feb 2005

As much information as was available at the time, with regard to the content of the draft legislation was given to the public at the above meetings.

The meetings were very well attended and in general, opinions expressed were split. Attendances varied from about 30 to 200, with some people attending more than one meeting. Some meetings such as at Piha and Karekare were very supportive of legislation and others such as the Landowners Rights for Opanuku were very opposed. At other meetings, such as the Henderson Valley and Swanson Resident and Ratepayer groups those in attendance expressed a mix of views, both in support and opposition. Both sides of the debate expressed a strong desire to view an actual draft of the legislation and were concerned that they would not have a chance to do so until after the consultation period closed.

A public meeting to present and discuss the full draft is scheduled to take place at the Auckland Regional Council on Tuesday 14 February 2005. A verbal update with regard to this meeting will be presented to the Council.

Consultation outcomes

More than 3500 questionnaires and comments were received by or soon after 4 February 2005. The deadline for comments and returning the questionnaire was on 4 February 2005.

This summary does not attempt to provide the detail of the responses. Its purpose is to pick up some of the key messages emerging through the comments.

Responses were received in two ways, as comments on their own, or the questionnaire – with or without comments.

Of the 3500 responses a number of questionnaires - 755 - were returned with no additional comments. About 130 provided comments without filling in the questionnaire.

The following table provides a summary overview of the responses received by where their interest originated.

Interest	#
Don't know	1
Land owner	1133
Resident in proposed area	298
Waitakere City resident	1479
Rodney District resident	68
Rodney resident/Waitakere City resident	38
Other (family/whānau/group; interested organisation; individual; visitor)	292
No response	217

Respondents were asked if they supported new legislation to protect the ranges and foothills. About 70 per cent supported legislation, 21 per cent disagreed and 9 per cent either did not know or did not respond. Of those who were land owners in the proposed area about 54 per cent said yes to legislation, about 38 per cent said no, and eight per cent either didn't know or didn't respond.

In answer to the question on whether the boundary of the proposed protected area was in the right place, about 53 per cent of respondents agreed, 30 percent disagreed and 17 per cent either did not know or did not respond. Of those who said yes, about five per cent wanted stated specific areas they wanted to remain included, or to be added and about two per cent suggested excluding areas. Of those who said no to the proposed boundary about 20 per cent wanted the areas excluded from the area and about 15 per cent wanted more areas included.

Boundary details are contained in a separate boundary report.

General themes

Many of the comments sought to show either agreement or disagreement in principle with the proposal to introduce new legislation, and showed agreement or disagreement in principle with the boundary suggested.

While there is a fundamental difference of opinion in the 'blocks' of responses, and this is discussed below, there is also broad agreement that the Waitakere Regional Park and bush clad areas are important, and that some form of protection is required. The trend of differences arises in relation to the treatment of the foothills and/or privately owned land. This was expressed through various trends.

Concept versus detail

When developing Council direction there is always a tension between the Council providing a definite proposal on which comments are sought, or the Council calling for comments on a policy or concept on which the proposal is then based. In this case the Council chose to call for comments on the concept of legislation, for a variety of reasons as outlined in previous Council reports.

This approach attracted a number of comments with some respondents opposing the proposal on the basis they could not comment on details that were not available, while other respondents supported the concept and the introduction of legislation, and some with urgency.

Further consultation

A number of respondents sought further information on the draft legislation, considering this essential because 'the devil is in the detail'. They sought this and the opportunity to make comments on it before the Council made a decision on whether to support introducing legislation or not. Some respondents felt there had been sufficient consultation and discussion over a number of years. Others felt the parliamentary process would provide sufficient opportunities to make comments on the draft legislation.

Local government and central government

There was some discussion on the role of central government and 'Wellington', with a number of respondents urging the Council to retain 'ownership' of the proposal and not allow central government to be involved in the process, fearing a loss of control over the outcomes. In contrast a number of respondents felt that the proposal was of national importance and central government needed to be involved to provide that appropriate recognition or to provide a level of security not available through local government.

Input

Comments were made also about who had the right to influence the decision about whether legislation should be introduced. In this context comments were made about the Council's role and who made decisions over privately-owned land. A number of comments were made that only the landowners had the right to make decisions on about what happened on their land. Others viewed the proposal differently, and felt that what happened on private land affected a wider area, such as neighbours' land on the same road, the wider neighbourhood, catchments and Ranges and foothills in general.

Some extended the discussion to say that the current regulatory regime was too harsh and needed to be relaxed. Others saw a need for stronger restrictions or for the enforcement of the current regulations.

Policy - Why is legislation needed?

Many respondents discussed the policy on which the Council had based the consultation material. This included the understanding that the current layers of regulation (including legislation such as the Resource Management Act (RMA) and the Waitakere City District Plan) did not provide adequate long term protection and certainty for the Ranges and foothills, particularly in managing cumulative effects of subdivision and development. A number of respondents opposed this assumption and preferred other methods rather than new legislation, such as using the district plan and structure plan. There were comments that believed new legislation was necessary because the current regulations were not effective.

There were a number of comments about subdivision and development. There was general disagreement with intensive development in the Ranges or foothills. However there were a variety of comments on what level of development was appropriate – including suggestions the current level was too restrictive, and others felt it was too lenient. Related comments included suggestions that large land blocks should be able to be subdivided - at a level either consistent with or in addition to that allowed in the current District Plan.

Other methods

A number of respondents suggested other methods, either in addition to or in place of legislation. These included economic incentives included rates relief and incentives. Some comments suggested management could be improved (pest and weed control, visitor management and service and amenity infrastructure (roads, sewage systems etc). A few comments suggested the Metropolitan Urban Limit be shifted, either now or would need to be shifted in the future when there was a need for more residential land.

Independent research / polls

Waitakere City Council engaged an independent market research company to carry out a telephone survey of 300 residents within the project area to ascertain whether the consultation process was effective and to formally survey their opinions about the proposal to introduce legislation. The results of this survey will be presented to the Council meeting.

Auckland Regional Council undertook a telephone opinion poll of 500 residents throughout the Auckland region to gauge public opinion surrounding the proposal for legislation. The preliminary results of this poll will be available at the Council meeting.

Effectiveness of consultation

As with all consultation exercises there is interest in the effectiveness of the consultation programme. Over all, this phase of consultation has been effective with a comparatively significant level of response.

This level of returns needs to be evaluated in the context of returns from similar types of mail-outs conducted recently by Council:

1. Waitakere City News 3-Waters Water Cycle Consultation (May 2004).

This yielded 130 responses from about 60,000 consultation documents delivered. These documents were of a similar form to the Ranges mail-out, and delivered through the same channels.

This low level of return may be accounted for by the low level of interest in integrated 3-waters issues (water supply, storm water and waste water). In general, 3-waters issues have attracted very little comment in other surveys of residents over the years (including the "Household Consultation", and the annual Council Services Survey (KPI Survey)). These are not issues the public have concerns about, apart from the direct effects of flooding and the occasional intractability of flooding problems. The public are satisfied with water supply and waste water services.

2. The annual "household consultation" (up until 2001)

This consultation material was also of similar form to the Ranges mail-out, though with no colour pictures. It gave residents an opportunity to comment on any things they thought Council was doing well, and also things Council was perceived to be doing badly. Out of deliveries to all households, returns averaged about 3500 over the years when nothing else extraordinary was happening in the community. This "survey" was focused on Council Services in general and provided an outlet for a range of concerns or suggestions, rather than focusing on a specific issue.

3. The Proposed Waitakere City District Plan, 1995.

The Council received 1372 primary submissions, submitting on about 110 different aspects of the plan. This comparison is relevant to the Ranges process in that the objectives and rules contained in the District Plan would have direct impacts on how natural resources and activities would be managed. This plan was of city-wide relevance. The statutory processes around introducing District Plans also provided people the opportunity to make submissions in support of or opposition to primary submissions. This drew another 3000 odd submissions from an unidentifiable number of people:

- 355 people were primary submitters to the Waitakere Ranges and Bush Living subdivision and mapping provisions
- 101 people made submissions to the subdivision provisions of the foothills, including structure plans.
- 13 people made submissions to the coastal village subdivision provisions.

There was a high level of interest in Ranges and foothills protection issues, with levels of returns much closer to those of the "household consultation" and city-wide district plan consultation on a wide range of issues rather than the 3-Waters Water Cycle Consultation.

Proposed Legislation

A9-A26

The draft legislation 'Proposed Waitakere Ranges National Heritage Area Bill' is attached at pages A9 to A26.

Policy Contexts

1. The first policy context is that legislation to better protect the Waitakere Ranges and foothills is but one element of a comprehensive package of regulatory and non-regulatory proposals. Better legislation can improve the management of the Ranges and provide a better basis for other methods. It can not solve all the problems, but it would speed and assist in their resolution.

Other regulatory methods include strengthening the Regional Policy Statement and District Plan, and specific inclusion of material in the Long Term Council Community Plan and Annual Plan processes. These methods can be undertaken without further legislation, but they can be aided, strengthened and made more effective with some judicious legislative change.

Non-regulatory methods include better staffing resources for implementing Council policies. Again, this approach would be more cost-effective with the more direct empowerment of a new statutory mandate. Suggestions of improved “umbrella” protected status for the area, through a mechanism such as a Biosphere Reserve, could be advanced only if the area were recognised and protected through domestic legislation. In the light of all these matters, specific legislation for the Waitakere Ranges and foothills has merit.

2. The second policy context is the special and unique management circumstances of the Ranges and foothills.

The area is of national significance for its natural and historic heritage. The area is characterised by a relatively fragile environment. At its core is deeply dissected hill country, with steep slopes, shallow soils and high rainfall. Generally these areas are forested or regenerating forest, of importance as natural habitats for wildlife, as Regional Park, and as water supply areas for urban Auckland. The foothills to the east and north are essentially rural in character, with a history of farming and orcharding, but with a strong presence of regenerating forest on higher slopes. In Titirangi-Laingholm extensive residential development, now within the metropolitan urban edge, has occurred in a manner that has created a unique “bush living” environment where the built environment is subservient to the natural character of the rapidly regenerating forest. Along the Manukau Harbour and the Tasman coast are distinctive small settlements, each with its own identity.

These are some of the cardinal local qualities that combine to make the Waitakere Ranges and foothills the antithesis of a metropolis, but at the same time, the essence of the Auckland metropolitan quality of life. “The Waitakeres” prominent on the western skyline, are an immediate and different experience for urban dwellers - of rurality, tranquillity, wildness, bush and beach that contribute to making the Region a good place to live and work, attracting and holding people of skill and talent: a foundation of Auckland’s international competitiveness.

But metropolitan urban intensification threatens all those qualities. The area abuts the western metropolitan urban limits for much of its length. Resisting metropolitan pressures in the Ranges and foothills area is a key part of the Region’s Growth Strategy, and of the City’s Growth Strategy. In the high Ranges this objective aligns easily with the protection of intrinsic ecosystem values, natural landscapes and vistas, historic sites and recreational opportunities, and with the protection of water supply catchments and related infrastructure. In the foothills, and to an extent on the coast, however, the objective meets a more mixed set of aspirations among landowners. There are those who have sought and value most highly the distinctive rural and natural character of the area and seek to avoid “metropolitisation”. For others the protection objective directly confronts aspirations for subdivision and more intensive development of their land. For them the reality is often that adjacent urban development has “blighted” their ability to carry on their traditional activities, and for a myriad of other reasons the area appears to be no longer suited to relatively small scale orchard, vineyard, horticultural or pastoral farming. Increasing land values, a product of urban proximity, leads abandonment of traditional activities, and increasing discord with regulatory policies that seek to retain rural qualities and activities. In the match between RMA land use and development regulation and the near metropolitan land market, the RMA proves to be a blunt, uncertain, and ineffective tool.

Government has intervened through the Local Government (Auckland) Amendment Act 2004 to give clear direction to the Region to contain urban growth, and to achieve a “compact, sustainable urban form”. On the western boundary, that means not only resisting urban leakage into (or invasion of) the foothills and Ranges by more intensive urbanisation, but perhaps for the first time in New Zealand, the aggressively active protection of farmland and rural character, using a high level of regulatory and incentive mechanisms. Central to the achievement of these objectives are:

- Improving long term certainty (10 years or more) about the regulatory regime of the District Plans and Regional Policy Statement and their policy intent;
- Dealing more certainly with issues of amenity (scale, pleasantness, coherence, harmony) of settlements and residential developments, and establishing some certainty about the long term rural/natural, low density, individual, “non-metropolitan” character of all of the places that make up this area;
- Addressing more effectively the manner in which the effects of individual subdivision/urban/residential activities aggregate to cumulatively erode the valued natural and rural character and defeat the achievement of stated long term goals for the character of the area;
- Better managing landscapes, in a manner that accommodates changes in rural land uses, but retains or enhances a rural and natural character;
- Retaining the low density lived-in worked-in character of the privately owned areas;
- Better integrating the management of the area, and the public and private land, and the ability to integrate management across statutes;
- Elevating the heritage status of the area, to recognise the national significance of its natural cultural and historic features, in order to underpin their management in a way that ensures their survival for the enjoyment of future generations;
- Achieving the protection of ecosystems and natural areas, while providing for the continued operation and development of the essential infrastructure of the water supply system in the Area;
- Achieving more openness and consistency in decision-making at all levels by making explicit unstated or implicit matters to be taken into account in achieving the long term sustainable development and sustainable management of the area.

The Council has approached these matters as best it can within current jurisdictions, but nonetheless in a piecemeal way. For example, through the district plan process, subdivision below agreed standards is now a prohibited activity in many parts of the area, controls on vegetation clearance are effective. A more coherent and integrated approach is needed to match the integrated growth strategy proposed to be put in place for urban parts of Waitakere City. Just as the urban strategy is underpinned by new goal-driven legislation in the Local Government (Auckland) Amendment Act 2004, the existing mechanisms in the RMA are insufficiently precise or informed to guide goal-driven decision-making in the Ranges and foothills. The high vulnerability of the nationally significant heritage features of the area, coupled with the growing intensity of the metropolitan development pressures on the area set the management issues of this area apart from those in other places in New Zealand, and warrant particular legislative attention.

The proposed Draft Waitakere Ranges National Heritage Area Bill

Following the resolution of the Council on 16 November 2004 (2057/2004) on the policy basis for the drafting of a local bill, Waitakere City Council and the Auckland Regional Council issued detailed instructions to Simpson Grierson, who have prepared the draft bill attached to this report. Officers from the two Councils and the members of the Project Working Party have been closely involved in the drafting.

Tangata whenua, Watercare Services Limited, government departments and parliamentary officials have been consulted. The drafting process has also been informed by issues raised in submissions and at public meetings.

The bill establishes the Waitakere Ranges National Heritage Area within which the legislation will operate. It identifies the "heritage features" of the area, and high level objectives for the management of the area, and for the protection of the features listed. These objectives and the purpose of the Heritage Area are implemented by specific provisions that work through existing mechanisms in the Resource Management Act 1991, the Local Government Act 1974 and 2002, other legislation and through voluntary agreements. The following paragraphs explain some specific issues:

Explanatory Note

The bill is prefaced by a policy statement and explanatory note that sets out the Councils' policy intent, and how that has been achieved. The note also explains the regulatory impact of the bill, and why this legislative option was chosen. The note is to inform Parliament and the public about the bill, but does not form part of the bill, and is not attached when the bill becomes an Act.

Clause 1: Title

The proposed title "Waitakere City Council and Auckland Regional Council [*and Rodney District Council*] (Waitakere Ranges National Heritage Area) Act 2005 follows the convention for naming local bills, but is yet to be agreed to by the Clerk of the House. It is unusual for a local bill to be promoted by three authorities, but that may be acceptable in this case because of the integrity and coherence of the "local area" affected. Rodney District is yet to decide if any part of that district is to be included, and whether or not it would wish to be a promoting Council.

Defining the "Heritage Area"

The bill has to be accompanied by a certified plan of the boundary of the area. A plan has been prepared which defines the previously approved boundary, following property boundaries. The plan will need to be modified to incorporate any changes agreed to by the Councils, including properties in Rodney District should the District Council so decide. In the future, substantive additions to the area can be made after consultation, through an Order in Council process, but properties can be removed only through Act of Parliament.

The "purpose", values and objectives of the Area

New provisions have been incorporated that explain the purpose of the "Area". These are to be read with the following 2 clauses which define the heritage features of the Area, and objectives for management. Together these three clauses work iteratively to guide decision-makers about what it is that is to be protected from urban processes such as subdivision. The "heritage features" include a comprehensive list of valued attributes that has been drawn from previous work, and informed by public submissions and comments.

The relationship with the RMA 1991

The key vehicle for implementation is the RMA and District and Regional RMA documents. Every endeavour has been made to align the bill with the RMA regime, so as not to have the effect of amending that statute. The intention is to inform the RMA and its processes, not to amend them. However by aligning the objectives of the bill with the matters in Part 2 of the RMA, they are given higher standing than policies in a national policy statement, and in particular become matters that the consideration of applications under section 104 of the RMA are 'subject to', rather than merely required to 'have regard to'. This elevation overcomes the comparatively ineffective formulation in the Hauraki Gulf Marine Park Act 2000.

Local management plans

Provisions have been incorporated that allow the inclusion in the District Plan of what might be seen as long term 'vision statements' for individual localities, so that the distinctive local identity outcomes for places like Piha or Opanuku can be enunciated and used as a guide to appropriate development and assist in avoiding inappropriate development.

Rates

The bill seeks to integrate many statutory processes in the Area, including the consideration of the effect of rating systems on the achievement of the purposes of the bill.

The Waitakere Regional Park

The Park is the essential means of protecting and managing the area, constituting more than 17200 ha of land. Since the 2002 repeal of parkland provisions in the Local Government Act 1974, and the repeal of the Auckland Centennial Memorial Park Act there has been some uncertainty about the statutory arrangements for the Park. The draft bill does not affect the ownership or inalienability of the Park. At the request of the Auckland Regional Council Regional Parks officials, it establishes a high level management purpose for the park, and the implementation of the purpose through a management plan process.

Watercare Services Ltd, and the water supply system

Watercare operate the essential water supply infrastructure in the Ranges under provisions in the Local Government Act 1974, the Auckland Metropolitan Drainage Act and a lease with the Auckland Regional Council. They also control and manage many of the aquatic ecosystems in the area. In consultation with Watercare Services Ltd, provisions have been incorporated that align the two purposes, so as to not undermine the operability of the supply system.

Recognition of tangata whenua relationship with specific places

The Heritage Area covers the core district (rohe) of Kawerau a Maki. Other Iwi also have ancestral associations with the Area. Kawerau a Maki sought the inclusion of the deed of recognition provisions that are in the Hauraki Gulf Marine Park Act. They provide a simple mechanism for acknowledging historical and ancestral relationships of tangata whenua who are now essentially landless in the Area. They do not relate to private land. They can be entered into by the Crown or a local authority in relation to land they own.

The current status of the bill

The draft bill will require some additional work to incorporate any policy changes agreed to by Councils, or to clarify and make more effective the present drafting. In particular Parliamentary Counsel will audit the draft for consistency with conventions relating to local bills, and examine the way in which it interacts with other legislation.

Process from Here

The three Councils on the working party are considering the results of the consultation and the acceptability of the draft legislation at their respective Committee/Council meetings on the following dates:

- Auckland Regional Council Tuesday 15 February 2005;
- Waitakere City Council Wednesday 16 February 2005;
- Rodney District Council Thursday 24 February 2005.

If the Councils jointly decide to proceed with the draft bill, the bill will be made available for public inspection for 15 working days (statutory requirement) at the District Court and in libraries. For this period the promoting local government organisation must call for comments.

Following this period, the bill will be sent to Parliament. Parliament will then refer the bill to a Select Committee for consideration and hearings; this generally takes up to six months. The Select Committee will then report back to Parliament with their recommendation, which may include amendments in light of public submissions. Parliament then either dismisses the bill or it is enacted.

At the time of writing it was undecided as to the extent (if any) of the Rodney District to be included within the legislation boundary. This will be determined at their meeting on 24 February.

It is intended to report as soon as practical on the resolutions of the respective Councils and any further actions that may be desirable.

Public Input into the Parliamentary Process

The Select Committee considering the bill will call for public submissions through newspaper advertisements and by contacting organisations and individuals with the known interest in the legislation. People then have the opportunity to make oral presentations at Select Committee hearings, which are likely to be held locally.

In addition, prior to the draft legislation being introduced to the House of Parliament, the promoting local government organisation is required to lodge the draft bill in the local district court for three weeks, and to call for submissions. These would need to be analysed, and appropriate responses would be incorporated through the promoters' own submission to the Select Committee.

RESOURCES

The Waitakere Ranges and Foothills Protection Project is seen as a key priority in the current financial year and has had a budget of \$110,000 allocated to the project in the 2004/2005 financial year.

Policy, Project Management, Communications and support staff are allocated to work on the project. Auckland Regional Council, Rodney District Council and Department of Conservation staff support has been received.

In addition, Auckland Regional Council has shared costs for printing and distributing consultation and communications material and legal fees.

CONCLUSION

The final consultation process for the Waitakere Ranges and Foothills Protection Project began in mid November, with a view to the Council making a decision on whether or not to pursue legislation, subject to a review of the consultation process and outcomes, at the end of February.

The call for comments resulted in considerable feedback. More than 3500 comments were received. Both the quantity and quality of comments were consistent with past consultation processes undertaken by this council.

The results of the consultation process indicate support for introducing legislation and for the proposed boundary. Furthermore, there was a higher level of support for, than against, legislation from those landowners within the area.

Comments were based on two premises:

- Process issues about who has a right to make decisions over the proposed land area;
- Policy issues based around whether legislation is necessary or not.

In summary, as far as possible appropriate comments were incorporated into the drafting of the legislation.

The draft bill will require some additional work to incorporate any policy changes agreed to by the Councils, or to clarify and make more effective the present drafting. In particular, Parliamentary Counsel will audit the draft for consistency with conventions relating to local bills, and examine the way in which it interacts with other legislation.

RECOMMENDATIONS

1. That the Waitakere Ranges And Foothills Protection Project report be received.
2. That the draft Waitakere City Council and Auckland Regional Council [and Rodney District Council] (Waitakere Ranges National Heritage Area) Bill, be received.
3. That Council note that the draft legislation is also being reported to Auckland Regional Council and Rodney District Council, for their consideration and adoption.
4. That the Council approve the policy content of the draft bill, subject to any amendment or clarification sought.
5. That subject to further drafting to improve its effectiveness, Council adopt this draft as legislation that it wishes to promote as a local bill.
6. That the Chief Executive be authorised to approve any final drafting changes, and to certify the Council's adoption of the bill and its determination to promote the legislation in Parliament.

7. That in consultation with the Clerk of the House, and joint promoters (potentially Auckland Regional Council and Rodney District Council), an appropriate local MP be invited to take charge of the bill in Parliament.

Report prepared by: Graeme Campbell, Group Manager: Partnerships and Advocacy; Jenny Fuller, Policy Analyst: District Plan and Yvonne Rooney, Communicator.



7 REPORT ON FEEDBACK ON PROPOSED BOUNDARY FOR WAITAKERE RANGES AND FOOTHILLS PROTECTION AREA

PURPOSE OF THE REPORT

This report advises the Council on the feedback on the proposed boundary for the Waitakere Ranges and Foothills Protection Project area received via the questionnaire included in the last round of consultation (Phase III). The bulk of the results of the consultation, i.e. broader than those submissions dealing with the boundary, are contained in separate agenda items and reports.

BACKGROUND

The purpose of the Waitakere Ranges and Foothills Protection Project is to develop a package of measures that will help ensure the long term protection of this area, with the current focus being on the possibility of introducing legislation to promote the long term protection of the area. It is necessary to establish a boundary around the area, to focus the proposed measures in the appropriate area, and to give a clear indication to landowners and others as to the area that will be affected by any measures adopted. This is especially important in relation to measures that have a regulatory component, such as any legislation enacted for the area, and any provisions developed in statutory plans such as the Waitakere District Plan. The legislation would include a legal description of the area, and it is envisaged that it will be difficult for places to be removed from the area covered by the legislation, should it be enacted. Accordingly, it is important that the area delineated is correct.

To date, three draft boundaries have been developed, for each of the three phases of consultation that have been carried out over the last 18 months or so.

The first of these was very inclusive, and included all land identified in the Waitakere District Plan as either Waitakere Ranges, Bush Living, Coastal Villages and Foothills Human Environment, and areas of Open Space Environment (parkland) surrounded by or adjacent to this area.

The second draft boundary, used for the second phase of consultation, included a less extensive area, and differed from the first draft boundary principally in that it excluded most of the area north of Swanson Road. This area was excluded after subsequent analysis confirmed that the area north of Swanson Road was quite distinct, from a topographical, landscape, visual and landscape perspective.

This second draft boundary was derived using a set of criteria which can be summarised as:

1. The boundary must, as far as possible encompass the concentrations of natural,
2. landscape and cultural heritage resources in the Waitakere Ranges.

3. The area is to be contiguous.
4. A 'buffer' area will be applied as appropriate.
5. The boundary should follow property lines and other boundaries well-recognised by the community.
6. The boundary should cross Territorial Boundaries where the value of the resources dictates.
7. Known Planning Context - in other words, the boundary cannot be proposed in isolation from other strategic initiatives and priorities.

For the third phase of consultation, under discussion here, these criteria were reapplied with the result that the second draft boundary was amended slightly to reduce the area excluded around the Swanson rail station (discussed below). Otherwise, the Phase II and Phase III boundaries were the same.

RESULTS OF CONSULTATION ON BOUNDARY

The consultation drew responses from submitters on the boundary issue that are both quantitative and qualitative. Respondents were asked to indicate whether or not they supported the current position of the proposed boundary, and were also given the opportunity to provide more detail in comments. The bulk of the information presented here has been derived from an analysis of these comments.

At the time of preparing this report, not all the quantifiable results had been tallied, so figures given are presented as approximates and percentages. A report will be made available which will give final figures for the various questions.

Briefly the quantifiable results around the question of the boundary are:

- Approximately 55% of all respondents indicated support for the current position of the proposed boundary;
- Approximately 30% of all respondents indicated opposition to the current position of the proposed boundary.

Of the landowner respondents (i.e. those people who indicate they own land within the proposed area):

- Approximately 60% indicate support for the current position of the proposed boundary;
- Approximately 13% indicated the boundary was in the wrong place.

Of those who support legislation:

- Approximately 70% indicated support for the current position of the proposed boundary;
- Approximately 16% indicated opposition to the current position of the proposed boundary.

Of those who oppose legislation:

- Approximately 30% indicated that the boundary was in the right place;
- Approximately 55% indicated the boundary was in the wrong place.

In short, there was higher support for the currently proposed position of the boundary from those people who support the idea of legislation than from those who opposed legislation. This in itself could be expected, although the number of people in opposition to the legislation who nevertheless considered that the boundary was correctly positioned is perhaps surprising.

The analysis also indicates that there is a higher level of support for the current position of the boundary from people who own land within the area, than there is when all of the submitters are considered.

Proposed amendments to or comments on the boundary from the consultation can be grouped into several categories, including submissions that:

1. Both opposed and supported the inclusion of the foothills.
2. Both opposed and supported inclusion of the Penihana land.
3. Both opposed and supported inclusion of each of the Oratia, Opanuku, Swanson and Anzac Rd foothill catchments.
4. Both opposed and supported the inclusion of the Titirangi-Laingholm area.
5. Both opposed and supported the inclusion of Piha.
6. Proposed inclusion of areas currently excluded north of Swanson Road.
7. Proposed inclusion of areas outside the Metropolitan Urban Limits with conventional urban zonings.

These comments are discussed by geographic area below.

The Entire Foothills

As might have been expected, the inclusion or otherwise of the foothills generated a significant amount of discussion.

- Approximately 200 people submitted that the foothills should not be included, including approximately 15 people who indicated that they would otherwise support the legislation.
- Approximately 20 people indicated an opposition to the inclusion of private land, generally.

People gave as reasons for excluding the foothills; that the foothills are different from the rest of the Ranges, including because they are already degraded and built up and have little bush, and that structure planning is the appropriate way to manage this area.

- Approximately 200 people who submitted in support of the legislation indicated in their comments that they specifically supported the inclusion of the foothills. It is also probably reasonable to assume that the majority of those people who have indicated support for the legislation and the boundary also support inclusion of the foothills.

Comments about specific parts of the foothills are discussed below.

The Penihana block in Swanson.

This is an area of land directly adjacent to the Swanson Rail Station, (known as the 'Penihana' block after former owners of the largest block). The proposed boundary excludes approximately half of the Penihana block, with the boundary roughly following the Blewitt Stream. (The boundary of the Penihana block is shown as a solid line, the proposed boundary as a dashed line).



Land adjacent to the Swanson Rail Station has been proposed by various parties for inclusion within the Metropolitan Urban Limits for some time, and there was a District Plan appeal seeking such inclusion. The Regional Growth Strategy also identifies that this area should be considered for inclusion within the Metropolitan Urban Limits, to better support rail transport. During 2002/2003 there was a lengthy mediation process, involving the Waitakere City and Auckland Regional Councils, and various other parties to the appeal. While this mediation did not achieve an agreed outcome, it did get to the point where there was agreement without prejudice amongst most parties that the technical studies undertaken as part of the mediation identified that the southern part of the Penihana block was not suitable for any significant intensification, with large lots being appropriate here.

For the purposes of the Phase II consultation, all areas within 500m of the Swanson Rail Station were excluded, which took out almost the entire block. This was revised for the Phase III consultation, which identified a smaller area for exclusion from the Waitakere Ranges and Foothills Area. While it was considered appropriate to exclude the area directly adjacent to the Rail Station, the southern area was considered to be appropriately included within the proposed boundary, as this area is steeper, and more topographically similar to the adjacent foothills area.

The recommendation to exclude the northern part of the Penihana block for the purposes of the Phase III consultation was on the basis that to include this area within the proposed boundary would likely foreclose any future option to extend the Metropolitan Urban Limits here, should that be determined as appropriate in the future.

- Approximately 25 people submitted that all of the Penihana block should be included;
- Approximately 3 people submitted that all of it should be excluded.

All but two of these submitters were identified as being landowners within the proposed area, and are likely Swanson residents. Indeed, one of the submitters wishing the entire Penihana block to be excluded identified themselves as owning land there.

Reasons put forward by the submitters for including the whole Penihana block within the area affected by the legislation included that the removal of the northern area (between Phases II and III of the consultation) was done without appropriate consultation, and that subdivision in this area was not supported, including by the majority of Swanson residents

Reasons given to exclude the whole block were that to include the southern area would preclude it from being considered for any intensification, and the area is identified in the Regional Growth Strategy as suitable for intensification

It is considered that the boundary should not be amended to include or exclude any more of the Penihana block. The reasons put forward during development of the Phase III boundary are still valid. The area directly adjacent to the Swanson rail station is, from a technical point of view, appropriate for intensification, and such intensification around rail stations is a critical component of the Regional Growth Strategy, and has been a major component of the Waitakere City Council's land use management strategy since the District Plan was first proposed in 1995. To include all of the Penihana block within the proposed boundary would make any consideration of a potential future urban use of this land extremely difficult, as such changes in land use would be difficult to reconcile with legislation intended to protect (amongst other things) the rural character of the areas within the boundary. However, to exclude the land directly adjacent to the Swanson rail station (as is proposed) does not necessarily imply that a decision to intensify has been made. Any decision to include this area within the Metropolitan Urban Limits will need to proceed through the usual statutory process.

Swanson

- Approximately 15 people submitted that the Swanson valley should be excluded, primarily on the basis that the Swanson Structure Plan covers the area and hence provides adequate protection.
- Approximately 15 people in support of the legislation also indicated support for inclusion of Swanson within the proposed boundary, principally because they were not confident that the Swanson Structure Plan would give adequate protection.

The Swanson Structure Plan is currently before the courts, and hence is still under development. The Waitakere City Council's position in relation to these proceedings has been heavily influenced by the research and findings of the Waitakere Ranges and Foothills Protection Project, and hence the final structure plan (should it become operative) is expected to be consistent with the provisions of the proposed legislation, and should not require any amendment to bring it in line with the legislation. The Swanson catchment is undoubtedly part of the foothills of the Waitakere Ranges, and any adverse effects in this area can contribute cumulatively to the decline in values of the area overall. The Swanson Structure Plan is only part of the range of measures that will direct how this area develops in the future. Accordingly, it is considered appropriate that this area remain within the proposed boundary.

- One person submitted that their land in the Paremuka catchment should be excluded.

This submission relates to a parcel of land adjacent to the proposed Babich Concept Plan, where currently the Waitakere City Council is seeking a change to the Metropolitan Urban Limits. The technical studies undertaken as part of the development of the Babich Concept Plan indicate that the area in which this submitters land lies is not suitable for intensification. Although within a catchment that is urbanised or in the process of becoming so, the area has a characteristic foothills feel. Accordingly, it is appropriate that this area remain in the Foothills Environment, and within the proposed boundary.

Oratia

- Approximately 30 people submitted that the Oratia Valley should not be included, with some specifying that the boundary should lie further up the Valley. Most of these people indicated that they considered the Oratia Structure Plan imposed an appropriate land use management regime that should not be undone;
- Approximately 20 people in support of the legislation specifically identified the inclusion of Oratia Valley as appropriate.

As with the other foothills catchments, Oratia has a character of its own. It has a somewhat more intensive pattern of development than other parts of the foothills, in part due to development in line with the Oratia Structure Plan, and there is in addition a degree of existing non-residential development in the lower areas of the valley which is unique in the foothills. Nevertheless, Oratia is undoubtedly part of the foothills, and it is considered that there is no justification for excluding all or part of the Oratia Valley.

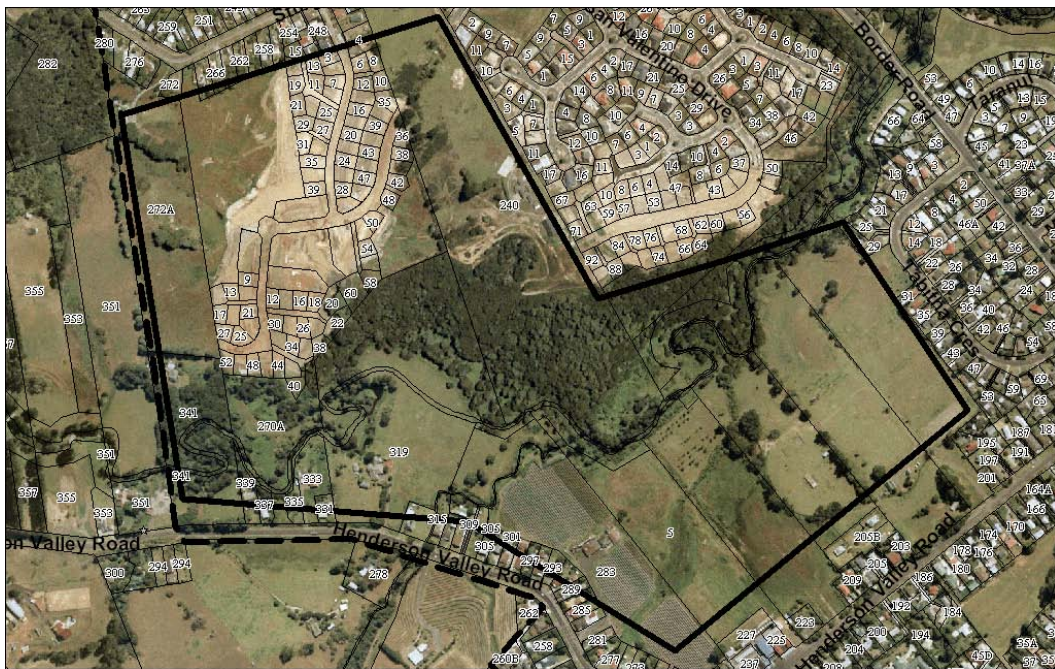
As stated above, much of the opposition to the inclusion of Oratia seems largely driven by concerns that the Oratia Structure Plan will be undone. The legislation is not expected to impose a management regime that is significantly at odds with the Oratia Structure Plan, and accordingly, landowners within the Oratia Structure Plan boundary should not have their development potential significantly affected. The Oratia Structure Plan cannot be amended except through the normal District Plan change processes, which the Council must resolve to undertake. Additionally, there is a clear understanding that a blanket 'one size fits all' approach is not appropriate in the foothills, and it is reasonable to expect that the unique character of Oratia can be protected and enhanced through the provisions of the legislation.

Opanuku/Henderson Valley

- Approximately 10 people submitted that the Opanuku/Henderson Valley should not be included, with the majority indicating that they thought a structure plan should be prepared for this area.
- Approximately 20 people indicated their support for inclusion of the Opanuku/Henderson Valley within the proposed boundary. A further three people submitted that more of this valley - i.e. areas currently within the Metropolitan Urban Limits and outside of the District Plan Foothills Environment – should be included.

Opanuku has perhaps the least developed and most natural feel of all of the foothills catchments, and is the only substantial area of the foothills for which there has not been a structure plan prepared. Hence, the legislation is likely to impact on this foothills catchment more than the others, in that the decision whether or not to prepare a structure plan here, and the nature of any such structure plan, is likely to be directly influenced by the legislation. Nevertheless, the legislation is not expected to preclude the development of a structure plan in this area, but could be expected to have a significant influence on its nature, should one be prepared. As discussed in relation to Oratia, the legislation should provide an overarching framework within which there is flexibility to plan for the future of the Opanuku Valley while protecting and enhancing those features of value.

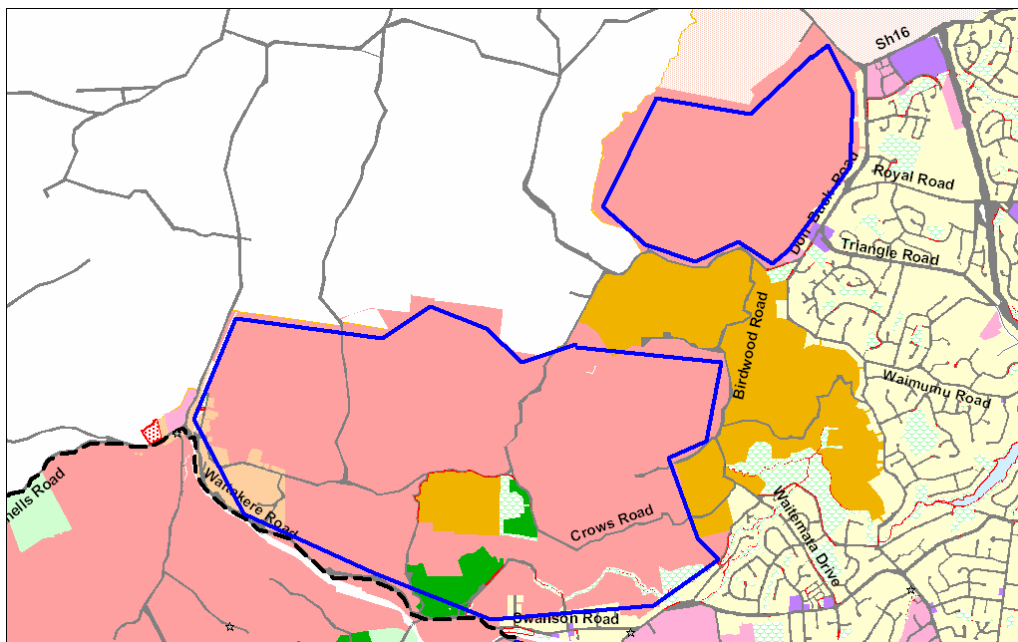
Turning to the submissions to include further parts of the Opanuku Valley – specifically areas that are within the Metropolitan Urban Limits and are 'zoned' for conventional residential development. The submissions were not specific, but the following map indicates the (generally undeveloped) area of the Opanuku Valley that is currently excluded from the proposed boundary. (The proposed boundary is shown as a dashed line, and the general area proposed for inclusion is indicated by a solid line. Note that there has been some further development in this area since this photo was taken in 2000.)



These areas do exhibit many of the same characteristics as the rest of the Opanuku Valley, and in particular are highly flood prone. They could arguably be included, and the likely more stringent planning approach that would be applied here could contribute to the protection of the Ranges as a whole through protection and enhancement of rural character, streams and ecological values. However, the significant restraints imposed by current flooding problems are likely to preclude any but the most limited intensification in the long term. Hence the benefits of including this area probably do not exceed the potential uncertainty to landowners of including the area within the proposed boundary.

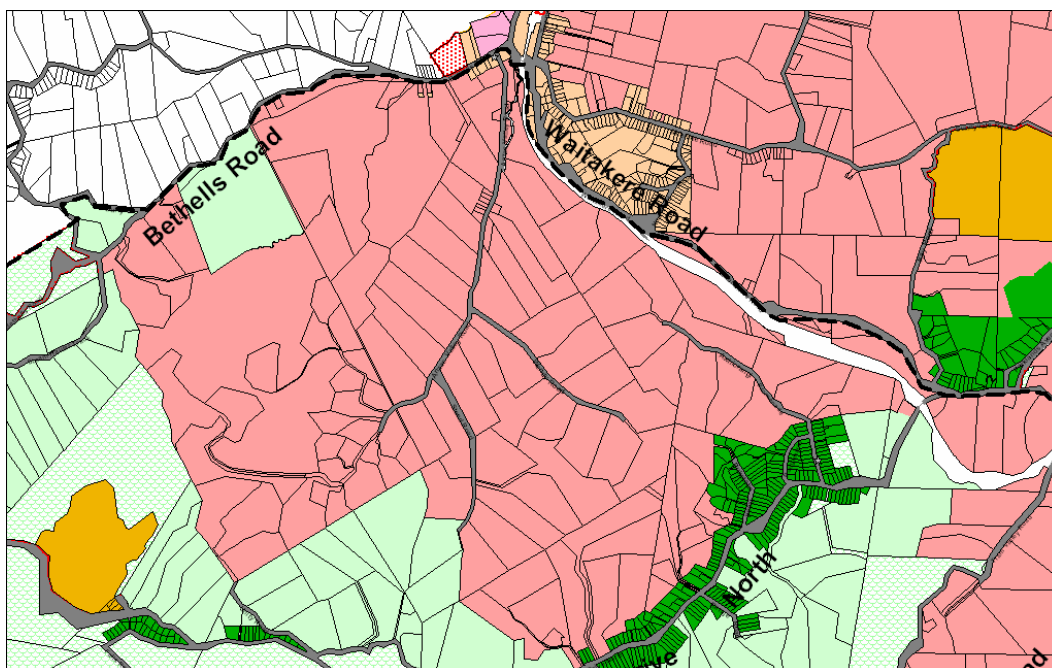
Waitakere Village/Anzac Valley/North of Swanson Road

- Approximately 60 people submitted that the area north of Swanson Road identified as Foothills Environment in the District Plan should also be included. Many of these people also indicated that Waitakere Village should be included.



During the Phase I round of consultations, all the area identified as Foothills Environment in the District Plan was included within the draft boundary. (Areas previously included are indicated above). This was done consciously to minimise the likelihood of having to later consider for inclusion any areas previously excluded. It was expected that the boundary would be moved to exclude some or all of the area north of Swanson Road once more detailed analysis took place. Subsequent analysis indicated that the area north of Swanson Road was quite distinct, from a topographical, landscape, visual and landscape perspective, and the area was not included during either the Phase II or III rounds of consultation. There are, of course, numerous physical connections to the Waitakere Ranges (e.g. streams, native vegetation) and it is important that this area is managed in a way that supports these connections, and the important values, including rural, ecological and hydrological values, must be protected. Exclusion of this area does not indicate, as many of the submitters seem to fear, that the area is now open for intensification. The Foothills Environment District Plan provisions will continue to apply, although any anomalies resulting from having parts of the Foothills Environment within and outside of the proposed boundary will need to be addressed.

- Approximately 5 people indicated that they opposed the inclusion of the Anzac Valley, principally because they were landowners who did not want their development aspirations thwarted, and because they considered that the Anzac Valley is not part of the Waitakere Ranges.



The Anzac Valley Road area was included within the proposed boundary in part on a landscape basis, with the upper reaches of this area in particular having a strong visual connection with the Waitakere Ranges. The lower reaches, down to Bethells Road, have been proposed for inclusion primarily to ensure the integrated management of, in particular the streams in the valley. This area also directly abuts Rodney District, and would likely be contiguous with any parts of Rodney that may become included.

Some submitters have indicated that they consider that Waitakere Village should be included, primarily to protect the rural character of this area and to ensure it is not intensified. As discussed above, this northern area is generally not considered to be part of the Waitakere Ranges and their foothills. Nevertheless, as with the rest of this northern area, there are significant issues in these areas that need to be managed so protect the character and qualities of these areas, and to ensure there are no adverse effects on the adjacent Waitakere Ranges. Waitakere Village is outside the Metropolitan Urban Limits, and currently there is no intention to revisit the alignment of the Metropolitan Urban Limits here, and the current District Plan provisions are not proposed for amendment in the short to medium term.

Titirangi-Laingholm.

- Approximately 20 people submitted that the Titirangi –Laingholm area should be excluded, primarily because the area is within the Metropolitan Urban Limits, the subdivision provisions have only just been finalised, and because submitters felt the character of this area was different from the rest of the Ranges.
- Approximately 30 people in support of the legislation indicated support for the inclusion of the Titirangi-Laingholm area. A further approximately five submitted that areas to the north, currently zoned for conventional residential, should also be included.

The arguments about the relationship of Titirangi-Laingholm to the Waitakere Ranges have been well canvassed over the past 10 years and longer. The area is within the Metropolitan Urban Limits, and hence generally within the area subject to intensification under regional initiatives such as the Regional Policy Statement and the Regional Growth Strategy, particularly as informed by the recently passed Local Government (Auckland) Amendment Act 2004, yet they have extremely high natural, amenity and landscape values, and other environmental constraints that mean any significant intensification is not appropriate. The area is largely covered in native vegetation, identified as significant in terms of section 6(c) of the Resource Management Act 1991. The native vegetation is continuous with the forested area of the 'core' Waitakere Ranges, and includes unique ecological associations, and some important areas of fauna habitat. Additionally, a recent review of the region's outstanding landscapes, intended for inclusion in the Regional Policy Statement, identified much of this area as having outstanding landscape values. For many people entering the Waitakere Ranges from the south, Titirangi Village represents a gateway into the ranges.

As raised by submitters, the District Plan subdivision provisions applying to this area have only just been finalised. These provisions have a strong landscape and ecological protection focus which is entirely consistent with any protection focus the legislation would apply. Accordingly, there is no expectation that a major review of these provisions would be required. Additionally, the location of this area within the Metropolitan Urban Limits ensures that pressures to intensify development will continue, and increase, over the years. The proposed legislation will help ensure that these pressures are responded to in a way that protects and enhances the unique qualities of this area.

Piha

- Approximately 5 people submitted that Piha should be excluded. Some submitters were opposed to the inclusion of any private land, giving Piha as an example. Others felt that the values here were already compromised and didn't warrant protection.
- Approximately 15 people in support of the legislation indicated their support for the inclusion of Piha.

Piha has been subject to some of the most intensive development pressures, with consequent negative impact on values in some instances. Nevertheless, most people would consider them to be an integral part of the Waitakere Ranges, and that the natural, wilderness and recreational qualities found here are quintessentially those of the Waitakere Ranges. For many people, a trip to Piha would be their major interaction with the Waitakere Ranges.

CONCLUSION

These results suggest that there is a strong level of support for the current position of the proposed boundary generally, including from landowners within the area.

While objections to the inclusion of particular areas of land within the proposed boundary have been raised by some submitters, in general there is an equal degree of support indicated in the submission for inclusion of these areas. Much of the opposition to the inclusion of areas appears to be founded on a mixture of opposition to the legislation generally and concerns about impacts of the legislation on development potential. While these are valid concerns, in general there has been very little raised in the submissions to suggest that areas that are currently included should not be.

Similarly, proposals to include further areas generally focus on concerns about the implications of leaving areas out, with many submitters indicating that they were concerned that these areas would be subject to increased development pressures. Again, these are valid concerns, and need to be addressed through an appropriate planning framework. Nevertheless, it is considered that no substantive issues have been raised that necessitate the inclusion of additional areas within the proposed boundary.

RECOMMENDATIONS

1. That the Report on Feedback on Proposed Boundary for Waitakere Ranges and Foothills Protection Area report be received.
2. That the boundary used for the Phase III consultation be confirmed as the boundary for the Waitakere Ranges and Foothills Protection area and for the legislation proposed for this area.

Report prepared by: Jenny Fuller, Senior Adviser, District Plan.



8 NEW ZEALAND'S COMMUNITY BOARD CONFERENCE

PURPOSE OF THE REPORT

This report seeks Council support for the attendance of Elected Members at the New Zealand Community Boards' Conference to be held in Dunedin on 3 - 6 March 2005. A formal invitation has been received from the New Zealand Community Boards' Executive Committee for Mayors and Councillors to support the Conference.

BACKGROUND

The New Zealand Community Boards' Executive Committee has now been recognised by Local Government New Zealand as an advisory committee on community board matters.

All local authorities are members of Local Government New Zealand and it is Local Government New Zealand's role to represent the national interests of the sector. Community Boards are an integral part of the sector.

The first Community Boards' Conference was held in Christchurch in March 1997 and has been held every two (2) years since then.

STRATEGIC CONTEXT

Ensuring Elected Members know their role and the parameters in which they can most effectively govern the City, will contribute to all five priorities and the nine platforms that make up the Community Outcomes that contain all the services and activities identified by the Council in its Long Term Council Community Plan. The provision of training, including that available at the Community Boards' conferences, assists that contribution.

ISSUES

The Dunedin Community Boards are hosting this year's conference. There is a balanced programme of workshops and keynote speakers for both new and experienced elected members with a complete social programme. The conference provides the opportunity to network with other elected Members as well as learning from the keynote speakers and work sessions which include workshops on:

- Chairing of Meetings and Code of Conduct;
- Emergency Services working with Community Boards;
- Induction and Role for New Community Board Members;
- Making a Submission to the Local Government Commission;
- Making submissions to the Resource Management Act/Environment Court by boards;
- Training of Members wishing to sit on Resource Consent Panels;
- Consultation and Significant Projects by Community Boards with reference to Best Practice Awards;
- Facilitation and Partnerships for Community Boards with reference to Best Practice Awards.

The keynote speakers on the programme include:

- Basil Morrison (President of Local Government New Zealand), Eugene Bowen (Chief Executive Officer Local Government New Zealand) and Yvonne Palmer (Chairperson Community Boards Executive);
- Presentation by Recipient of Overall Best Practice Award;
- Jim Harland (Chief Executive Dunedin City Council);
- Anne Carter (DIA), Jonathan Salter (Local Government New Zealand Legal Advisor);
- Civil Defence Emergency Management;
- David Benson-Pope (Associate Minister of the Environment);
- Linda Constable (Local Government Commission);
- Irene Scurr (Otago Peninsula Community Board);
- Nick Smith (National's Spokesperson on Local Government);
- Chris Carter (Minister of Local Government).

There will be times allowed for active participation and questions. A dinner will be held on the Monday evening to allow participants further time for networking and sharing experiences.

Provision has been made in the Annual Plan and Budget for all Waitakere Community Boards to be represented by one member. Other members who wish to attend are required to meet their own costs. Each of the Waitakere Community Boards has taken the opportunity afforded by the Council to send one of their members to the Conference and one other Member has requested to attend at her own cost.

This invitation has been extended for the Mayor and Councillors to consider attending. Councillor Peter Chan, who has previously attended the Community Boards' conference in New Plymouth in 2003 at his own cost, has indicated that he would like to attend this conference. Councillor Chan is an appointed member of the Massey Community Board. Councillor Chan has indicated that the workshops on facilitation and partnership will better equip him for assisting with the development of across cultural approach to different ethnic communities. He is also interested in meeting with and discussing local government with Dunedin's Mayor who is third generation New Zealander of Chinese heritage.

RESOURCES

The funding requirement is for airfares, accommodation and the conference fee. These costs can be met from existing budgets.

CONCLUSION

The Council is requested to approve resourcing and attendance of Council Members at this conference.

RECOMMENDATIONS

1. That the New Zealand Community Boards' Conference report be received.
2. That Council approve the attendance and resourcing of a nominated representative from each Community Board to attend the New Zealand Community Boards' conference.
3. That Council nominate a Council representative to attend New Zealand Community Boards' Conference to be held 3 - 6 March 2004 in Dunedin.

Report prepared by: Charlie Inggs, Democracy and Governance Team Manager.



9 JUSTICE AND ELECTORAL SELECT COMMITTEE REVIEW INTO THE 2004 LOCAL AUTHORITY ELECTIONS

PURPOSE OF THE REPORT

The purpose of this report is to enable the Council to make a submission to the Justice and Electoral Select Committee on the inquiry into the 2004 Local Authority Elections.

BACKGROUND

The Justice and Electoral Select Committee has resolved to initiate an inquiry into the 2004 Local Authority Elections with the following terms of reference:

1. **Assessment of the Local Electoral Act 2001 and regulations, including:**
 - Reviewing representation reviews undertaken in 2003/2004;
 - Oversight of local authority and health board elections;
 - Integrity of the postal voting system;
 - Order of candidates on ballot papers;
 - Length of the postal voting period;
 - Limitations on candidacy;
 - Campaign spending limits.

2. **Participation and Elector Turnout:**
 - Implications of election turnout figures and trends;
 - Analysis of turnout and informal votes;
 - Feedback from voters about their participation;
 - Factors that influence turnout;
 - Effectiveness of measures to encourage voter turnout;
 - Accessibility of voting;
 - Effectiveness of STV education programmes;
 - Adequacy of public information;
 - Effectiveness of advertising;
 - Impact of media coverage;
 - Other forms of voting and comparative assessment of merits;
 - Schools civics education programme.

3. **Electoral Systems:**
 - Electoral system reviews;
 - Operation of STV;
 - Responsibilities and accountabilities of Electoral Officers;
 - Management and impact of different electoral systems on same ballot paper;
 - Impact of STV on representation;
 - Impacts of electoral systems on election outcomes.

4. **Election management:**
 - Responsibility for elections and how they were managed;
 - Process of licensing the STV calculator;
 - Scrutiny and trialling of STV prior to election day;
 - Delays in the completion of the election count;
 - Contracting out of vote processing;
 - Quality and accessibility of voting data publicly available after the elections.

The closing date for submissions is 25 February 2005.

STRATEGIC CONTEXT

The conduct of elections is a legislative requirement on the Council and at the heart of the Council's commitment to active democracy and participation by the community in civic life.

ISSUES

A27-A38 Attached at pages A27 to A38 is a draft submission covering those aspects of the Inquiry that the Council may wish to make comment on. The submission follows the Terms of Reference set for the Select Committee. Substantial comments are suggested for the section on "fair representation" seeking a change to the legislation to enable a more flexible approach to the +/- 10% representation requirement. It is also suggested that the Local Government Commission be required to consider the impact of any decision it makes on appeals and objections on representation on voter turnout.

The submission argues that the status quo, insofar as the appointment of a local Electoral Officer by the Council, is preferred for the administration of elections.

The Council has indicated that it would prefer a shorter voting period so the submission reflects that view. The Electoral Officer, in concert with other Electoral Officers around the country, has requested an additional week between the close of nominations and the posting of voting documents. Their view was that the whole period should be extended rather than shortening another aspect of the election. However, if the Council submission remains that a two week rather than a three week period be allowed for voting, then the change could be accommodated inside the present time envelope for the election period.

A39-A59 The draft submission proposal by Local Government New Zealand is attached for reference at pages A39 to A59.

RESOURCES

Resources for the participation in the Select Committee Inquiry, including presentation before the Select Committee if that is considered appropriate by the Council, are provided for in the current Annual Plan.

CONCLUSION

The submission covers all the aspects of the elections that pertain to the Select Committee's terms of reference for the inquiry into the 2004 Local Authority Elections. The Council should approve or amend the submissions and approve the presentation of it to the Select Committee.

RECOMMENDATIONS

1. That the Justice and Electoral Select Committee Review into the 2004 Local Authority Elections report be received.
2. That the Council approve the submission for consideration by the Justice and Electoral Select Committee and approve the attendance before the Select Committee of Councillor Janet Clews to present the submission on behalf of the Council.

Report prepared by: Darryl Griffin, Group Manager: Democracy and Support Services.



10 **ELECTED MEMBERS' REMUNERATION - REMUNERATION AUTHORITY DETERMINATION**

PURPOSE OF THE REPORT

The purpose of this report is to advise the Council of the funding pool available for the remuneration of Waitakere Elected Members released by the Remuneration Authority for the period post 2004 Elections to 30 June 2005.

The next new determination will be made available for the year commencing 1 July 2005.

The Council in a workshop held on 1 February has confirmed the basis for allocating the remuneration and this is required to be confirmed by a formal resolution and submitted to the Remuneration Authority for approval.

Consultation must take place with Community Boards who have the opportunity to advise the Remuneration Authority whether they agree or disagree with the Council's determination. The Community Boards discussed the basis for allocating remuneration for Elected Members at Waitakere City at a workshop on 31 January and generally indicated approval of the proposal. They will formally consider the matter at their March 2005 meetings. The Remuneration Authority will make the final determination.

BACKGROUND

The Remuneration Authority is established and derives its delegations and functions from the Remuneration Authority Act 1977 and makes Determination on local authority remuneration pursuant to clause 6 of Schedule 7 of the Local Government Act 2002.

Until the enactment of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001 (the Act) Elected Members' salaries and meeting allowances were set by a determination of the Minister of Local Government. That determination set maximum salaries and meetings allowances for Local Authority Elected Members. For each determination the remuneration was linked to the population of each Local Authority. Waitakere City's determination fell into the over 150,000 population category. Each incoming Council needed to resolve Elected Members salaries and meeting allowances up to the maximum permitted. Over the course of a triennium the Minister would revise the remuneration and the Council would need to consider the issue in light of any new determination.

The responsibility for setting Elected Members remuneration is now with the Remuneration Authority. The Authority is required to determine remuneration, allowances and expenses payable to all Elected Members, whilst having regard to:

- the need to minimise the potential for remuneration to distort the behaviour of Members;
- the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere;
- the need to be fair to both the person and whose remuneration is being determined and rate payers;
- the need to recruit and retain competent persons.

The Remuneration Authority established remuneration for all Elected Members and all Local Authorities in 2002 following consultation on a discussion paper and the release of the first indicative pool.

The Waitakere City Council established the apportionment of that pool and advised the Remuneration Authority accordingly. The Community Boards also considered the Council's decision and made their representations to the Authority. After due consideration, the Remuneration Authority approved the Council's apportionment of remuneration.

STRATEGIC CONTEXT

The Council is committed to increasing community participation and democratic processes. The way Elected Members are remunerated and the quantum of that remuneration will have considerable bearing on who can and who cannot stand for election. It has long been recognised that the role of an Elected Member can require a substantial investment of time and commitment to the role, and that this commitment can make it difficult to hold down either full or part time employment. The interests of a diverse and young community such as Waitakere are unlikely to be best served should the only candidates putting themselves forward for election be those who have private income available to subsidise the Council duties.

ISSUES

Remuneration Pool and Salaries

A60-A61

Attached at pages A60 to A61 is a spreadsheet of Elected Members Remuneration that has been informally discussed by Members of the Council. It is understood that generally the Council agrees with the apportionment contained in this spreadsheet.

The total remuneration pool is set by the Remuneration Authority and cannot be adjusted. The total remuneration pool established by the Remuneration Authority for this consideration is \$1,026,872.

The Mayor's salary is set by the Remuneration Authority and cannot be adjusted. The Mayor's salary (including the value of any deduction for a motor vehicle) is included in the indicative pool although separately specified. The total salary payable to the Mayor is set at \$126,457, inclusive of a motor vehicle. A deduction of 12% of the cost of the vehicle is made for private use of the vehicle. This deduction is set by the Remuneration Authority.

Half of the total sum payable to Community Board Members is deducted from the total remuneration pool and the other half is paid outside of the pool. The half outside the pool can be thought of as a "top up". Any further adjustment to the Community Board Chairs and Members salaries will necessitate an adjustment to the salaries payable to Councillors other than the Mayor.

Because of the complexities in calculating changes a residual variable has been built into the formula for other Councillors.

The Deputy Mayor and the Chairpersons of Standing Committees are established as a percentage of the Mayor's approved salary. The Chairpersons of Committees are established as a percentage of a Standing Committee Chairperson. The principle that all Community Boards be assessed at the same level is continued.

Payments to appointed Community and Iwi/Maori representatives on Committees are outside the indicative pool. These payments are matters that lie with the Council and are not within the Remuneration Authorities brief. Waitakere City Council has set a salary for the Chairperson of Te Taumata Runanga and meeting fees as appropriate for appointed Members to Te Taumata and any other committee of the Council. Any determination made by the Council on this remuneration will not affect the indicative pool established by the Remuneration Authority for Waitakere City. The percentage movement in the salary for the Chairperson of Te Taumata Runanga is the same as the movement in the salaries for Community Board Members

No changes are proposed to the way in which payments are claimed or made.

Any income for Elected Members from Resource Consent Hearings is outside the pool.

Expenses, including mileage allowances, are outside the pool, although the actual amounts/rates that can be claimed are set by the Remuneration Authority.

This report also recommends amounts/rates for submission to the Remuneration Authority.

Should the Council wish to, it may request the Remuneration Authority to reduce the remuneration pool. This requires a unanimous vote of the Council.

Expenses

The Council should review the expenses currently approved by the Remuneration Authority with a view to recommending any changes. It is suggested that the retention of monthly allowances for Elected Members to cover the cost of technology and communications associated with Council business continue and that Elected Members be required to claim those allowances on their monthly claim forms.

Elected Members may also incur expenses that arise as a direct result of carrying out the role of an elected representative. Some of those expenses not covered by allowances already paid may be claimable as an expense reimbursement through Waitakere City. Other expenses may be claimable in an annual tax return.

Elected Members need to be aware of their responsibility for all taxation issues. Each will need to keep evidence of expenditure incurred for which the appropriately selected reimbursement allowances are claimed in case Inland Revenue seeks justification of the claim.

The Remuneration Authority has jurisdiction to make the determination and has requested representations from the Council. Consequently Elected Members have no pecuniary interests in voting on salaries and personal allowances. Elected Members will be advised when the determination has been made, they will have a choice whether to claim payment of allowances, part claim or not to make any claim at all. With respect to salaries, Elected Members are required to take the amount that is determined by the Remuneration Authority.

Meeting Allowance Rates

No meeting allowance rates will be payable except for appointed members to Council committees and subcommittees.

CONCLUSION

The Remuneration Authority will make the final determination for the Council and it will review proposals put forward by the Council and its Community Boards before making that determination.

RECOMMENDATIONS

1. That the Elected Members' Remuneration - Remuneration Authority Determination report be received.

2. That the Council recommend the following salaries for Elected Members to the Remuneration Authority:
 - Deputy Mayor - 69,551,
 - Chairpersons of Standing Committees (City Development, Planning and Regulatory and Finance and Operational Performance Committee) - 66,390,
 - Committees:
 - Chairperson of Hearings - 56,431;
 - Chairperson of Projects Special - 56,431;
 - Chairperson of Arts Special - 56,431;
 - Chairperson of Emergency Services Committee - 0;
 - Chairperson of Performance Review Committee - 0;
 - Chairperson of Tenders Subcommittee - 0;
 - Chairperson of Long Term Council Community Plan and Annual Plan Special Committee - 0.
 - Other Councillors - 45,689,
 - Community Boards Chairpersons - 21,498,
 - Community Board Members - 11,065.
3. The following reimbursements and expenses be recommended to the Remuneration Authority:
 - That Councillors and Community Board Members receive a monthly allowance to cover reimbursement of the following costs incurred as appropriate;
 - Reimbursement of one domestic line rental and one domestic line maintenance charge related to telephone, fax and email operation and the call minder facility (currently \$45.20).
 - Reimbursement of one cell phone on the basis of the Waitakere City Call Plan including the Call Minder facility (currently \$35) when a cell phone is made available to be used on Council business.
 - Reimbursement of the best flat rate monthly fee available to the Council for Jet Stream 400 or its equivalent (currently \$49) (not currently available to Community Board Members).
4. That Councillors and Community Board Members claim reasonable business related core costs on telephone or cell phone on a monthly basis provided they are supported by presentation of an account detailing to whom the calls have been made.
5. That Councillors be paid a flat monthly fee of \$20 to cover all consumables (not currently available to Community Board Members) for computers including lap tops, printers, facsimiles etc.
6. That Councillors be supplied with either a personal computer at home or a lap top if necessary. Those Councillors that provide their own computer equipment be paid an additional monthly allowance of \$50 (not currently available to Community Board Members).
7. That no other telephones, fax machines or cell phones be provided to Elected Members except that the Mayor be provided with a cell phone and the Council will pay for all expenses except private calls.
8. That when on approved Council business all actual or related expenses be met by the Council.

9. That the rate for reimbursing an Elected Member for travel, using their own motor vehicle on Council business, be as follows:

Km per Year	Up to 1300cc	1300-1600cc	1600-2000cc	Over 2000cc
10,000	54.3 cents	66.9	83.4	103.0
14,000	45.0	54.3	66.6	82.0
40,000	24.0	27.6	33.8	40.9

and that the Council also pay the approved rate to appointed Members any infringement fees e.g. parking and speeding infringements are by law the responsibility of the offender.

10. That the Chairperson of Te Taumata Runanga be paid a salary of \$19,030.
11. That all appointed non-elected Members of Council Committees and Subcommittees except the Hearings Committee be paid a meeting fee of \$195.

Report prepared by: Darryl Griffin. Group Manager: Democracy and Support Services.



11 TRIENNIAL AGREEMENT

PURPOSE OF THE REPORT

The purpose of this report is to inform Council of progress towards completion of the Triennial Agreement for the Auckland region and to seek Council approval for completion and execution of the Agreement.

STRATEGIC CONTEXT

Under Section 15 of the Local Government Act 2002 ("LGA02"), all local authorities within a region must enter into an Agreement containing protocols for communication and co-ordination among them, and for consultation on proposals for new Regional Council activities, for the period up to the next Triennial General Election of members. The Agreement must be executed and signed "no later than 1 March 2005".

DISCUSSION

A62-A65

The first Auckland Regional Triennial Agreement was signed on 19 December 2003 and remains in force until replaced by another agreement. A copy of that agreement is attached at pages A62 to A65.

A new Triennial Agreement has been drafted and circulated amongst the Auckland Councils for approval, following an approval from the Chief Executives Forum. This draft is substantially based on the current 2003 Agreement and continues the principle based approach established in that Agreement and aims to ensure that the agreement is:

- externally focussed;
- builds on current collaboration and coordination within the Auckland region;
- incorporates 'good faith' and transparency.

A66-A71 The draft 2005 Agreement, in the form in which it was approved by the CEOs forum on 4 February, is attached at pages A66 to A71. The changes which have been made are intended to:

- strengthen the link between the Principles section and the body of the agreement;
- build on the importance of collaboration and co-operation among councils in the region;
- update the list of the major existing regional and sub-regional fora;
- emphasise the importance of developing a central-local government relationship framework/matrix as a priority regional issue; and
- better define the process for review of the 2005 Agreement.

RECOMMENDATIONS

1. That the information be received.
- A66-A71 2. That the Triennial Agreement in the form attached at pages A66 to A71 be approved for execution by the Mayor and the Chief Executive on behalf of the Council.
3. That the Chief Executive be authorised to approve minor changes to the draft agreement prior to execution, if such changes are necessary to reach final agreement among all Councils.

Report prepared by: Denis Sheard, Legal Services Manager.



12 WASTE BYLAW DETERMINATION (STAGE TWO) REPORT

PURPOSE OF THE REPORT

The purpose of this report is for the Council:

- to consider and approve the Hill Young Cooper Limited report "*Determination Part Two: Form of Bylaw Waitakere City Council, North Shore City Council and Rodney District Council*". This report, together with the earlier report which Council considered in December 2004, and the draft bylaw itself, will form the statement of proposal for the purposes of any special consultative procedure undertaken in respect of the waste bylaw proposed by those reports;
- to consider and approve the form of the draft Waste Bylaw prepared as a consequence of those reports and the summary of information which will also be required for the special consultative procedure;
- to consider the quantum of the annual licence fee proposed to be charged under the draft bylaw;
- if appropriate, to direct that the special consultative procedure be followed for consultation upon the draft Waste Bylaw and the proposed Licence Fee;
- to provide comment on the licensing system and the waste levy which will be authorised by the bylaw.

BACKGROUND

At its meeting of 7 December 2004, the Planning and Regulatory Committee resolved:

1. *That it be recommended to Council that a Waste Bylaw is the most appropriate mechanism for achieving Council's stated objectives of provision of information, revenue for waste minimisation, and incentives for behavioural change.*
2. *That, subject to Council approval of the mechanism, the draft Waste Bylaw to enable licensing of waste management operators and the implementation of a waste levy system, be prepared for consideration at the February 2005 meeting.*
3. *That the continuing consultation process outlined in this report be continued pending development of the draft Waste Bylaw, in preparation for the special consultative process which will be required to be undertaken if the draft Waste Bylaw is approved."*

2249/2004

At its meeting of Wednesday 15 December 2004 the Council resolved:

"That a Waste Bylaw is the most appropriate mechanism for achieving Council's stated objectives of provision of information, revenue for waste minimisation, and incentives for behavioural change."

2347/2004

Having resolved that a bylaw is the most appropriate mechanism, the Council is now required under Section 155(2) of the Local Government Act 2002 to determine the most appropriate form of bylaw. This also includes addressing whether the proposed bylaw will give rise to any implications under the NZ Bill of Rights Act 1990.

A72-A228

Attached at pages A72 to A228 are "The Determination Report: Appropriateness of Bylaw Mechanism Waitakere City Council, North Shore City Council and Rodney District Council" (at pages A72 to A131) and "The Determination Part Two: Form of Bylaw, Waitakere City Council, North Shore City Council and Rodney District Council" (at pages A132 to A228), which includes the draft Waste Bylaw (Appendix 1 on pages A182 to A220) and summaries of information (Appendix 2 on pages A221 to A228).

STRATEGIC CONTEXT

Zero Waste to landfill by 2020 is one of the Council's nine strategic platforms. The Long Term Council Community Plan 2003 vision for solid waste is that by 2020 Waitakere will be a clean and attractive city that turns all its waste into resources. The City has made good progress on waste minimisation with kerbside recycling, composting of green waste, establishment of a re-use centre, education and cleaner production programmes. However, further initiatives will be required to achieve this goal by 2020.

The draft Waste Bylaw is the mechanism to introduce licensing by which the Council will be able to gather all waste information throughout the City, and to impose a waste levy in order to further fund waste minimisation initiatives and provide an incentive for waste generating behavioural change.

ISSUES

In the December 2004 reports the Council was advised that a further report in February 2005 would contain within it:

- The form of draft Waste Bylaw;
- A statement of proposal and a draft summary of information;
- The outcome of further policy analysis work;
- The confirmed consultation process.

These items are discussed below together with information on the application and setting of a licence fee and its consultation process.

The draft Waste Bylaw contains a provision for the application of a licence fee, but the amount is not set out in the bylaw. The Council is therefore required by Section 150(3)(b) of the Local Government Act 2002 to follow the Special Consultative Procedure when consulting on setting the amount of the proposed licence fee. This will occur simultaneously with public consultation on the draft Waste Bylaw.

1.0 Policy Work

To develop the bylaw the Council must follow the two-step bylaw making process set out in the Local Government Act 2002. This process involves identifying the problem, the outcome sought, and determining that a bylaw is the *most appropriate mechanism* to achieve the outcome sought, including considering the appropriateness of other practicable mechanisms identified by the Council. The second part of this process requires the Council to determine the *most appropriate form* of bylaw under Section 155(2) of the Local Government Act 2002. This also includes addressing whether the proposed bylaw will give rise to any implications under the NZ Bill of Rights Act 1990.

Previous assessment work ("Determination Report: Appropriateness of Bylaw Mechanism - Waitakere City Council, North Shore City Council and Rodney District Council" - completed by Hill Young Cooper Limited and reported to the Council in December 2004) has identified that a bylaw is the most appropriate mechanism to address the following problems:

- limited waste stream information;
- limited waste minimisation funding; and
- the lack of a suitable mechanism for effecting behavioural change.

Further assessment work contained in the report "*Determination Part Two: Form of Bylaw Waitakere City Council, North Shore City Council and Rodney District Council*" by Hill Young Cooper Limited has identified that a bylaw is an appropriate mechanism to address problems relating to:

- waste management for events;
- unsolicited advertising;
- waste management associated with multi-unit developments;
- scavengers;
- public and private litter bins; and
- waste to landfill.

This assessment work has also involved reviewing Council's existing waste bylaw, using the same process, to determine whether it is appropriate to include these existing provisions in the new proposed draft bylaw. This report then outlines Council's considerations in developing the most appropriate form of bylaw and New Zealand Bill of Rights Act 1990.

The report determines that:

1. A bylaw is the most appropriate mechanism to address the problems identified by the Council, and
2. The proposed draft bylaw is the most appropriate form of bylaw, and
3. The proposed draft bylaw does not give rise to any New Zealand Bill of Rights Act issues.

The draft bylaw has been prepared by Kensington Swan and has also been reviewed by the Legal Services Manager.

2.0 Licence Fee

The draft bylaw proposes a licensing system for waste operators. The Council is entitled under Section 150 of the Local Government Act 2002 to charge a fee for the issue of a licence under the bylaw but the amount of the charge must not recover "more than the reasonable costs incurred by the local authority for the matter for which the fee is charged" (Section 150(4)).

The administration cost (staffing, monitoring, data collection etc) likely to be incurred within the three council areas, when spread over a few waste management operators, could become prohibitive for some small scale operators. The licensing system will provide benefits for the Council and the community as a whole, particularly through the provision of information in relation to waste stream volumes. A licence fee of \$300 per annum is proposed for a single licence to operate in all three Council districts (Waitakere City, North Shore City and Rodney District).

This licence fee is comparable to those levied on liquor and food premises and will cover the costs of the initial licence application, or its renewal, and ongoing administration, checks and inspections relating to the licence. The Hill Young Cooper report reviews the Licence Fee (Section 4.2.12) and is the Statement of Proposal as required by the Local Government Act 2002 Section 83.

Public consultation on the proposed licence fee will occur simultaneously with that of the draft Waste Bylaw and the outcome of consultation and final recommendation of the fee to be set will be reported back to Council in June 2005 at the same time as the Waste Bylaw.

3.0 Licensing and Levies

Within the report "*Determination Part Two: Form of Bylaw Waitakere City Council, North Shore City Council and Rodney District Council*" there is discussion of a range of matters considered when drafting the bylaw. The discussion of those matters is contained in paragraph 4.2, commencing at page 38, of the report. The discussion includes issues around the licensing regime and the waste levies which will be authorised by the bylaw.

3.1 Licensing

The Council has identified that the wide range of activities undertaken by commercial operators will not permit a “one size fits all” approach to the form and terms of the licence which will be required. A number of key requirements have been identified in the draft bylaw:

- Payment of a licence fee.
- Compliance with Council requirements and environmental standards.
- Requirement to supply information.
- Payment of a waste levy.
- Provision of a bond.

In addition to these key elements there are matters of procedural and administrative detail which need to be worked through prior to the commencement of the licensing regime. These details include such matters as:

- The marking of licensed vehicles for ease of recognition.
- The form, and availability for inspection, of log books.
- The frequency of, and format for the supply of information, which may vary depending on waste type.
- Authorisation for access to gate records by Council staff.
- The approval of waste collections areas and times for collection.

Terms relating to the removal of rubbish around an approved receptacle at the time of collection and the removal of other spillage by the licensed operator from the operator’s vehicle. Further work on finalising these details has commenced and will be concluded during the public notification period. It is anticipated that submissions received may assist to inform this process. Some further consultation with the industry will also be undertaken.

3.2 Waste Levies

The purposes behind the proposed waste levy are discussed at paragraphs 4.2.4 to 4.2.6 of the report. The primary purpose is for the levy to generate funding for the Council’s waste minimisation activities and to encourage a change in behaviour by creating incentives and disincentives to support such activities. The Council needs better information about the waste streams being generated in the City before it can consider imposing waste levies, and this will be achieved through the licensing system. Once the licensing system is in place then thought can turn to such matters as the form and quantum of levies. This is not likely to occur within six (6) months of the commencement of the bylaw (proposed in the draft bylaw for 1 August 2005).

When determining the appropriate form of the proposed waste levy matters to be considered include the following:

- The rationale and purpose of the levy;
- The basis on which the levy is to be charged, and whether it should differentiate between different forms of waste or waste sectors;

- The size of the levy taking into account the component requirements for administering the licensing regime, generating funds for waste minimisation activities, and providing incentives for waste behaviour change;
- The impact different sized levies might have on people's behaviour;
- The use to which any waste minimisation funds might be put;
- Who would administer the levy and how; and
- What loopholes in the might exist in the proposed regime.

The amount of the levy is therefore a matter for future consideration. It is proposed that the form and quantum of the levy will only be set after consultation following the special consultative procedure.

3.3 Cost to operators and waste generators

The proposed licensing and levy systems will produce additional costs. These costs include the cost of: licence fees, obtaining bonds (if required as a term of the licence), collecting and reporting upon volumes and the levy itself. The report discusses (at paragraph 4.2.6) the options available and concludes that a system under which costs are recovered from licensed operators is likely to produce the most effective and viable regime.

The probability, however, is that waste operators are likely to seek to recover these costs from waste generators i.e. households and businesses. The licensing and levy system has been foreshadowed in the Long Term Council Community Plan but the information previously disclosed is necessarily generic in nature.

There is a need to keep the community informed and involved in the steps being taken and it is recommended that a media plan be drawn up to deal with the release of information in an organised way, not only at the time of consultation in respect of the current proposals, but also as the Council moves towards design and implementation of the levy system.

4.0 Public Consultation Process

4.1 Consultation Plan

The public consultation process will be conducted following the special consultative procedure in accordance with Section 156 and Section 83 of the Local Government Act 2002 and the principles of Council's "*Community Interaction Policy*" and "*Community Interaction Guidelines*" which outline the responsibilities to ensure completion of the consultation to legislative requirements.

The main stages of the Bylaw Development/Consultation Process will be as follows:

PROCESS	DATE OF COMPLETION
Determination Report (Stage 2) to Council	16 February 2005
Public submission period	22 March - 22 April 2005
Public Hearings Planning & Regulatory Committee Decision Report	19 to 24 May 2005
Waste Bylaw and Licence Fee adopted by Council, if appropriate	End June 2005
Printing and distribution of Waste Bylaw, Notification of Licence Fee	July 2005
Implementation of Waste Bylaw and Licence Fee	1 August 2005

4.2 Notification of Statement of Proposal

A221-A228

The publication of the availability of the draft Waste Bylaw and proposed Licence Fee will entail notices in the printed media, with copies of the summaries of information (in Appendix 2 of the Stage 2 report at pages A221 to A228) and the Statement of Proposal attached being mailed to all parties identified as having an interest in the proposal including the Minister of Health and waste management industry collectors and operators.

The Statement of Proposal comprises the two Determination reports; namely, Appropriateness of Bylaw Mechanism and Determination Part Two - Form of Bylaw and their Appendices containing the draft Waste Bylaw and Summaries of Information.

4.3 Consultation Elected Members

Consultation with Elected Members will be through this report and a final report to the Planning and Regulatory Committee and Council. These reports are as follows:

a) Determination Report Stage 2

This report is the subject of today's meeting.

b) Council's Adoption of Waste Bylaw and Licence Fee

At the June 2005 meetings of the Committee and Council a report will detail the outcome of the Public Hearings process and will make recommendations in relation to the Waste Bylaw and the proposed Licence Fee.

4.4 Wider community consultation

Council's Call Centre will be supplied in early March 2005 with some Frequently Asked Questions and Answers in order to respond to public enquiries when the draft Waste Bylaw and Licence Fee are released for public submission.

Consultation with the wider community will occur through the submissions process. Public Hearings will be held in May 2005.

The summaries of information and statement of proposal will be available from Council's Call Centre, Customer Services and libraries from March 2005. The Council's website will also have a copy of this information. Publicity through various media will be used to raise awareness of the Waste Bylaw and waste issues in general, and to encourage submissions.

RESOURCES

The staff and financial resources to cover the consultation, as required under the Local Government Act 2002 Special Consultative Procedure, are available in the current budget of the Long Term Council Community Plan.

CONCLUSION

A new Waste Bylaw has been drafted and a statement of proposal and summaries of information have been prepared. The Council's endorsement of these documents is now sought for their release for public consultation to commence in March 2005. A public consultation plan has been prepared and the special consultative procedure will be followed as required under the Local Government Act 2002. A period for lodgement of submissions will occur between 22 March 2005 and 22 April 2005 and hearings will take place between 19 and 24 May 2005.

The outcome of the public consultation process and the final form of the Waste Bylaw and the quantum of the Licence Fee will be reported to the June 2005 meetings of the Planning and Regulatory Committee and Council.

The development of the Waste Bylaw is occurring concurrently with North Shore City and Rodney District Councils in terms of a Memorandum of Understanding with these Councils that specifies that the parties will collaborate in the research, drafting, legal review and finalisation and consultation on a common solid waste bylaw. Consequently the dates set for the consultation process are unable to be altered from those as set down in this report.

RECOMMENDATIONS

1. That the Waste Bylaw Determination (Stage Two) report be received.
2. That the Council determine, under Section 155(1) of the Local Government Act 2002, that a bylaw is the most appropriate mechanism for achieving Council's waste management objectives generally, for the reasons set out in the statement of proposal.
3. That the Council determine, under Section 155(2) of the Local Government Act 2002, that the draft Waitakere City Council Waste Bylaw 2005 attached to this report is the most appropriate form of bylaw and does not give rise to any implications under the NZ Bill Of Rights Act 1990.
4. That the draft Waitakere City Council Waste Bylaw 2005, (Statement of Proposal) and Summary of Information be publicly notified for consultation following the Special Consultative Procedure as required by Section 156 of the Local Government Act 2002, for a period of public submission from 22 March 2005 to 22 April 2005.

5. That the Statement of Proposal and Summary of Information in respect of the proposed Licence Fee of \$300 per annum be publicly notified for consultation as a special consultative procedure as required by Section 150(3) of the Local Government Act 2002, for a period of public submission from 22 March 2005 to 22 April 2005.
6. That a public hearing of any submissions received be conducted by the Planning and Regulatory Committee in the period 19 to 24 May 2005 and that the Committee report its recommendations to the Council's June 2005 meeting.
7. That Council officers continue to develop and finalise the terms and administrative detail of the proposed licences and report back the outcome to the June 2005 meeting of the Council.
8. That a media plan be prepared in relation to the release of information in relation to the current proposals, having regard to the need to keep the public informed as the Council works towards implementation of the levy system and the proposed levies.

Report prepared by: Carol Bergquist, Senior Analyst Environmental Policy.



13 UPDATE ON PROGRESS - COUNCIL GUARANTEE FOR THE WAITAKERE REGIONAL SPORTS TRUST AND REQUEST FOR ADVANCE FUNDING

PURPOSE OF THE REPORT

The purpose of this report is to update the Council on the progress to date of the provision of a Council guarantee to the Waitakere Regional Sports Trust for an amount of up to \$250,000 and to consider a request from the Trust for an advance on operational funding identified in the Long Term Council Community Plan for 2005/2006.

BACKGROUND

The Council at its meeting held on 15 December 2004 passed the following resolutions:

- "2. That Council approve a guarantee for an overdraft facility of up to \$250,000 to the Waitakere Regional Sports Trust subject to the Director: Finance and Chief Executive's satisfaction after review of the appropriate financial documents that any use of the guarantee can be repaid by the Trust.
3. That the guarantee to the Waitakere Regional Sports Trust to be reviewed in the November 2005 meeting round."

2340/2004

Since that meeting a number of meetings have been held with Stadium staff to discuss financial forecasts and assumptions.

STRATEGIC CONTEXT

The Trust's Stadium is a state of the art sports and events venue built to provide Waitakere City residents with sport, recreation and leisure opportunities. The Council has made a significant investment into the Stadium with total contributions of \$12,470,000 capital investment and an operating assistance grant of \$250,000 in 2004/2005. Council leases the land on which the Stadium sits to Waitakere Regional Sports Trust for a nominal rent.

Council's investment in the Stadium is a reflection of the key strategic platforms and priorities, namely, Urban and Rural Villages, Strong Communities and First Call for Children.

ISSUES

Financial Forecasts

The Acting Chief Executive of The Trusts Stadium has provided draft financial forecasts for review. A number of meetings have been held to discuss the financial projections and these are ongoing. The Stadium has now been in operation for over six (6) months and a clearer picture of operational costs and achievable income has been able to be assessed against the results to date.

As advised to the Council meeting held on 15 December 2004 the day to day operations of The Trusts Stadium have not yet provided a positive cashflow. The Trust commenced operations without debt but very little working capital to see it through the initial start-up phase.

The Acting Chief Executive has advised that the use of the Stadium is now growing and work is well underway in reviewing operational costs and seeking operational efficiencies. This review is expected to sustain ongoing operational savings. It is expected that a positive decision on the approval of the loan guarantee as per Council resolutions could be made during February 2005. Appropriate Loan Guarantee documentation that meets Council satisfaction from the lending financial institution may take a further four (4) weeks to finalise.

There is a possibility that the term of the loan guarantee may require a time period up to two (2) years dependent upon the final review of financial projections. The recommendations seek that the term of the guarantee be for a maximum term of two (2) years. This enables the Council's Chief Executive and Director: Finance to approve the guarantee without having to seek further approval from the Council.

Request from the Trust for an advance of operational funding

A229

Attached at page A229 is a request from the Trust for an advance of operational funding. The Council in its Long Term Council Community Plan 2003/2013 has provided for an operational grant of \$250,000 in the 2005/2006 year. Given the disclosure in the Plan, the Council if it considers it appropriate could distribute an early partial release of the grant. The Council may wish to place some conditions on the early release and these are contained in the recommendations. It would be advisable to request that the Trust report every six (6) months to the Finance and Operational Performance Committee and that a regular weekly meeting between the Trust and nominated Council staff be held. This would assist in the overall monitoring of the performance of the Trust. Those weekly meetings could continue to 30 June 2005.

CONCLUSION

The review of financial information provided by the Trust is progressing well and it is expected that a positive decision on the loan guarantee could occur during February 2005. The documentation for the loan guarantee may not be complete until the end of March 2005. Correspondence from the Trust requests that an advance of funding be given against the commitment provided in the 2005/2006 Long Term Council Community Plan. That advance will enable its cash flow deficit to be extinguished.

The recommendations seek a period of up to two (2) years for the term of the Council Guarantee, requires the Trust to report six (6) monthly on its operations to the Finance and Operational Performance and require that weekly meetings take place between the Trust and Council staff as determined by the Council's Chief Executive.

RECOMMENDATIONS

1. That the Update on Progress - Council Guarantee for the Waitakere Regional Sports Trust and Request for Advance Funding Report be received.
2. That the term of the loan guarantee, if approved by the Chief Executive and Director: Finance, be for a period not exceeding two (2) years from the date such approval is given.
3. That Council approve an early release to the Waitakere Regional Sports Trust as part of the funding allocated in the Long Term Council Community Plan in the 2005/2006 financial year provided that the Trust agrees to reporting to the Finance and Operational Performance Committee on a six (6) monthly basis and that the Trust meets on a weekly basis as practicable to June 30, 2005 with Council staff as nominated by the Council's Chief Executive to review progress against the financial projections.

Report prepared by: Andrew Pollock, Director: Finance.



14 **DRAFT SUBMISSION ON THE RESOURCE MANAGEMENT AND ELECTRICITY LEGISLATION AMENDMENT BILL**

PURPOSE OF THE REPORT

The purpose of this report is for the Council to consider a draft submission on the recent amendments to the Resource Management Act to present to the Select Committee.

BACKGROUND

The Government introduced the Resource Management and Electricity Legislation Amendment Bill into Parliament on 16 December 2004. The Bill is currently open for submissions to the Select Committee until 16 February 2005. The Bill is intended to improve the quality of resource management decision-making and further reduce delays and uncertainty about costs. The Bill has been drafted following considerable consultation with all sectors of the community during which Waitakere City Council made specific requests for change. The Council now has the opportunity to submit on the proposed amendments.

The Resource Management Act amendments are part of the total package to enhance the practical implementation of the Act. Other initiatives include:

- Establishment of training and accreditation programme for planning commissioners;
- Increased resourcing of the Environment Court - which has seen the standard case being heard within 6 months instead of up to 23 months;
- Ministry for the Environment to take a stronger leadership role in working to improve performance, proactively address concerns, provide greater national guidance and promote user education;
- National guidance through the delivery and sharing of good practice between resource management practitioners;
- Targeted assistance for specific councils in need of support through the Ministry for the Environment.

The key purposes driving the Resource Management Act amendments 2004 are promoted as following:

- **Achieving good environmental outcomes in line with the purpose of the Act** - there should be a proper assessment of environmental effects so that adverse effects can be avoided and mitigated;
- **Certainty of process but not of outcomes** - resource consent applicants should have reasonable certainty about how long it will take to obtain a final decision, but the outcome must be determined by a proper assessment of environmental effects;
- **Certainty of costs** - resource consent applicants should have reasonable certainty about how much it will cost to obtain a consent;
- **Local decision making** - communities are well placed to make environmental decisions where appropriate in their areas, and should have the opportunity to plan and make decisions;
- **Public participation** - those affected by resource consent applications are best placed to identify the adverse effects on them, and should have the opportunity to put these before decision makers and to seek avoidance or mitigation of adverse effects;
- **Central government leadership** - central government should show leadership and give guidance to those involved in resource management.

In summary the key measures within the Bill are:

- Establishing a requirement that the majority membership of hearings panels are "accredited" for hearing resource consents, private plan changes, designations, and heritage orders;
- Empowering all hearings panels with more inquisitorial powers and therefore increasing the robustness of the first (local authority) hearing;
- Focusing appeals in the Environment Court on testing the merits of the first (local authority) hearing;
- Providing new mechanisms for non-local decision making that build on the existing ministerial call-in processes;
- Streamlining the plan-making process and ensuring greater maintenance of locally developed outcomes;
- Providing certainty for iwi consultation and iwi resource planning;
- Providing an assurance for business that existing investment is recognised when consents expire and need to be reapplied for;
- Giving greater strategic importance to regional policy statements;
- Enabling greater use of national policy statements to express matters of national importance and interest;
- Providing for notification decisions of consent authorities to be challenged in the Environment Court;
- Clarifying that it is the role of regional councils to allocate natural resources;
- Making a number of minor and technical improvements designed to improve the operation of the Act;
- Extending the statutory access regime under the Electricity Act 1992 to high voltage electricity works in the road corridor.

STRATEGIC CONTEXT

Much of Waitakere City Council's strategic direction is delivered through implementation of its District Plan that sets out the provisions for achieving the City's Integrated Transport, Urban and Rural Villages and Green Network goals in particular. The District Plan is prepared under the Resource Management Act that is underpinned by sustainability goals.

The proposed amendments to the Act intend to make the processes of implementing the Act more transparent for both the costs and timeframes involved, and for improved decision-making.

ISSUES

Staff have reviewed the proposed amendments and while agreeing with the general principles, intent and direction of the changes there is concern that:

- The new provisions will increase the cost and potentially slow the processing of resource consents, for example, the pre-hearing and hearing processes related to notified applications;
- Environment Court's power to consider each appeal on a Council decision again from the start has been reduced with the Court having to take account of the original Council decision unless it is considered evidence that was relied on was "unsafe" (insufficiently tested);
- There is a potential for Section 92 (additional information request from applicants) to be used inappropriately to have applications cancelled;
- Section 357 objection requirements, section 92 and hearing processing will all require more resources to implement. As processing costs will be recoverable through application charges, this will result in additional costs to applicants;
- Provisions under section 139B for the Minister to intervene in resource consent applications or Plan changes when requested by applicants with no right of appeal for the Council once the Minister intervenes;
- That section 125 was not changed to clarify the consent period for consent granted prior to 1 August 2003;
- That additional emphasis will be placed on the pre-hearing meeting, i.e. the ability to prohibit an applicant or submitter from participating in the formal hearing if they fail to turn up to a pre-hearing, requirement to formally report on pre-hearing including summary of evidence to be called at the hearing (requires evidence to be finalised at time of pre-hearing) and a summary of issues agreed and those outstanding.

The changes that stand out as positive include:

- The empowerment of local government to make policy decisions related to District Plans instead of the Environment Court;
- The right for non-notified decisions to be challenged in the Environment Court instead of via judicial review to the High Court;
- Amendments to section 94 provisions reverse the 2003 amendments that meant Council had to consider the adverse effects on all parties including those that had given approval;
- Provisions under section 139C for the Minister to intervene on matters of national significance.

A230-A236

A draft submission with comments referencing the relevant clause in the Bill is attached at pages A230 to A236 for the Council's consideration. The key matters that the submission includes are as follows:

Amend Section 125 to clearly state that the new 5-year period (where a consent period is not stated in the resource consent) only applies to "Resource consents that are granted post-1 August 2003, where the application for consent was lodged post to 1 August 2003".

Clause 13 related to Section 35A Duty to keep records on iwi authorities be altered to make it clear as to whom the information is to be made available and who is to record/maintain it.

Clause 18 Provision related to hearings - the provisions related to evidence require statutory time-frames to be defined.

Clause 37 - New Section 92A be altered to allow Section 357 objection rights on S92A requests prior to cancellation of the consent and for the applicant to have 25 working days to respond to a request.

Clause 42 Pre-Hearing Meetings include 20 working day statutory time-frame for pre-hearing meetings if they are going to be held or provide/make provision for the statutory time-frame to be suspended for a pre-hearing meeting.

Clause 49 new section 133A amendment of minor mistakes or defects this amendment is supported.

Clause 54 - Section 139B Non-local decision-making - Ministers power to intervene - delete this provision.

Clauses 54 - 58 - Section 139C - Ministers power to intervene on matters of National Significance - this provision is supported.

Clause 82 Appeals on Non-notified decisions - this provision is supported.

Clause 84 Objections - Amend statutory time-frame to be 40 working days.

Transitional Provisions - Clause 90 (6) pre-hearing provisions. The amendment be changed to ensure that the new provision only applies to applications where the notification has not yet occurred.

RESOURCES

There are no additional resource requirements involved in making this submission over and above staff time and travel to present submissions to the Select Committee (before June 2005). Any additional resources required in implementing the changes to the processes proposed will be recoverable through application fees and charges.

CONCLUSION

A230-A236

The comments attached at pages A230 to A236 form the Council's submission on the Resource Management and Electricity Legislation Amendment Bill.

RECOMMENDATIONS

1. That the Draft Submission on the Resource Management and Electricity Legislation Amendment Bill report be received.

- A230-A236
2. That the comments on the Resource Management and Electricity Legislation Amendment Bill as attached at pages A230 to A236 be adopted for submission to the Select Committee.
 3. That the Chairperson of the Planning and Regulatory Committee be delegated authority by Council to present the submission to the Select Committee.

Report prepared by: Carol Bergquist, Senior Analyst Environmental Policy.



15 **COUNCIL REPRESENTATION AT THE NEW ZEALAND ROAD SAFETY INNOVATION AWARDS**

PURPOSE OF THE REPORT

This report seeks Council's approval for the attendance of three Elected Members at the New Zealand Road Safety Innovation Awards.

BACKGROUND

The Road Safety Trust invites applications annually for six categories of Road Safety projects in its "New Zealand Road Safety Innovation Awards".

The Road Safety Trust receives its funding from a percentage of first time sales of personalised car number plates. Community groups can make application to the Trust for Road Safety projects.

Council has entered one of its Road Safety projects into the 2004 awards, namely the project titled "Safe in His Hands" with the New Lynn Tongan Methodist Church.

This project has won Section Five - The Community Road Safety category, and has the opportunity of winning the "Premier Award" as well.

STRATEGIC CONTEXT

The Long Term Council Community Plan includes Safe City as one of the five priorities, as follows:

- Work with others to improve safety, and reduce the fear of personal assault and reduce crime;
- Work with Community Groups/Government agencies to make a safer City.

The Strategic Platform for Integrated Transport and Communication provides the following:

- Provide for safe, pleasant and direct pedestrian and cycle access;
- Ensure road design supports pedestrian friendly environments for all ages;
- Improve safety, especially for the young, the elderly and people with disabilities.

ISSUES

The Council entry in the New Zealand Road Safety Innovation Awards has been invited to Wellington for presentation on 22 February at Parliament buildings. It is recommended

that Mayor Bob Harvey and Councillors Stone, Chairperson of Safe Waitakere Injury Prevention Project and Ewen Gilmour, as Council's Youth Advocate and representative on the Safe Waitakere Injury Prevention Project Board be authorised to attend the presentation on behalf of Council.

RESOURCES

The funding required is for airfares to Wellington and can be met within the 2004/2005 Annual Plan.

CONCLUSION

Council is likely to obtain national recognition for this project and is asked to approve the airfare expenditure and the attendance of three Elected Members.

RECOMMENDATIONS

1. That the Council Representation at the New Zealand Road Safety Innovation Awards report be received.
2. That Council approve the attendance and airfare expenditure of Mayor Bob Harvey and Councillors Stone and Gilmour at the New Zealand Road Safety Innovation Awards.

Report prepared by: Kitch Cuthbert, Senior Road Safety Co-ordinator.

