



NOTICE OF MEETING

ENVIRONMENTAL MANAGEMENT COMMITTEE

I hereby give notice that an Ordinary Meeting of the Environmental Management Committee will be held on:-

DATE: **Monday, 1 December 2003** **TIME:** **9.30 am**
 Tuesday, 2 December 2003

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

to hear submissions on Proposed Plan Change 2 - Harbourview, Te Atatu Peninsula and to take any necessary action connected therewith.

19 November 2003

Owena Schuster
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

Councillors	PA	Hulse (Chairperson)
	DA	Yates, JP (Deputy Chairperson)
	DQ	Battersby, JP
	BA	Brady, JP
	JM	Clews, QSO, JP
	RP	Dallow, QPM, JP
	AC	Fenton
	OE	Hoskin, MNZM, JP
	JP	Lawley
	GE	Nash, JP
	VS	Neeson, JP
	GB	Presland
	GW	Russell, JP
	CA	Stone

Mayor, Bob Harvey, QSO, JP (ex officio)

(Quorum 5 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.)

WAITAKERE CITY COUNCIL



AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT
COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE,
LINCOLN, WAITAKERE CITY, ON MONDAY, 1 DECEMBER 2003,
COMMENCING AT 9.30 AM.

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AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON MONDAY, 1 DECEMBER 2003, COMMENCING AT 9.30 AM.

1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) and (7A) of the Local Government Official Information Act and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 PROPOSED PLAN CHANGE 2 - HARBOURVIEW-ORANGIHINA PARK

1.0 INTRODUCTION

A1-A4

This report addresses issues that relate to Proposed Plan Change 2 to the Waitakere City Council District Plan. Proposed Plan Change 2, as attached at pages A1 to A4 relates to the Harbourview-Orangihina Park and proposes to amend the Human Environment identification that currently exists. This will mean that the existing Living Environment and Harbour View South Special Area will be re-identified as Open Space Environment and Marae Special Area. Plan Change 2 also includes consequential changes to the District Plan text and Maps arising from these changes.

This report sets out the background to the Harbourview-Orangihina Park, and the statutory requirements and District Plan policy framework. Furthermore the report further addresses the requirements of Section 32 of the Resource Management Act 1991 and also provides an analysis of the submissions and further submissions that the Council received.

2.0 SUMMARY

Proposed Plan Change 2 was publicly notified on 9 June 2003. Proposed Plan Change 2 follows on from an extensive public consultation process that culminated in the adoption by the Council of an Open Space Management Plan that had been prepared under the (then) Local Government Act 1974. Extensive consultation was undertaken during this time with local residents, Iwi, the Auckland Regional Council and other interested parties. This consultation also formed the consultation undertaken in relation to Plan Change 2.

A5-A224

In response to public notification of Proposed Plan Change 2, the Council received a total of 61 valid submissions, and one submission that was deemed invalid, as attached at pages A5 to A129. A summary of submissions was publicly notified on 4 August 2003 and 95 further submissions were received, as attached at pages A130 to A224. Issues raised in submissions generally relate to:

- The use of a commissioner(s) to hear the submissions;
- General support for Proposed Plan Change 2;
- General opposition to Proposed Plan Change 2;
- Support for the re-identification of the land to Open Space Environment;
- Support for the location of the Marae on the land that is subject to Proposed Plan Change 2
- Objection to the location of the Marae on the land that is subject to Proposed Plan Change 2, and other matters;
- The location of a kura (school) on the land that is subject to Proposed Plan Change 2 that will be identified as Marae Special Area;
- That two buildings (the "Brick Villa" and the "Wooden Cottage") currently located on the land that is subject to Plan Change 2 be included in the District Plan Heritage Appendix;
- That the "Brick Villa" land (Lot 87 DP 203198) be identified as Open Space Environment rather than Living Environment;
- That a public view from Te Atatu Road be included in Appendix K of the District Plan; and
- That the land allocated to the "Pony Club" that is subject to Proposed Plan Change 2 remain at 10 - 12 hectares.

It is the conclusion of this report that Plan Change 2 should proceed, with the modifications that are set out in Section 8.2 of this report.

3.0 LOCATION

The Harbour View South Special Area is located within Waitakere City, at the base of the Te Atatu Peninsula adjacent to the Waitemata Harbour. There is also an area of land identified as Harbour View North Special Area, adjacent to Harbour View Road, and this land has been developed for residential purposes.

The land currently identified as Harbour View South Special Area (that is subject to the Proposed Plan Change 2) is legally identified as:

- Pt Lot 1 DP 44055;
- Pt Lot 2 DP 370; and
- Pt Lot 3 DP 370.

The area of land within the Harbour View South Special Area is approximately 34.62 hectares, excluding the 2.50 hectares allocated to the proposed Marae.

North of the Harbour View South Special Area, the land is identified in the District Plan as either Living Environment or as Open Space Human Environment. The land currently identified as Living Environment that is subject to the Proposed Plan Change 2, is approximately 4.3 hectares and is legally identified as:

- Pt Lot 94 DP 208882; and
- Lot 96 DP 208882.

Lot 96 DP 208882 was incorrectly identified in the Section 32 Report as Lot 111 DP 203198.

This land will be incorporated into the Park, providing a total area of parkland of approximately 82 hectares.

The 2.5 hectares of land that is proposed to be Marae Special Area is located wholly within the land identified as Harbour View South Special Area, in the southern portion of the Harbourview-Orangihina Park.

The land area for the whole of Harbourview-Orangihina Park is bounded by the North Western Motorway at its southern end, Te Atatu Road to the west and several local roads (Danica Esplanade, Riverstone and Harbour View Roads) at the northern end.

4.0 BACKGROUND

The Harbour View South Special Area is identified in the Special Areas section of the Waitakere City District Plan.

District Plan Special Areas contain unique activities, which differ markedly from the surrounding environment. Special Areas also relate to a variety of different development scenarios, from a complex of buildings and activities to relatively large, undeveloped sites or areas of the City.

The District Plan's intention for Special Areas is to ensure that identified activities are able to proceed without being unreasonably restricted by the requirements established for the surrounding Human Environment. Within the Special Areas there is sufficient flexibility to allow for the changing nature of the activity, within parameters relating to natural and physical resources, health and amenity values.

In all cases, the activities within the Special Areas must achieve a level of amenity and protection of resources equal to any other part of the City (there are two exceptions to this: the Quarry Special Area and the Balefill Special Area). The Special Areas shown in the District Plan recognise the existing situation within each of those Special Areas. Future development within the Special Areas, if any, will be assessed in terms of their impacts on natural and physical resources and amenity values.

Decision Notice 107A to the Proposed District Plan considered the submissions made on the Harbour View North and Harbour View South Special Areas. Following the Hearing, the District Plan Special Committee made a decision that effectively retained the Human Environments established by the District Plan when it was notified. That decision meant that the proposed Harbour View South Special Area and the Living and Open Space Environment identifications were retained.

Since that time, some areas of land identified as Harbour View North Special Area and Living Environment that are located north of the Harbour View South Special Area have been subdivided for residential development. Following a City wide survey, the Council resolved to develop the Harbour View South Special Area and adjacent Living and Open Space Environment land as a "City Wide Park". This land is now called "Harbourview-Orangihina Park".

Upon adoption of the Open Space Environment identification, the Harbour View South Special Area will cease to exist as a Special Area in the District Plan, and will be deleted. The land currently identified as Living Environment will become Open Space Environment.

The Marae on the Harbourview land will be separately identified and administered under the Marae Special Area Rules in the District Plan.

5.0 STATUTORY REQUIREMENTS

5.1 Resource Management Act 1991

It should be noted that Plan Change 2 was publicly notified prior to the coming into effect of the Resource Management Act Amendment Act 2003. As such, Plan Change 2 is subject to the provisions of the Resource Management Act as they stood prior to the changes made by the Resource Management Act Amendment Act 2003.

The Resource Management Act provides a statutory framework for the management of natural and physical resources. The purpose of the Resource Management Act is 'to promote the sustainable management of natural and physical resources'.

The Resource Management Act defines 'sustainable management' as:

"managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety while -

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment."*

Section 6 of the Resource Management Act relates to 'Matters of National Importance'. Matters of national importance include:

- "(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:*
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga."*

Section 7 of the Resource Management Act relates to 'Other Matters'. Particular regard must be given to:

- “(a) Kaitiakitanga:*
- (b) The efficient use and development of natural and physical resources:*
- (c) The maintenance and enhancement of amenity values:*
- (d) Intrinsic values of ecosystems:*
- (e) Recognition and protection of the heritage values of sites, buildings, places or areas:*
- (f) Maintenance and enhancement of the quality of the environment:*
- (g) Any finite characteristics of natural and physical resources:*
- (h) The protection of the habitat of trout and salmon”*

Section 8 of the Resource Management Act requires that managing the use, development and protection of natural and physical resources, takes into account the principles of the Treaty of Waitangi.

Part IV of the Resource Management Act relates to functions, powers and duties of Central and Local Government.

Section 31 sets out functions of territorial local authorities for giving effect to the Resource Management Act within its boundaries including:

- a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
- b) The control of any actual or potential effects of the use development, or protection of land, including for the purpose of the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:*
- c) The control of the subdivision of land:*
- d) The control of the emission of noise and the mitigation of the effects of noise:*
- e) The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
- f) Any other functions specified in this Act.*

Section 32 of the Resource Management Act requires every territorial local authority to consider alternatives, and assess benefits and costs before adopting any objective, policy, rule or other method in relation to its district plan. Refer to Section 6.4 of this Hearing Report and the separate Section 32 Report for information on these matters.

Part V of the Resource Management Act relates to Standards, Policy Statements and Plans. In respect of district plans, Section 75 states that they shall not be inconsistent with, amongst other things, the regional policy statement, or any regional plan.

5.2 Auckland Regional Policy Statement

The Auckland Regional Policy Statement provides a resource management framework for managing environmental effects within the Auckland Region.

Chapter 2 sets out the strategic direction for the region. Regional strategic objectives seek to ensure that the environment of metropolitan Auckland is maintained and enhanced, including its unique maritime setting, cultural heritage values and public open space (2.5.1 Strategic Objectives). The proposed Open Space Environment and proposed Marae Special Area seek to assist in achieving these objectives.

Chapters 3, 6 and 7 of the Auckland Regional Policy Statement are also relevant to the Harbourview land.

Chapter 3 relates to matters of significance to Iwi. It is considered the objectives and policies in Chapter 3 are of particular relevance to the protection of sites of significance on the Harbourview land (see Policy 3.4.1) and the enabling of the development of the Marae site (see Policy 3.4.4).

Chapter 6 contains objectives and policies about the natural and cultural heritage of the region. It is considered that general objectives relating to:

- the protection of diversity of heritage resources;
- protection and restoration of ecosystems;
- other heritage resources whose viability is threatened; and
- maintenance of the overall quality and diversity of the character of landscapes in the Auckland region;

have relevance to the Harbourview land (see Auckland Regional Policy Statement Objective 6.3, and the Policies, Methods and Reasons in Section 6.4).

Chapter 7 contains objectives and policies that relate to the use and development of coastal environments and the coastal marine area. The development of the Park and Marae facilities must not be inconsistent with these objectives and policies, especially development along the coastal edge and in the lower terrace. Water quality objectives and policies that complement the coastal objectives and policies are contained in Chapter 8, and are also relevant to development on the Harbourview land.

5.3 Waitakere City Proposed District Plan

The Harbour View South Special Area is identified in Policy 11.25 and in Section 6: Explanation of Strategic Direction: Policies and Methods. Policy 11.25 has been the key Policy for the Harbour View South Land, and it is proposed to amend this Policy significantly via Proposed Plan Change 2.

Policy 11.25 is as follows.

A range of activities may be located and carried out within the Harbour View Special Area, provided that:

- ***any structure is located so as to protect notable public views as set out in Appendix K and shown on Map 3.6(e);***
- ***there are no adverse effects on natural features and the natural character of adjacent open space;***
- ***adverse effects on the health of residents and amenity values of any adjacent site are avoided;***
- ***the ecological linkage opportunities and restoration areas on the site and on the adjacent open area are protected and enhanced.***

Explanation

The Harbour View South Area is, as yet, an undeveloped area of land on Te Atatu Peninsula which is owned by Waitakere City Council. Although identified as a separate area, it is also an integral part of the larger area of Harbour View land which is being developed for a range of residential and other uses, and as a major area of public open space on the lower terraces. The particular development direction for the site has not been established. Because of its position away from other settled areas of the City there is potential for a range of activities to be established without adverse effects. There is also potential for a unique approach to building design, the location of structures and the form of settlement.

Methods

District Plan Rules:

- *Special Area Rules*
- *Any proposal for the site must be introduced via a Plan Change process. This will be assessed against a range of objectives and policies, and the likely effects onsite and offsite.*

Other Methods:

- *Council operations - via a Council managed development process for the site.*

The Harbour View South Special Area Rules appear in the Special Area Rules Section as Rule 7.

The Marae Special Area Rules appear in the Special Area Rules Section as Rule 10.

The General Natural Area Rules apply to the majority of the Harbour View South Special Area, with Coastal Natural Area applying along the eastern (coastal) portion of the land and a 20 metre Coastal Edge. A seven (7) metre riparian margin applies to streams in the middle portion of the land, and a ten (10) metre riparian margin applies to the stream at the northern end of the Park.

The Harbourview land is identified in the District Plan as having the following features:

- Significant Vegetation (along the coast adjacent to Pollen Island and Pollen Island itself (District Plan Map 3.5(A));
- Native Fauna Habitat (along the coast adjacent to Pollen Island and Pollen Island itself (District Plan Map 3.5(B) and Item 8 in District Plan Appendix F);
- Outstanding (Natural Character) Coastal Area (District Plan Map 3.5(C));
- Outstanding Natural Features: High Fertility Soils: Class II Landuse (District Plan Map 3.5(E) and District Plan Appendix H);
- Natural Landscape Elements 1 - Native Vegetation (District Plan Map 3.6(C));
- Three Outstanding Natural Vegetation Sites (Numbers 134, 136 and 137 in District Plan Appendix E);
- Public Access way from Beach Road to Te Atatu Boating Club, and from Te Atatu Road (near Gloria Avenue) to Harbourview Esplanade (Numbers 9 and 10 in District Plan Appendix I);
- Three Views (Numbers 43, 44, 45 in District Plan Appendix K);
- Ecological Linkages (Numbers 10, 24 in District Plan Appendix L); and
- Ecological Linkage Opportunity - Harbourview (District Plan Appendix L).

The general themes of the District Plan objectives and policies that apply to the Harbour View South Special Area include the following Policies. It should be noted that other Policies that are not listed below may also apply to the Harbourview land.

Effects On Water Quality (Streams and the Coast)

Policy 1.5

Activities (including structures) should be managed in a way that avoids further clearance and damage to native vegetation within the margins of the City's lakes, rivers, wetlands and the coast, provided that exotic vegetation may be removed where there is a programme to restore native vegetation to the riparian margins and coastal edges.

This Policy is concerned with the removal of riparian vegetation from riparian margins and coastal edges. It also addresses the effects of the loss of shade, erosion of stream edges, and an increase in the quantity of runoff and a reduced ability to absorb pollutants that run off into the streams and coastal waters. For this reason, the District Plan specifically protects streamside and coastal edge vegetation and places emphasis on the retention of native vegetation, which contributes to the greater viability of ecosystems in the riparian margins, coastal edges and waterways, and the overall biodiversity of the City. In order to protect and shade the stream riparian margins and coastal edges, exotic vegetation may need to be retained unless it is a noted environmentally damaging plant, or is to be replaced with native vegetation.

Policy 1.7

Activities should be managed in a way that encourages the absorption of rainfall and surface water runoff on-site, avoids the creation or exacerbation of stormwater flooding problems off-site and minimises the runoff of surface water into stream catchments and waterways.

Storm water in non-urban areas can contribute to the scouring and erosion of soils, and the depositing of contaminants in streams, estuaries and harbours. This policy is intended to achieve the highest possible absorption of rainfall on-site.

Policy 1.8

Activities, including the management of forestry and woodlots should be carried out in a way that avoids, remedies or mitigates, so minimising, the movement of soils and sediment and other contaminants into receiving waters, and the degradation of water quality in a way that destroys or reduces their:

- ***ability to support instream vegetation and fauna;***
- ***ability to be used as a food source;***
- ***clarity, quality and flow, and suitability for swimming.***

This policy recognises that the discharge of sediment into waterways has a significant adverse effect on the life-supporting capacity of water. The protection of riparian margins that act as stream buffers as well as minimising earthworks and land disturbance on site should avoid adverse effects on streams.

Policy 1.14

Activities and structures involving the disposal, movement and storage of solid waste and sewage should be designed and managed in a way that avoids, mitigates or remedies any discharge or leakage of contaminants into the City's waterways.

It is expected that wastewater disposal systems will be specifically designed to ensure that there is no contamination of waterways and the coastal marine area.

Effects On Native Vegetation And Fauna Habitat

Policy 2.14

Some areas of significant native vegetation and fauna habitat are under threat as a result of past activities, such as animal and plant pest release, exposure to edge effects and removal of seed sources, and active restoration and rehabilitation will be appropriate in these circumstances.

This policy seeks to ensure that degraded vegetation (such as the coastal and wetland vegetation on the lower terrace at Harbourview) will be restored. This will occur via the implementation of the Open Space Management Plan.

Effects On Ecosystem Stability

Policy 5.1

Activities within Restoration Natural Areas, should be carried out in a way that does not impede regeneration of native vegetation. Where possible, activities in areas identified as Ecological Linkage Opportunities should not prevent the future regeneration of these areas.

Policy 5.3

Activities on any public land should be carried out in a way that promotes and enhances regeneration and the re-establishment of linkages between areas of native vegetation and fauna habitat within the Green Network, and the effectiveness of any adjacent Ecological Linkage Opportunities and Restoration Natural Areas in protecting the stability of native ecosystems.

Policy 5.6

When restoration plantings are carried out, preference should be given to the use of indigenous species, with a further preference for the use of local genetic stock.

These three policies recognise the importance of native vegetation and its ability to regenerate. In particular, the linkages between areas of vegetation that enhance the sustainability of ecosystems. Opportunities to enable native re-vegetation and protection of ecological linkages from building development have been sought in the development of the Open Space Management Plan.

Effects On Outstanding Natural Features

Policy 6.2

Activities should be carried out or located so that they do not:

- ***disturb the underlying rock, covering soils and vegetation on any Outstanding Natural Feature (outstanding land forms and geo-preservation sites), to the extent that the significance of the site, in terms of form and materials, is adversely affected;***
- ***or impede any natural process that is integral to the nature of the feature.***

This policy is concerned with protecting the fundamental form and structure of the City's outstanding natural features. This involves protecting these features from the removal of rock and soils and the retention of vegetation, where possible. This seeks to ensure that there is no exacerbation of erosion beyond that which occurs naturally. Protection of the processes that form these outstanding natural features is also important.

Effects On Natural Character Of The Coast And Margins Of Lakes, Rivers And Wetlands

Part 5.7 of the Policy Section

This Objective and the seven Policies seek to preserve and enhance the natural character of the City's coastal environment, lakes, rivers and wetlands and their margins. In addition, the Objective recognises that the natural character of these areas is formed by the action of natural elements as the wind and the sea. Protecting the unimpeded action of these forces is seen as essential to the maintenance of that natural character. All the Policies in Part 5.7 of the Policy Section of the District Plan apply to the Harbourview land.

Effects On The Spiritual Dimension (Mauri)

The two key Policies that relate to the mauri (the spiritual dimension, life force or intrinsic value of ecosystems) of the environment are as follows. Other Policies in this Part of the Plan will also apply. Policy 8.1 is a key component of ensuring that section 8 of the Resource Management Act is given effect to.

Policy 8.1

Any activity that takes place within the City's coastal edges or riparian margins must be carried out in a way that adverse effects on the quality of the water resource, and the mauri of that waterway, taiapure or mahinga maataitai are avoided or, where unavoidable, are remedied or mitigated.

Policy 8.9

Marae may be established in any part of the City, provided that adverse effects on:

- water quality and quantity;***
- significant and outstanding indigenous vegetation and fauna habitat and ecosystems;***
- vegetation biomass;***
- soils;***
- natural hazards;***

are avoided, remedied or mitigated, and the proposal is compatible with the protection of those physical and natural characteristics identified as contributing to the health and safety of occupants of neighbouring sites, and road users.

Effects On Outstanding Landscapes

Most of the Policies in this Part 5.9 of the Policy Section apply to the Harbourview land. In particular, the following two Policies are important in meeting the District Plan objectives for outstanding landscapes.

Policy 9.10

Activities should be carried out in a way that does not impede or alter the inward migration of the sea, the inward migration or erosion (where that occurs naturally) of sand-dune accretions or any naturally changing course of any waterway, lake or wetland to the extent that the natural character of the area is altered, or that the naturally occurring processes themselves are changed in any way. Remedial work on sand dune accretions may occur where human life or property associated with existing settlement may be adversely affected.

Policy 9.11

Where possible activities should avoid modifications to the naturally occurring interface between coastal waters, wetlands or rivers and the surrounding land within the City's outstanding landscape areas. Remedial work on that interface should only occur in exceptional circumstances where human life or property associated with existing settlement may be adversely affected.

Effect On Amenity Values - Landscapes, Local Areas And Neighbourhood Character

The key Policy related to amenity values is provided below. This is Policy 10.7, and another similar Policy is provided as Policy 11.5. Together these two policies provide the direction for amenity values on the Harbourview land.

Policy 10.7

New public and semi-public spaces should be designed in a way that ensures the safety of all users and, in particular, should provide for:

- ***overlooking (surveillance) of public and semi-public spaces from surrounding buildings during the day and where possible at night;***
- ***direct and efficient movement routes through such spaces;***
- ***adequate signage indicating connections with other routes, and the location of the space within the surrounding area for public reserves, walkways, and within Community Environments;***
- ***adequate lighting;***
- ***integration of pedestrian systems with vehicle routes;***
- ***the minimisation of any physical barrier to the reasonable movement of people within any public space.***

Policy 11.5

New public open space should be designed and located in a way that:

- ***minimises isolation and separation of such space from public roads;***
- ***maximises access to local neighbourhoods (where that is compatible with the role such open space may have within the Green Network);***
- ***where possible, creates or contributes to a neighbourhood focal point;***
- ***ensures, where appropriate, integration with the objectives and policies relating to the Green Network;***
- ***enhances practical public access linkages between areas of public open space, roads, and to and along waterways and the coast;***
- ***enhances the amenity values of the surrounding Environment and neighbourhood character.***

Effects On Heritage Values

Part 5.12 of the Policy Section

All of the Policies in Part 5.12 of the Policy Section will apply when considering matters relating to heritage, archaeology and sites of significance for Maori. These Policies will apply in particular to the identified heritage and archaeological sites, and the natural heritage components of the Harbourview land.

Conclusion

The District Plan provides a comprehensive policy framework that will apply to the Harbourview land. It provides policy direction in terms of the adverse effects that may occur as a result of any activities on the land. It also provides the planning framework within which the Open Space Environment and Marae Special Area District Plan Rules sit. Where there is any uncertainty about the application of these Rules, reference will be made to the Policies to provide guidance to consent applicants, the Council and the public.

6.0 HARBOURVIEW-ORANGIHINA PARK

6.1 Assessment of Environment Constraints

Technical studies relating to archaeology, historic buildings, ecology, stormwater, and marae location have been completed to identify the environmental constraints within the Harbourview-Orangihina Park. These studies are discussed in the following subsections.

6.1.1 The Character Of The Local Environment

The land area for the Harbourview-Orangihina Park is bounded by the North Western Motorway at its southern end, Te Atatu Road to the west and several local roads (Danica Esplanade, Riverstone and Harbour View Roads) at the northern end of the Park. Residential development is located along the western side of Te Atatu Road, and will be developed along the northern fringes of the Park, where subdivision and development is currently occurring. Residential development of the "Severance Land" is also occurring, on the western side of Te Atatu Road, south of the Gloria Avenue traffic roundabout.

Within the Park there is a significant escarpment that forms a natural transition between the upper area that is generally level with (or slopes gently away from) Te Atatu Road, and the lower level that includes the wetlands and marine areas. The upper area is mostly grassed, with horse riding facilities previously being located throughout the paddocks. The horse riding facilities also used to extend down onto the lower terrace. There are two areas of vegetation, one opposite the Severance Land, and one at the southern end of the Harbour View South Special Area land. Much of the vegetation at the southern end has been cleared by the Ministry of Agriculture and Forestry as part of the programme to eradicate the Painted Apple Moth. There are native vegetation species present in these two areas, interspersed with various weed species, with some of those weed species being well established.

While from Te Atatu Road the grassed area appears to be an "open" green space, the current amenity values within the Park are poor, because of the generally derelict nature of the site and the weed species present. Development of the Park will ultimately remove surplus, broken and remnant fences, broken concrete, and other items of inorganic waste that are currently present on the site. With appropriate planting, weed management and the construction of the Park community facilities (such as seating and walkways), the on site amenity values will be improved.

6.1.2 Amenity Values

Amenity Values are defined in section 2(1) of the Resource Management Act as:

"...those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes..."

Currently the Harbourview land has visual amenity value as a large area of undeveloped ground that provides views for the public from Te Atatu Road and various other locations around the Park. The views look out across the Waitemata Harbour to the Hobsonville Peninsula, Beach Haven (in North Shore City), the Auckland Isthmus, the Auckland Harbour Bridge and Rangitoto Island. These views are considered to be regionally significant.

Three views are identified in the District Plan, and will not be adversely affected by the development of the Park. One view (no. 44 in Appendix K) requires amendment to accurately identify the view shaft. The Open Space Management Plan has identified four additional non-statutory viewing shafts.

The area surrounding the Te Atatu has a proliferation of poles, that have been used for traffic signals, overhead lines, telecommunications poles and lighting poles for the motorway and Te Atatu Road. Network utility operators have few constraints in terms of the erection of these, and the proliferation will continue to occur. Consequently View 44 has a degraded amenity value as a result of this proliferation, when compared to an uninterrupted view with no poles in it.



View Adjacent To 356A Te Atatu South Road

The marae at the southern end of the Harbour View South Land could potentially adversely affect some of the views across the Waitemata Harbour currently enjoyed from Te Atatu Road, and will intrude into the foreground of View 44. This intrusion will occur within a view that is already degraded by a proliferation of poles in the foreground of the View. Sensitive design of those facilities and appropriate screening will assist in mitigating any such effects.

In the future, the landscaping and maintenance of the Park's facilities will improve on-site amenity values, and with improved access, the site will be a more attractive and inviting place for residents to spend time. It is expected that the Park facilities will have a low scale, in order to ensure that many of the existing views across the Waitemata Harbour are retained. This has been addressed via the Open Space Management Plan.

6.1.3 Ecological Features

Extensive wetlands are present in the lower area along the coastal margin. They are an important habitat for native flora and fauna, including the threatened Fern Bird. There is little native or significant vegetation above the escarpment, although some native species are growing amongst areas of weed species. The development of the Park facilities will lead to a significant tree and vegetation planting programme with weed removal, followed by regular vegetation maintenance and weed control. The development of the Park facilities are unlikely to adversely affect the ecological features currently within the land. The location of the marae, Park walkways and any possible access to the coastal marine area will be designed to ensure that the local ecology on the lower terrace is not adversely affected by pedestrian and vehicular traffic accessing the coastal marine area. These matters have been addressed via the Open Space Management Plan.

6.1.4 Culture And Heritage Issues

There are several identified archaeological and heritage sites in the coastal lowlands within the Park. These are at the northern and southern ends, and in the middle of the coastal area. One of these (the gun emplacements) is listed in the Heritage Appendix in the District Plan (CHI Number 1113).

One archaeological site is also listed in the Heritage Appendix in the District Plan, the Auckland Brick and Tile Company Brickworks site (CHI Number 327). These items will continue to be protected through the District Plan, as well as through the Open Space Management Plan. Two other heritage sites that are not currently listed in the District Plan are as follows.

There is one residential building (the "wooden cottage") located within the Open Space Environment, just to the east of the Living Environment boundary and just to the north of the Harbour View South Special Area. This building is in a derelict state, and it is not currently listed as a heritage item in the District Plan. The District Plan status of this building is addressed in Section 7 of this report.

The other residential building is located on the eastern side of Longbush Road. This building is known locally as the "Brick Villa", and Council understands that it dates from the early 1900's. This building is owned by Council. The District Plan status of this building is addressed in Section 7 of this report.

The interface between the marae and the southernmost heritage and archaeological sites will need to be considered in the design of (and any resource consents associated with) the marae site. The interface between the marae facility and the rest of the Park will also need to be addressed via the design of the marae itself and any consents associated with the development of the marae.

6.1.5 Traffic/Transport Issues

Regional access to the Park is available from both ends of the North Western Motorway. The proximity of Te Atatu Road provides local and citywide access along the length of the park. Te Atatu Road serves as a major through route. It carries high traffic volumes (approximately 16,000 vehicles per day) and has direct access to the North Western Motorway. Accordingly, traffic and transport issues are not regarded as being a constraint for any possible development option for the land.

As the Park is developed, vehicle access will be formalised (such as the entranceway on the new roundabout opposite Gloria Avenue), and at other appropriate vehicle ingress and egress points. Car parking areas for park users will also be developed. Car parking for the marae will be contained within the 2.5 hectare area identified as Marae Special Area, and the number of car parks will be determined using the District Plan and the Council's Code of Practice for City Infrastructure and Land Development.

Council has also considered the matter of an integrated public transport facility at the southern end of the Harbourview land. This facility may include park and ride facilities for buses and ferries. Council will consider designating (under Part 8 of the Resource Management Act) areas of Park land for these purposes. Any such designations would be overlaid on the underlying Human Environment identification, and enable activities that are in accordance with the designation to occur. The process of requiring land via a designation will follow the usual process as specified in the Resource Management Act (which includes the opportunity for public submissions), and does not form part of Plan Change 2.

6.1.6 Infrastructure Issues

All relevant services - water, sewerage, storm water, power and telecommunications are available to the Harbourview land. There is no constraint, in respect of any Park or marae development option, in terms of the capacity of reticulated infrastructure.

6.1.7 Social Environment

The Park will be an attractive feature for nearby residents and a significant meeting place and passive recreation facility for the whole City. The Council expects that social and community activities within the Park will enhance the existing social and cultural fabric of Te Atatu, the City and Auckland Region as a whole. The location of the marae within the Park will also provide opportunities for the public to (on appropriate occasions) participate in marae activities, and for the Maori people in the locality to have a meeting place and an area to maintain and enhance their tikanga Maori.

6.2 Consultation

Extensive consultation has been undertaken with the community with respect to the development of the Park. Consultation with the Te Atatu Marae Coalition has been ongoing throughout the development of the Park. Council staff have met on a regular basis with representatives of the Coalition to discuss matters relating to the development of the Park and the decision to locate the marae on the Harbourview land. This consultation has included discussion about how the marae will integrate with the Park facilities, and other matters.

Council has also consulted with Ngati Whatua, Te Kawerau a Maki, and Te Taumata Runanga about the development of the Park. Consultation with Auckland Regional Council staff has been ongoing throughout the development of the Park. Most of this consultation has occurred as part of the Open Space Management Plan Working Party, and the development of proposed Plan Change 2 has been an integral part of that process.

6.3 Harbourview-Orangihina Park - Proposed Plan Change 2

A1-A4

Changes to the District Plan to re-identify the Living Environment and Harbour View South Special Area land to Open Space Environment and Marae Special Area are summarised below. The details are attached at pages A1 to A4.

- a. Removal of all references to the Harbour View South Special Area from the District Plan. This includes the references in the Policy and Rules Sections of the District Plan.
- b. Where Harbour View North Special Area (another Special Area identified in the District Plan) and Harbour View South Special Area have been referred to together or generically, those references will be adjusted to only refer to Harbour View North Special Area.
- c. Changes to the District Plan Human Environments Maps to indicate the re-identification of the Living Environment areas and Harbour View South Special Area to Open Space Environment and Marae Special Area.
- d. The notation included within the area re-identified as Open Space Environment on the Human Environments Maps will include the name of the Park: "Orangihina Harbourview Park".

6.4 Section 32 Considerations

Section 32 of the Resource Management Act requires every territorial authority to consider alternatives, and assess benefits and costs before adopting any objective, policy, rule or other method in relation to its district plan. The Resource Management Act states that the Council:

- “(a) *Have regard to -*
 - (i) *The extent (if any) to which any such objective, policy, rule or other method is necessary in achieving the purpose of this Act; and*
 - (ii) *Other means in addition to or in place of such objective, policy, rule, or other method which, under this Act or any other enactment, may be used in achieving the purpose of this Act, including the provision of information, services, or incentives, and the levying of charges (including rates); and*
 - (iii) *The reasons for and against adopting the proposed objective, policy, rule, or other method and the principal alternative means available, or of taking no action where this Act does not require otherwise; and*
- (b) *Carry out an evaluation, which that person is satisfied is appropriate to the circumstances, of the likely benefits and costs of the principal alternative means including, in the case of any rule or other method, the extent to which it is likely to be effective in achieving the objective or policy and the likely implementation and compliance costs; and*
- (c) *Be satisfied that any such objective, policy, rule or other method (or combination thereof) -*
 - (i) *Is necessary in achieving the purpose of this Act and*
 - (ii) *Is the most appropriate means of exercising the function, having regard to its efficiency and effectiveness relative to other means.*

Plan Change 2 does not involve the adoption of any new objective or policy or method. The existing policy and rule framework within the District Plan is sufficient to address any adverse effects on natural and physical resources arising from land and resource use in the area of land newly identified as Open Space Environment, and in the area of land newly identified as Marae Special Area. For this reason, matters relating to Section 32 are limited to documenting the proposed changes that seek to implement the District Plan's existing policy and rule framework.

The re-identification of the land to Open Space Environment and Marae Special Area is necessary to progress the development of the Harbourview Park, such as the development of the land for park facilities. This will crystallise the desire of both the Council and the community for an extensive area of parkland that will be retained for public use now and into the future. This desire has been articulated through extensive community consultation.

Other means of achieving the purpose of the Resource Management Act are designating the land for reserve purposes, or taking no action (ie. retaining the existing Human Environment identifications).

Designating the land for reserve and marae purposes would secure the site for the foreseeable future. However the underlying Human Environment identifications (Living Environment and Harbour View South Special Area) would still apply for activities that are not in accordance with the designation. Consequently those activities would require a resource consent.

Re-identifying the Harbourview land as Open Space Environment removes the possibility of residential development in the area of land in the northern half of the Harbourview land that is currently identified as Living Environment. If the Council wished to develop this land for non-park purposes in the future, it would have to re-identify this land again to establish a suitable Human Environment identification (such as Living Environment). The public would have the opportunity to make submissions on any such re-identification.

If, however, the land was designated, the Council could lift that designation at any time (which it can do without formality). Upon the lifting of the designation, the underlying Human Environment Rules would again apply. Therefore the land currently identified as Living Environment could possibly be developed for residential purposes. In terms of providing certainty, the re-identification of the land provides more certainty than the designation of the land.

Retaining the existing Living Environment and Harbour View South Special Area identification for the land (i.e. taking no action) would delay the development of the Park and its associated passive and active recreation facilities. This is because achieving resource consents to develop the land for park and marae purposes under the existing identifications would be more difficult than obtaining the necessary consents under the Open Space and Marae Special Area identifications.

Overall, designating the Harbourview land or retaining the existing Human Environment identifications would not be the most efficient or effective method of enabling the requisite development of the land for park and marae purposes.

In terms of costs and benefits, the community resources (such as park facilities) will be a permitted activity as a result of the Open Space Environment Rules. The Open Space Management Plan identifies these facilities, and as a result no resource consent is likely to be required. This will provide a significant benefit, as it will avoid many of the costs associated with obtaining resource consents. If the proposed community facilities do not meet the performance standards established within the District Plan, and/or would have adverse effects on the environment, a resource consent may be required. In those instances, the relevant Open Space Environment or Marae Special Area Rules within the District Plan will be applied to any resource consent application as part of the assessment of the effects of the activity.

The re-identification of the Harbour View South Special Area and Living Environment areas as Open Space Environment and the Marae Special Area is therefore considered to be the most efficient and effective means of achieving the sustainable management of those areas. The Open Space Environment re-identification will enable the development of community facilities on the Park in accordance with the Open Space Management Plan. The Marae Special Area identification will enable the development of the marae in accordance with the Marae Special Area Rules in the District Plan.

7.0 ANALYSIS OF SUBMISSIONS

A total of **61** submissions and **95** further submissions were lodged in respect of Plan Change 2. One submission (2/62) was ruled invalid as it did not seek any decision or provide any information. The analysis of the submissions have been grouped into categories to assist consideration of them by the Committee. Consequently some submissions that relate to more than one matter appear more than once in the following analysis.

Submission Numbering

In this analysis, **submissions** are identified by the fact that they have two numbers, in the following format (2/1), (2/2) etc ...

The number (2/1) means that it is Plan Change 2, submission number 1,
The number (2/2) means that it is Plan Change 2, submission number 2 etc ...

Further submissions are identified by the fact that they have three numbers. They are given their own unique submission number, and the third number indicates that it is a further submission. Further submissions are in the following format (2/63/1), (2/64/2) etc. ...

The number (2/63/1) means that it is Plan Change 2, submission number 63, further submission 1,
The number (2/64/2) means that it is Plan Change 2, submission number 64, further submission 2 etc ...

A5-A224

A full copy of the submissions and further submissions are attached at pages A5 to A224.

General Submissions

7.1 The Use Of A Commissioner To Hear The Submissions On Proposed Plan Change 2

7.1.1 A Grace (2/14) and the Te Atatu Residents and Ratepayers Association (2/21) seek that an independent commissioner, who is not a person who has made decisions relating to this land (in their capacity as a Councillor or Community Board Member) be appointed to hear and make the final decision on submissions on Proposed Plan Change 2.

Submission (2/14) is supported by Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission.

Submission (2/21) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobile (2/97/35), L Nobile (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/145/86), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

Discussion

The submitters raise the issue of the Councillors who have been part of the decision making process for the Harbourview-Orangihina Park Open Space Management Plan. The Harbourview-Orangihina Park Open Space Management Plan was prepared under the (then) Local Government Act 1974, and the decisions on that Plan were made in February 2003. The following Councillors sat on the City Development Committee that made the decisions on the Harbourview-Orangihina Park Open Space Management Plan. Councillors Stone, Battersby, Brady, Clews, Dallow, Fenton, Lawley, Nash, Neeson, Presland, Russell, and Yates. Councillors Hulse and Hoskin gave apologies to the Committee for their absence, and took no part in the decision making process.

The Council has sought legal advice on any potential conflict of interest that may have arisen when proposed changes to the District Plan relate to Council owned property. The legal advice indicates that the general rule is that a person cannot act as judge in his/her own cause. Therefore, when the Council is acting in a judicial or quasi judicial capacity, it should not have a direct interest in the outcome. There are exceptions to this rule (as shown in *Jefferies v NZ Dairy Board* [1967] NZLR 1057), where the legislation intends that councils should decide matters even if it has an interest in the outcome. The Resource Management Act 1991 provides that only councils may make decisions on district plan matters, and does not permit a council to delegate that decision to anyone else. The decision making on Proposed Plan Change 2 is therefore a situation where the general rule about conflict of interest does not apply. The Council is able to make decisions on Proposed Plan Change 2.

It is important, however, that Councillors are aware of the obligation to approach the decision making on Proposed Plan Change 2 with an open mind, and to not disregard any relevant consideration raised in submissions or in evidence presented at the Hearing.

For this reason, it is legally appropriate that the Councillors who attend the Hearing of Proposed Plan Change 2 make the decisions on Proposed Plan Change 2.

It is recommended that:

the submission of A Grace (2/14) and the further submission from the Te Atatu Residents and Ratepayers Association (2/127/65); and

the submission of the Te Atatu Residents and Ratepayers Association (2/21) and the further submissions by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobile (2/97/35), L Nobile (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/145/86), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95)

be rejected.

7.2 General Support For Proposed Plan Change 2

7.2.1 The Royal Forest and Bird Protection Society Incorporated (2/9) and the Department of Conservation (2/30) seek that Proposed Plan Change 2 be approved by the Committee.

Submission (2/9) is opposed by B Arnold (2/63/1), the Te Atatu Residents and Ratepayers Association (2/122/60), and A Grace (2/152/90).

B E Arnold's opposition to submission (2/9) is based upon the view that the Royal Forest and Bird Protection Society is not a ratepayer or resident of the Harbour View South Area. The Te Atatu Residents and Ratepayers Association and A Grace's opposition to (2/9) relates to their seeking the deletion of the Marae Special Area, and that inappropriate development that will create adverse environmental effects on the Harbour View South Special Area.

Submission (2/30) is opposed by the Te Atatu Residents and Ratepayers Association (2/120/58) and A Grace (2/145/83). The Te Atatu Residents and Ratepayers Association and A Grace's opposition relates to their seeking the deletion of the Marae Special Area and that inappropriate development that will create adverse environmental effects on the Harbour View South Special Area.

Discussion

The Royal Forest and Bird Protection Society Incorporated consider Proposed Plan Change 2 to be an essential part of the legal process associated with implementing the Harbourview-Orangihina Park Open Space Management Plan. The Royal Forest and Bird Protection Society Incorporated therefore support both the re-identification of the land to Open Space Environment, and the identification of the land to Marae Special Area. The Royal Forest and Bird Protection Society was a participant in the development of the Harbourview-Orangihina Park Open Space Management Plan. They provided valuable advice regarding the environmental issues that were identified during the consideration of the types of community facilities that may be located on the Park. Having been a participant, the Royal Forest and Bird Protection Society indicate in its submission that most of their environmental concerns were considered in the development of the Open Space Management Plan and changes to address those concerns were made.

The Department of Conservation supports Proposed Plan Change 2. The support of this submitter is noted.

The Resource Management Act establishes an inclusive process that enables all those who hold a view on resource management matters to participate. There is no prerequisite that a submitter must live in an area, or pay rates in an area. Consequently the opposition to the Royal Forest and Bird's submission by B Arnold is not supported.

The Te Atatu Residents and Ratepayers Association and A Grace's opposition relates to their seeking the deletion of the Marae Special Area and that inappropriate development that will create adverse environmental effects on the Harbour View South Special Area. Any adverse effects generated by the marae are addressed in Section 7.5.3(f). That Section introduces new District Plan Rules that are specifically tailored to that type of activity, and any adverse environmental effects arising from that activity. While adverse effects may arise from the marae activity, the deletion of the Marae Special Area on that basis is not supported, because any adverse effects will be addressed via the New District Plan Rules and the resource consent process.

It is recommended that:

the submission of The Royal Forest and Bird Protection Society Incorporated (2/9); and the Department of Conservation (2/30)

be accepted, and

the further submissions of B Arnold (2/63/1), Te Atatu Residents and Ratepayers Association (2/122/60) and (2/120/58), and A Grace (2/152/90) and (2/145/83)

be rejected.

7.3 General Opposition To Proposed Plan Change 2

7.3.1 Celest Cline (2/24), Jan Carey (2/25), J Baty (2/26); Russell O'Connor (2/34), S Cline ((2/40), and J Cline (2/41) indicate general opposition to Proposed Plan Change 2.

Submission (2/26) is supported by A Grace (2/146/85)

Discussion

The submitters do not state any reasons in their submission for their opposition to Proposed Plan Change 2. Proposed Plan Change 2 follows on from and was integral to an extensive public consultation process that culminated in the adoption by the Council of an Open Space Management Plan that had been prepared under the (then) Local Government Act 1974. The re-identification of the land to Open Space Environment and Marae Special Area is considered necessary to progress the development of the Harbourview Park. This will achieve the desire of both the Council and the community for an extensive area of parkland that will be retained for public use now and into the future. To not re-identify this land will significantly hinder the development of the Park and any Marae facilities. The existing identifications (especially the areas of land that are currently identified as Living Environment) provide no certainty that the Park will be retained now and into the future, whereas the Open Space Environment removes the likelihood of inappropriate development of the Park in the future. Consequently these submissions and further submissions are not supported.

It is recommended that:

the submissions of Celest Cline (2/24), Jan Carey (2/25), J Baty (2/26); Russell O'Connor (2/34), S Cline ((2/40), and J Cline (2/41); and

the further submission of A Grace (2/152/85)

be rejected.

Submissions Relating To The Open Space Environment

7.4 Support For The Re-identification Of The Land To Open Space Environment

7.4.1 The Royal Forest and Bird Protection Society Incorporated (2/9), A Grace (2/15), the Te Atatu Residents and Ratepayers Association (2/17), B Peterson (2/28) and M Te Huia (2/51) support the re-identification of land currently identified as Harbour View South Special Area and Living Environment to Open Space Environment.

Submission (2/9) is opposed by B Arnold (2/63/1). This opposition is based upon the view that the Royal Forest and Bird Protection Society is not a ratepayer or resident of the Harbourview South Area.

Submission (2/15) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission.

Submission (2/17) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/89), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

Discussion

The re-identification of the land currently identified as Living Environment and Harbour View South Special Area is one of the key changes to the District Plan arising from Proposed Plan Change 2.

There is a significant portion of the land that has been allocated to the Harbourview-Orangihina Park that is not currently identified as Open Space Environment. Open Space Environment is the District Plan Human Environment that all land in the City is identified as when it is owned by the Council and used for park activities. Consequently the re-identification of land currently identified as Harbour View South Special Area and as Living Environment to Open Space Environment is an essential part of the Council processes associated with implementing the Harbourview-Orangihina Park Open Space Management Plan. The Open Space Environment identification for this land removes the likelihood of inappropriate development of the Parkland in the future. It also ensures that the District Plan is up to date and consistent with the Council's strategic direction. Consequently these submissions and further submissions that support the re-identification of the land to Open Space Environment are supported.

The Resource Management Act establishes an inclusive process that enables all those who hold a view on resource management matters to participate. There is no prerequisite that a submitter must live in an area, or pay rates in an area. Consequently the opposition to the Royal Forest and Bird's submission by B Arnold is not supported.

It is recommended that:

the submissions of

the Royal Forest and Bird Protection Society Incorporated (2/9), A Grace (2/15), the Te Atatu Residents and Ratepayers Association (2/17) , B Peterson (2/28) and M Te Huia (2/51)), and

the further submissions of E Grimmer (2/127/65), CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/89), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95).

be accepted.

It is recommended that:

the further submission of B Arnold (2/63/1)

be rejected.

7.4.2 A Grace (2/11) and the Te Atatu Residents and Ratepayers Association (2/18) supported the Proposed Plan Change from Harbour View South Special Area and Living Environment to Open Space Environment conditional upon certain matters. These matters are:

- the removal of all proposals from the Open Space Management Plan (including the marae, the transportation centre and servicing infrastructure) that will have more than minor adverse effects on the resources and environment of the Park,
- amendment of (unspecified) supporting documents to provide for the People's Park (August 2000).

Submission (2/11) is supported by E Grimmer (2/127/65). This support is based upon the reasons given in the original submission.

Submission (2/18) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobile (2/97/35), L Nobile (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

The two submitters also propose an alternative Human Environment identification as part of submissions (2/11) and (2/18) to retain the Harbour View South Special Area. This is dealt with in Section 7.4.3 below.

Discussion

The Open Space Management Plan was prepared by the Harbourview Working Party over a period from September 2001 to January 2003. The membership of the Working Party and its schedule of meetings is included in Appendix Six of the Section 32 Report for Proposed Plan Change 2. During that time, the development of the Park and the community facilities that could or should be located upon the land were exhaustively debated. The Council's Community Development Committee heard formal submissions on the Draft Open Space Management Plan and made decisions that retained aspects of the Draft, and changed other aspects. During this process many options for park facilities were discarded or amended in light of the potential for those facilities to adversely affect the environment.

The development of the Park in accordance with the Open Space Management Plan has commenced. The relevant resource consents were approved for those developments, subject to conditions that ensure that the adverse effects of those developments are avoided or mitigated.

The Open Space identification will enable the Park development to be completed. The types of community facilities envisaged for parks will be required to meet the objectives, policies and rules of the Open Space Environment. If the development of the facilities identified in the Open Space Management Plan would generate adverse effects that do not comply with the performance standards of the Open Space Environment Rules, a resource consent will be required. These resource consent applications will also be considered against the tests of Sections 93 and 94 of the Resource Management Act to ascertain whether or not the application should be publicly notified.

The Te Atatu Residents and Ratepayers Association submission identifies facilities such as the Marae, the transportation centre and servicing infrastructure as activities that will have more than minor adverse effects on the environment / resources. The marae will be subject to Policy 8.9 and the new District Plan Rules (refer to Section 7.5.3(f)), which thereby ensures that any adverse effects of the marae will be addressed using the District Plan Policies and Rules that are specifically tailored to that activity. The transportation facility is not part of Proposed Plan Change 2, and if it proceeds the land will be designated under Part 8 of the Resource Management Act for that purpose. That will ensure that any adverse effects of the facility will be addressed. The installation of servicing infrastructure (power, telecommunications, stormwater, waste water, gas) is required to be placed underground, and will not adversely affect the landscape character of the land. Facilities such as public toilets, signs and lighting will be visible, however the location of these has been considered in the development of the Open Space Management Plan.

On this basis, the Council has certainty that any adverse effects that are generated from the development of the park facilities will be avoided or mitigated via the designation or the resource consent process. Consequently these submissions and further submissions are not supported.

The Environmental Management Committee does not have the delegated authority to remove from the Open Space Management Plan any activities that may generate adverse effects. As discussed, any activities that do not meet the relevant performance standards in the District Plan will require a resource consent, and any adverse effects will be addressed by conditions placed on that consent.

The Open Space Management Plan is under constant review, and any changes to the Open Space Management Plan will require approval by the Council's Community Development Committee. Amendment to other documents to provide for the People's Park (August 2000) will not occur for the same reasons. Consequently these submissions and further submissions are not supported.

It is recommended that:

the submission of A Grace (2/11) and the further submission from Te Atatu Residents and Ratepayers Association (2/127/65); and

the submission of the Te Atatu Residents and Ratepayers Association (2/18) and the further submissions by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/145/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95)

as they relate to

- the removal of all proposals from the Open Space Management Plan (including the marae, the transportation centre and servicing infrastructure) that will have more than minor adverse effects on the resources and environment of the Park,
- amendment of (unspecified) supporting documents to provide for the People's Park (August 2000)

be rejected.

7.4.3 A Grace (2/11) and the Te Atatu Residents and Ratepayers Association (2/18) also propose an alternative Human Environment identification as part of these submissions. This alternative seeks to retain the Harbour View South Special Area, while providing a new objective in the District Plan that makes it clear that the land and resources are protected as a special park.

Submission (2/11) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission.

Submission (2/18) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

Discussion

The Harbour View South Special Area Rules currently only enables the grazing of horses and subsidiary activities and buildings as a permitted activity. All other activities, including subdivision, are non complying. This Special Area was created as an interim method, while acknowledging that further consideration of the potential use of the land and its Human Environment identification was required. Decision Notice 107 A states on page 16 that:

"... The Council is however including a process in its Proposed District Plan which allows for some time to be taken in applying such considerations to this Harbour View South Area"

Consequently the Harbour View South Special Area was never seen as a long term identification for the land. The Harbourview Working Party was the process by which the long term use for the land was determined, and the appropriate District Plan identification considered. Through this process, it was determined that the Open Space Environment identification was the appropriate Human Environment identification for the Harbourview Park, as it reinforces a consistent approach to all park land across the City. It provides certainty to the Council and all residents that the Harbourview-Orangihina Park will be regulated by the same District Plan framework as other parks throughout the City.

There are 57 City Wide Parks within the City, that have varying uses. The Harbourview-Orangihina Park has no particular qualities that justify separating it out from the other City Wide Parks, all of which are regulated by the Open Space Environment Rules.

It is likely that any revised objectives, policies and rules for the Harbour View South Special Area would be similar to the Open Space Environment, given the likelihood that the land would be developed to enable public access for low impact recreational use, and consequential public facilities such as toilets and boardwalks would be expected to be located on the park land. The Open Space Environment Rules provide an established and proven regulatory framework for the assessment of the effects of the development of park facilities. Council sees no compelling reason to undertake a planning exercise to identify specific objectives, policies and rules for this area of land, when they already exist within the District Plan. Consequently these submissions and further submissions are not supported.

It is recommended that:

the submission of A Grace (2/11) and the further submission from Te Atatu Residents and Ratepayers Association (2/127/65); and

the submission of the Te Atatu Residents and Ratepayers Association (2/18) and the further submissions by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/145/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95)

as they relate to retaining the Harbour View South Special Area, while providing a new objective in the District Plan that makes it clear that the land and resources are protected as a special park

be rejected.

Submissions Relating To The Marae

7.5 Support For The Location Of The Marae On The Land That Is Subject To Proposed Plan Change 2

The Royal Forest and Bird Protection Society (2/9), the Department of Conservation (2/30), Nikita Wellington (2/46), Margaret Davis (2/47), Cori-ann Henry (2/48), M Te Huia (2/51), Alison Stankovich (2/52), Kerryn Wellington (2/53), Mati Wellington (2/54), Linda Wellington (2/55), Melba Wellington (2/56), M & G Stankovich (2/57) Rore Wellington (2/58), Te Atatu Marae Coalition Trust (2/59), Carolyn Makiri (2/61) support the provision of a Marae Special Area on the land identified in Proposed Plan Change 2.

B Peterson (2/29), and Ian Wood (2/60) indicate in their submissions conditional support for the Marae Special Area.

B Arnold (2/63/1) opposes submissions (2/59) and (2/61). This opposition is based on the view that only one submission should have been received from the Te Atatu Coalition Trust, as the Trust has a vested interest in the Harbour View South Special Area.

Te Atatu Residents and Ratepayers Association (2/120/58) oppose submission (2/30). This opposition relates to seeking the deletion of the Marae Special Area and that inappropriate development that will create adverse environmental effects on the Harbour View South Special Area.

Te Atatu Residents and Ratepayers Association (2/122/60) oppose submission (2/9). This opposition relates to seeking the deletion of the Marae Special Area and that inappropriate development that will create adverse environmental effects on the Harbour View South Special Area.

Te Atatu Residents and Ratepayers Association (2/125/63) oppose submission (2/60). This further submission opposes the original submission generally and in particular the that part of the submission that seeks the provision of commercial activities in the Marae Special Area, and the melding of the Harbour View North Special Area and the Harbour View South Special Area.

Te Atatu Residents and Ratepayers Association (2/126/64) oppose submission (2/59). This opposition is based upon a view that the submission is invalid, as it is considered to not be clear about the parts of the Proposed Plan Change that it relates to.

A Grace (2/129/67) opposes submission (2/61).
A Grace (2/130/68) opposes submission (2/60).
A Grace (2/131/69) opposes submission (2/59).
A Grace (2/132/70) opposes submission (2/58).
A Grace (2/133/71) opposes submission (2/57).
A Grace (2/134/72) opposes submission (2/56).
A Grace (2/135/73) opposes submission (2/55).
A Grace (2/136/74) opposes submission (2/54).
A Grace (2/137/75) opposes submission (2/53).
A Grace (2/138/76) opposes submission (2/52).
A Grace (2/139/77) opposes submission (2/51).
A Grace (2/140/78) opposes submission (2/48).
A Grace (2/141/79) opposes submission (2/47).
A Grace (2/142/80) opposes submission (2/46).
A Grace (2/145/83) opposes submission (2/30).
A Grace (2/152/90) opposes submission (2/9).

A Grace opposes submissions (2/61), (2/60), (2/59), (2/58), (2/57), (2/56), (2/55), (2/54), (2/53), (2/52), (2/51), (2/48), (2/46), (2/30) and (2/9) on the basis that the marae will have major adverse effects on the Harbourview land.

A Grace also opposes submissions (2/59), (2/58), (2/57), (2/56), (2/55), (2/54), (2/53), (2/52), (2/48), and (2/46), on the basis that the submissions are invalid, as they have not been completed in the "prescribed form", being Form 3A of the Resource Management (Forms) Regulations 1991.

A Grace also opposes submission (2/47) on the basis that it is vexatious, in that it could be misconstrued as supporting A Grace's submission (2/13).

Discussion

At its meeting on 27 February 2002, Council resolved (resolution 270/2002) to provide 2.5 hectares of land on the Harbourview-Orangihina Park for Te Atatu Marae. A further resolution indicated that following detailed site concepts for the location of the marae, the Council would incorporate the appropriate identification for the marae site into the (then) Proposed District Plan. The integration of the marae site with the park facilities was to be addressed through the Open Space Management Plan.

Proposed Plan Change 2 seeks to meet the requirements of Resolution 270/2002.

The District Plan enables marae to establish within the City via Policy 9.8. Policy 9.8 states that:

Marae may be established in any part of the City, provided that adverse effects on:

- *water quality and quantity;*
- *significant and outstanding indigenous vegetation and fauna habitat and ecosystems;*
- *vegetation biomass;*
- *soils;*
- *natural hazards ;*

are avoided, remedied or mitigated, and the proposal is compatible with the protection of those physical and natural characteristics identified as contributing to the health and safety of occupants of neighbouring sites, and road users.

The District Plan acknowledges the differing form of development that may occur in Marae Special Areas, such as their bulk and form, which may differ to the expected bulk and form associated with residential activity. Consequently the District Plan has established specific rules for activities located within Marae Special Areas, to ensure that any adverse effects arising from the marae are avoided, remedied or mitigated.

The Marae Special Area is located wholly within the Harbourview Park, and the relationship between the Marae and the park spaces and facilities have been considered during the development of the Open Space Management Plan.

The submissions in support of the identification of 2.5 hectares of land as Marae Special Area generally indicate support for the Marae Special Area, the marae itself, or a marae within the Harbourview Park. Many of the submissions do not provide extensive reasons for supporting the marae. However, the Royal Forest and Bird Society (2/9) states that it considers that a marae will add to the cultural value of the area and promote a better understanding of concepts such as Kotahitanga (unified place of assembly) and Kaitiakitanga (stewardship of the land).

The Te Atatu Marae Coalition (2/59) states that the establishment of the marae will help to meet the needs of the community and that it has been a long wait for a facility such as a marae.

Two submitters indicate conditional support for the Marae Special Area. B Peterson (2/29) supports the Marae Special Area as long as there are conditions relating to public access and parking controls.

Access to the marae will use a dual purpose access way, used for both the access to the marae and access to the southern portion of the Park. The marae location and design have been developed to enable safe pedestrian and vehicular access to and from the marae, while not restricting the general public's safe pedestrian and vehicular access to the Park itself. Public access to the marae itself may on occasion be controlled (on days such as those when tangi or hui are occurring). All parking required by the District Plan for the marae will be contained within the 2.5 hectare s of land identified as Marae Special Area. Consequently B Petersen's submission (2/29) is supported.

I Wood (2/60) supports the Marae Special Area, as long as the area is limited to 2.5 hectares inclusive of access ways and parking. As indicated in the discussion of submission (2/29) above, access ways and parking will be included within the 2.5 hectares of land. The access ways will provide a dual purpose in terms of providing access for Park users to the southern end of the Park. This submission is opposed by the Te Atatu Residents and Ratepayers Association (2/125/63). The further submission seeks the deletion of the Marae Special Area, and either the deletion of the marae from the Open Space Management Plan or retain the Harbour View Special Area. Consequently I Wood's submission (2/60) is supported, and the Te Atatu Residents and Ratepayers Association further submission (2/125/63) is not supported.

I Wood (2/60) also seeks that the Harbour View North Special Area and the Harbour View South Special Area be melded together. The Harbour View North Special Area is an area of land that was also identified as a result of Decision Notice 107A. It is located to the north of the Harbourview Park, and is adjacent to the Te Atatu commercial area. Since Decision Notice 107A, the Harbour View North Special Area has been substantially developed for commercial, residential and park purposes. There is little land left in the Harbour View North Special Area that is undeveloped. The Harbour View North Special Area and the Harbour View South Special Area will not be melded together in the District Plan. Consequently I Wood's submission (2/60) is only supported in part, as identified above. The further submissions by the Te Atatu Residents and Ratepayers Association (2/125/63) and A Grace (2/130/68) are supported in part.

I Wood also seeks that activities that are restricted within the Marae Special Area include commercial activities. This submission is opposed by the Te Atatu Residents and Ratepayers Association (2/125/63). It appears, however, that the Te Atatu Residents and Ratepayers association have misread Mr Wood's submission, in that he seeks that commercial activities be restricted on the marae, and this view is also articulated in the Te Atatu Residents and Ratepayers Association's submission.

The Marae Special Area Rules enable non-residential activities to occur within the Marae Special Area. The only constraint on this is based upon traffic generation issues, where less than 40 traffic movements per day (or one percent of the roads daily volume) is permitted. If goods are produced from a non residential activity on the Marae Special Area, the potential exists for retail sales of those goods. Hence commercial activities are able to occur. Consequently I Wood's submission (2/60) is not supported.

C Makiri (2/61) seeks that the Marae Special Area be protected from any future Plan Changes. The Council, by reaching its decisions on Plan Change 2, will establish the regulatory framework that will ensure that the natural and physical resources of the Harbourview-Orangihina Park are sustainably managed for the life of the Council's District Plan. The Resource Management Act requires that the Council review its District Plan every ten years. At that time, the Human Environment identifications for the Harbourview land will be reviewed, and amended if it is considered appropriate. This review will take into account the Council's strategic documents, especially the Parks Strategy and the wider strategic direction as articulated in the Long Term Council Community Plan. At the time of the District Plan review, the public will be able to make submissions in relation to any changes to the Human Environment identifications on the Harbourview land. The Council has no legal ability to remove the possibility of future changes to the Human Environment identifications on the Harbourview land, and this cannot be considered to be sustainable management of the City's resources as required by the Resource Management Act. Consequently C Makiri's submission (2/61) is not supported.

C Makiri(2/61) also seeks that the Council consider protecting the area of land identified as Marae Special Area as Maori Reservation Land. Maori Reservation Land is provided for under Part 17 of Te Ture Whenua Maori Act 1993 (Maori Land Act 1993). The Council has been considering the management framework for the Marae Special Area land, in terms of how the organisation that will construct and operate the marae will lease the land, and how that land will be governed. This matter has yet to be completed in detail, and is not a matter that can be achieved through Proposed Plan Change 2. Consequently while the Council supports a Maori Reservation Land framework, such a framework is outside the scope of this Proposed Plan Change, and C Makiri's submission (2/61) is not supported.

There are a number of further submissions in opposition to the submissions that support the Marae Special Area.

B Arnold (2/63/1) opposes submissions (2/59) and (2/61), on the basis that only one rather than two submissions should have been received from the Te Atatu Marae Coalition Trust. In this case, the submission of Carolyn Makiri, who indicates that she is a trustee of the Te Atatu Marae Coalition Trust, is considered by the reporting planner to be a submission from an individual. This matter may be clarified by the Te Atatu Marae Coalition Trust during the hearing. Consequently B Arnold's further submission (2/63/1) in opposition to submissions (2/59) and (2/61) are not supported.

The Te Atatu Residents and Ratepayers Association oppose submissions (2/9), and (2/30), and (2/59). The Association opposes (2/9), (2/30) and (2/59) on the basis that the Harbourview Open Space Management Plan and Marae Special Area propose activities that are inappropriate and will have significant adverse effects on the environment.

As has been discussed in Section 7.4.2, the marae will be subject to Policy 8.9 and the new District Plan Policy and Rule (refer to Section 7.5.3(f)), which thereby ensures that any adverse effects of the marae will be addressed using the District Plan Policies and Rules that are specifically tailored to that activity. The Council, via Resolution 270/2002, has indicated that the development of a marae within the bounds of the Harbourview-Orangihina Park is an appropriate activity to occur in that area. Consequently the Te Atatu Residents and Ratepayers Association further submissions (2/120/58) and (2/122/60) in opposition to submissions (2/29) and (2/30) are not supported.

The Te Atatu Residents and Ratepayers Association also oppose submission (2/59) on the basis that it is not in the prescribed form. Many of the submissions and further submissions that the Council has received about Proposed Plan Change 2 have not been in the prescribed form. This generally means that the "Decision sought" part of the form has not been completed, the part of the District Plan it relates to has not been specified, or reasons have not been provided. In all cases, including submission (2/59), the intention of the various submitters has been made clear on the submission form, and it is recommended that the Council not rule the submission as invalid in that case.

Further to this matter, in the one instance where no information at all was provided on the submission form, that submission (2/62) was ruled invalid. Each submitter has the opportunity to speak in support of their submissions and further submissions at the hearing. At this time various submitters may choose to clarify their submissions, and to rule submissions invalid at this point in the process is considered by the reporting planner to be premature. Consequently the Te Atatu Residents and Ratepayers Association further submission (2/126/64) in opposition to submission (2/59) is not supported.

A Grace opposes 16 submissions made in support of the marae or the Marae Special Area.

Fifteen of those further submissions (except for submission (2/141/79), oppose the original submissions on the basis that the development of the marae as a result of the provision of a Marae Special Area on the Harbourview land will have adverse environmental effects. As has been identified in Section 7.4.2 of this report, the marae will be subject to Policy 8.9 and the new District Plan Policy and Rule (refer to Section 7.5.3(f)), which thereby ensures that any adverse effects of the marae will be addressed using the District Plan Policies and Rules that are specifically tailored to that activity. Consequently A Grace's further submissions in opposition to submissions (2/61), (2/60), (2/59), (2/58), (2/57), (2/56), (2/55), (2/54), (2/53), (2/52), (2/51), (2/48), (2/46), (2/30), (2/9) are not supported.

A Grace opposes ten submissions on the basis that they are invalid because the forms have not been filled out correctly. As discussed previously, many of the submissions and further submissions that the Council has received have not been in the prescribed form. This means that the "Decision sought" part of the form has not been completed, the part of the District Plan it relates to has not been specified, or reasons have not been provided. In all cases, the intention of the various submitters has been made clear on the submission form, and it is recommended that the Council not rule the submissions as invalid in these cases. Further, in the one instance where no information at all was provided on the submission form, that submission (2/62) was ruled invalid. Each submitter has the opportunity to speak in support of their submissions and further submissions at the hearing. At this time various submitters may choose to clarify their submissions, and to rule submissions invalid at this point in the process is considered by the reporting planner to be premature. Consequently A Grace's further submissions in opposition to submissions (2/59), (2/58), (2/57), (2/56), (2/55), (2/54), (2/53), (2/52), (2/48), and (2/46) are not supported.

A Grace opposes submission (2/47) on the basis that it is vexatious. The submission refers to supporting a marae on Te Atatu Peninsula. A Grace considers that this submission could be construed as supporting her submission (2/13), that seeks that one of the other marae locations identified in the Port Glen Consultancy Report be re-identified as Marae Special Area. As indicated above, each submitter has the opportunity to speak in support of their submissions and further submissions at the hearing. At this time this submitter may choose to clarify their submission, and to rule that this submission is vexatious at this point in the process is considered by the reporting planner to be premature. Consequently A Grace's further submission in opposition to submission (2/47) is not supported.

It is recommended that:

the submissions of the Royal Forest and Bird Protection Society (2/9), the Department of Conservation (2/30), Nikita Wellington (2/46), Margaret Davis (2/47), Cori-ann Henry (2/48), M Te Huia (2/51), Alison Stankovich (2/52), Kerryn Wellington (2/53), Mati Wellington (2/54), Linda Wellington (2/55), Melba Wellington (2/56), M & G Stankovich (2/57) Rore Wellington (2/58), Te Atatu Marae Coalition Trust (2/59), Carolyn Makiri (2/61), B Peterson (2/29), and Ian Wood (2/60) as they relate to their support for the Marae Special Area

be accepted

and the further submissions of

B Arnold (2/63/1), the Te Atatu Residents and Ratepayers Association (2/120/58) (2/122/60), (2/125/63), (2/126/64) and A Grace (2/129/67), (2/130/68), (2/131/69), (2/132/70), (2/133/71), (2/134/72), (2/135/73) (2/136/74), (2/137/75), (2/138/76), (2/139/77), (2/140/78), (2/141/79), (2/142/80), (2/145/83), and (2/152/90) as they relate to their opposition to the primary submissions

be rejected

It is recommended that:

The submissions of B Peterson (2/29) and Ian Wood (2/60) as they relate to parking and access

be accepted.

It is recommended that:

The submissions of I Wood (2/60) as it relates to the restriction of commercial activities on the Marae Special Area, and the further submission by the Te Atatu Residents and Ratepayers Association (2/126/64)

Be rejected.

It is recommended that:

The submissions of I Wood (2/60) as it relates to the melding of the Harbour View North Special Area and the Harbour View South Special Area

Be rejected

and the further submissions of

the Te Atatu Residents and Ratepayers Association (2/125/63) and A Grace (2/129/68) in opposition to the melding of the Harbour View North Special Area and the Harbour View South Special Area

Be accepted.

It is recommended that:

The submission of C Makiri (2/61) as it relates to protection of the Marae Special Area from future plan changes

be rejected.

It is recommended that:

The submission of C Makiri (2/61) as it relates to Maori Reservation Land.
be rejected.

7.5 Object To The Location Of The Marae On The Land That Is Subject To Plan Change 2

7.5.1 M Pearce (2/1), L Parker (2/2), A Reyland (2/3), Don Reyland (2/4), Debbie Reyland (2/5), B Arnold (2/6), D Battersby (2/7), A Grace (2/12) and (2/13), the Te Atatu Residents and Ratepayers Association (2/19) and (2/20), J Neilson (2/27), M Jenkinson (2/45), R Kerr (2/49), G Kerr (2/50) object to the location of the Marae Special Area on the Harbourview land.

Submission (2/7) is supported by the Te Atatu Residents and Ratepayers Association (2/124/62) and A Grace (2/153/91). This support is based upon the reasons given in the original submission.

Submission (2/12) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission.

Submission (2/19) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

Submission (2/27) is supported by A Grace (2/153/84).

7.5.2 Several of the submitters in opposition to the Marae Special Area also seek a number of other matters as part of their submissions. These are listed as follows.

A Grace (2/12) and the Te Atatu Residents and Ratepayers Association (2/19) seek that the marae proposal be deleted from the Council's Open Space Management Plan.

Submission (2/12) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission. Submission (2/19) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Birmingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

A Grace (2/12), the Te Atatu Residents and Ratepayers Association (2/19) and J Neilson (2/27) seek that the Marae Special Area be retained as Harbour View South Special Area.

Submission (2/12) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). Submission (2/19) is supported by A Grace (2/146/85). Submission (2/19) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51, J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

A225

A Grace (2/13), the Te Atatu Residents and Ratepayers Association (2/20) seeks that one of the alternative marae locations identified in the Port Glen Consultancy Report (dated February 2002) be identified as Marae Special Area, as attached at page A225.

Submission (2/13) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission. Submission (2/20) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51, J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/87), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

R Kerr (2/49) and G Kerr (2/50) seek that the 2.5 hectares of land allocated to the Marae Special Area be allocated to the Pony Club.

Discussion

7.5.3 The Proposed Marae Special Area is opposed for several reasons. While some submissions object to the Marae Special Area on a general basis, the other reasons identified on the submissions are:

- (a) No part of the Park should be retained for exclusive use by any group;
- (b) No buildings should be allowed on the Park;
- (c) A marae will detract from the Park;
- (d) The \$9.00 rate for development of Open Space of the Park is inappropriate;
- (e) That a marae is not the best option under the Resource Management Act; and
- (f) That the marae will have more than minor adverse effects.

The reasons presented in the submissions are considered below. As can be seen in sub paragraphs (a) to (e) below, the reasons presented in the submissions are not considered to be sufficiently compelling under the Resource Management Act to not proceed with the Marae Special Area, and consequently they are not supported. The issue of the adverse effects arising from the marae have merit, and are addressed in sub paragraph (f).

A No Part Of The Park Retained For Exclusive Use

The Te Atatu Marae Coalition have maintained throughout the development of the Council's Open Space Management Plan that the public would be welcome on the marae on appropriate occasions. The Council acknowledges that on certain occasions, such as on days when hui or tangi are held, the marae will be used exclusively by the members of the Te Atatu Marae Coalition and their whanau.

Exclusive use is not an adverse environmental effect under the Resource Management Act. The occasional exclusive use of the Marae Special Area should be considered alongside the unfettered use of the substantial remainder of the Harbourview-Orangihina Park by all members of the public on all days of the year. Consequently the submissions based upon this reasoning are not considered to be a sufficiently compelling reason under the Resource Management Act to not proceed with the Marae Special Area and are not supported.

B No Buildings Should be Allowed On The Park

The Harbourview land currently has several buildings and structures located on it. The construction of marae buildings within the Marae Special Area will require resource consent (refer to Section 7.5.3(f) below) if they cannot meet the performance standards of the District Plan, and any adverse effects generated by the buildings will be avoided or mitigated by the imposition of conditions on that resource consent. A substantial area of land identified as Open Space Environment within the Park will not have buildings located on it, and will maintain the open character of the area. Consequently the submissions based upon this reasoning are not considered to be a sufficiently compelling reason under the Resource Management Act to not proceed with the Marae Special Area, and are not supported.

C Marae Detract From The Park

The Marae Special Area (and any buildings erected upon it) has the potential to adversely affect the amenity values of the Park. However the construction of any marae buildings on the Marae Special Area will require resource consent (refer to Section 7.5.3(f) below), and any adverse effects on the amenity values of the Park that are generated by the buildings will be avoided or mitigated by the imposition of conditions on that consent. Consequently this reason is not considered to be a sufficiently compelling reason under the Resource Management Act to not proceed with the Marae Special Area and are not supported.

D The \$9.00 Rate

The Council has taken a \$9.00 rate from all ratepayers in the City for the development of the facilities on the Harbourview Park. None of this rate will be used for the development of a marae. The marae is expected to be self funding. The matter of rates is not a valid matter to be considered under the Resource Management Act. Consequently this reason is not considered to be a sufficiently compelling reason under the Resource Management Act to not proceed with the Marae Special Area and is not supported.

E Marae Is Not The Best Option

The Resource Management Act, in section 32, requires that the Council consider whether the Plan Change is:

- necessary,
- what other means may be used to achieve the purposes of the Resource Management Act,
- the reasons for and against the Plan Change,
- the benefits and costs of the Plan Change and any alternatives, and
- whether the Plan Change is the most appropriate having regard to the efficiency and effectiveness of other means.

This consideration has been undertaken in the preparation of the Plan Change, and in relation to the Proposed Marae Special Area. The section 32 analysis has determined that the Marae Special Area identification is the most appropriate method to achieve the Council's goal of establishing a marae (as stated in resolution 270/2002) on the Harbourview land. Consequently this reason is not considered to be a sufficiently compelling reason under the Resource Management Act to not proceed with the Marae Special Area and is not supported.

F Marae Will Have More Than Minor Adverse Effects

Several submitters have identified the possibility of the marae generating adverse effects on the environment. The current District Plan Rules for Marae Special Areas are considered to lack sufficient performance standards to ensure that the environmental outcomes sought from any marae development will be achieved. In terms of the marae on the Harbourview land, the District Plan Rules require re-consideration.

In response to submissions, the Council has prepared a new Policy and a new Rule that provides certainty to all Plan users about what development is expected to occur on the land, and the performance standards required to achieve that. The Policy provides the guidance required to enable the appropriate development to occur.

The method used to achieve this certainty is that a Comprehensive Development Plan must be prepared by the applicant and consented to prior to any development within the Marae Special Area. The Comprehensive Development Plan will be designed to take into account the unique qualities and characteristics of the area. These qualities include the existing and proposed Harbourview-Orangihina Park development(s), landscape and heritage features, the coastal edge, the views over the Waitemata Harbour, amenity and design standards within and between the areas of the development of the Marae Special Area (Te Atatu), and the adequate provision of infrastructure.

This method recognises that a marae development will occur on the Harbourview land, however this development needs to be managed through the resource consent process to ensure a comprehensive, well-designed marae that sustainably manages the natural and physical resources of the area is achieved.

The submissions that have raised the matter of the adverse effects of the marae are considered to have merit, and are a sufficiently compelling reason under the Resource Management Act to proceed with a new Policy and a new Rule that seeks to sustainably manage the development of a marae on the Marae Special Area. Consequently the submissions on this matter are supported in part.

7.5.4 Other Matters Sought In Submissions

Marae Proposal Be Deleted From The Council's Open Space Management Plan

The Council's Open Space Management Plan for the Harbourview-Orangihina Park has been prepared under the (then) Local Government Act 1974. There is no jurisdiction under the Resource Management Act to make amendments to this Open Space Management Plan. Any such change to the Open Space Management Plan will be a consequence of decisions made by the Council on the submissions on Plan Change 2.

Those consequential changes will be required to make the District Plan and the Council's Open Space Management Plan consistent. Such changes (if there are any) will then need to be considered by the appropriate Council Committee, and approved. As the recommendations of this report (below) seek the retention of the Marae Special Area in the District Plan, to remove the marae proposal from the Council's Open Space Management Plan would create an inconsistency between the two documents. Consequently the submissions related to this matter are not supported.

Marae Special Area Be Retained As Harbour View South Special Area

The retention of the Harbour View South Special Area will delay the development of the area for marae purposes. It would also make the obtaining of the necessary resource consents for the development of marae or other Park facilities unnecessarily more difficult and expensive, without any significant improvements in the sustainable management of the natural and physical resources of the land. Consequently the submissions related to this matter are not supported.

Alternative Marae Locations Be Identified As Marae Special Area

The Port Glen Consultancy Report (February 2002) identified 15 sites on the Te Atatu Peninsula as possible sites for a marae. Following the analysis of each of these sites, it was concluded that the site on the Harbour View South Special Area was the most appropriate site. The Council considered that conclusion, and resolved to incorporate the development of a marae on the land within the Harbour View South Special Area.

If the Council sought to re-consider the location of the marae within the Te Atatu Peninsula, the factors that lead the Port Glen Consultancy to reach the conclusions that it did are still likely to be valid. The re-location of the Marae Special Area may not be supported by the Te Atatu Marae Coalition, and if pursued in several of the other possible locations may result in adverse effects that are more significant than those that will arise in the proposed location. Consequently the submissions related to this matter are not supported.

Land Allocated To The Marae Special Area Be Allocated To The Pony Club

The matter of the Pony Club has been considered as part of the development of the Council's Open Space Management Plan. The Pony Club is one of the few current active uses of the Harbourview land. It currently exists on the Harbourview land on a month-by-month lease. Policy 6.1 of the Open Space Management Plan states that the Council will allow a three year trial period, subject to a yearly review, for the Pony Club in the Park. If the trial is successful the Club will stay, if not, it will go.

In addition to Policy 6.1, the concept plan for the park (included in the Open Space Management Plan) outlines the exact area that will be provided for Pony club use and the location of pony clubrooms and associated public toilets. This area is located in the southern part of the Park between the road and the Marae Special Area. It is a maximum of five hectares in size.

The development of the Park is not anticipated to be completed for another three years. During this time, a "staged retreat" has been implemented for the areas that the Pony Club are grazing on a month by month lease. As the different stages of the Park development are completed, the area of land utilized by the Pony Club will be reduced to the final location of five hectares of land adjacent to the motorway. This offers the club time to re-establish within the reduced area on a gradual basis and organise the functioning of the Club on a smaller area. It has never been anticipated that the Pony Club would occupy the 2.5 hectares of land Proposed as Marae Special Area. Consequently the submissions related to this matter are not supported. If the decision is made to not proceed with the Marae Special Area, this possibility could be considered, outside of the statutory plan change process.

It is recommended that:

The submissions by M Pearce (2/1), L Parker (2/2), A Reyland (2/3), Don Reyland (2/4), Debbie Reyland (2/5), B Arnold (2/6), D Battersby (2/7), A Grace (2/12) and (2/13), the Te Atatu Residents and Ratepayers Association (2/19), J Neilson (2/27), M Jenkinson (2/45), R Kerr (2/49), G Kerr (2/50)

And the further submissions by

The Te Atatu Residents and Ratepayers Association (2/124/62), (2/121/65), CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/153/84), (2/151/88), (2/153/91), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95) as they relate to adverse environmental effects arising from a marae

Be accepted in part.

It is recommended that:

The submissions by M Pearce (2/1), L Parker (2/2), A Reyland (2/3), Don Reyland (2/4), Debbie Reyland (2/5), B Arnold (2/6), D Battersby (2/7), A Grace (2/12) and (2/13), the Te Atatu Residents and Ratepayers Association (2/19), J Neilson (2/27), M Jenkinson (2/45), R Kerr (2/49), G Kerr (2/50)

And the further submissions by

The Te Atatu Residents and Ratepayers Association (2/124/62), (2/121/65), CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/153/84), (2/151/88), (2/153/91), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95)

as they relate to no part of the Park should be retained for exclusive use by any group; no buildings should be allowed on the Park; that a marae will detract from the Park; the \$9.00 rate for development of Open Space of the Park is inappropriate; and that a marae is not the best option under the Resource Management Act

Be rejected.

It is recommended that:

The submissions by R Kerr (2/49) and G Kerr (2/50)

Be rejected.

7.6 That A Kura (School) Be Included On The Land That Is Proposed To Be Identified As Marae Special Area

The Ministry of Education (2/31) seek that a Kura (school) be included in the Marae Special Area.

M Jenkinson (2/45) opposes any school associated with a marae.

Submission (2/31) is opposed by B Arnold (2/63/1) on the basis that the Ministry of Education is not a rate payer or resident of the Harbourview South area. Submission (2/31) is opposed by R Wood (2/64/2), the Te Atatu Residents and Ratepayers Association (2/128/66), and A Grace (2/144/82) on the basis that the kura would have a significant adverse effect on the environment, and that the submission is invalid, or the kura should locate on an area of land previously offered.

Submission (2/45) is supported by A Grace (2/143/81).

Discussion

The District Plan includes a definition of "Marae Activities". These are activities that are permitted (i.e. no resource consent is required) in Marae Special Areas.

Amongst the activities identified as being permitted, a kura (school) is listed. Consequently the Ministry of Education's submission has already been provided for as part of the development of the Marae Special Area Rules within the District Plan.

The fact that a kura is listed as a permitted activity in the District Plan does not necessarily mean that a kura (or any other structure identified in the definition of "Marae activities") will actually be constructed. The Council is working with the Te Atatu Maraе Coalition to determine what facilities will be constructed within the Maraе Special Area. That process is the appropriate one to determine whether a kura is located on the Maraе Special Area. If a kura is part of those facilities, any adverse environmental effects that are created by it not meeting the performance standards set by the District Plan (refer to Section 7.5.3(f) above) will be addressed through conditions on the resource consent. Consequently the submission by the Ministry of Education is supported.

The Resource Management Act establishes an inclusive process that enables all those who hold a view on resource management matters to participate. There is no prerequisite that a submitter must live in an area, or pay rates in an area. Consequently the opposition to the Ministry of Education's submission by B Arnold is not supported.

R Wood's opposition to the Ministry of Education's submission on the basis that a kura would have a significant adverse effect on the environment. As stated above, the fact that a kura is listed as a permitted activity in the District Plan does not necessarily mean that a kura (or any other structure identified in the definition of "Marae activities") will actually be constructed. If a kura is part of those facilities, any adverse environmental effects that are created by it not meeting the performance standards set by the District Plan will be addressed through conditions on the resource consent (refer to Section 7.5.3(f) above). Consequently the further submission by R Wood is not supported.

The Te Atatu Residents and Ratepayers Association and A Grace oppose the submission as they consider it invalid because the forms have not been filled out correctly. Many of the submissions and further submissions that the Council has received have not been in the prescribed form. In all cases, the intention of the various submitters has been made clear, and it is recommended that the Council not rule the submission as invalid in this case. Further, in the one instance where no information was provided on the submission form, that submission (2/62) was ruled invalid. Each submitter has the opportunity to speak in support of their submission and further submission at the hearing. At this time various submitters may choose to clarify their submissions, and to rule submissions invalid at this point in the process is considered by the reporting planner to be premature. Consequently the further submissions by the Te Atatu Residents and Ratepayers Association and A Grace are not supported.

It is recommended that:

The submission by the Ministry of Education (2/31)

Be accepted.

It is recommended that:

The submissions by M Jenkinson (2/45) (supported by A Grace (2/143/81)),

And the further submissions by

B Arnold (2/63/1), R Wood (2/64/2), the Te Atatu Residents and Ratepayers Association (2/128/66), and A Grace (2/144/82)

Be rejected.

Heritage Issues

7.7 That Two Buildings Be Included In The District Plan Heritage Appendix

A Grace (2/16(b)(I)) seeks the inclusion of the building on Lot 87 DP 203198 (the building locally known as the "Brick Villa") on the District Plan Heritage Appendix.

A Grace (2/16(b)(ii)) seeks the inclusion of the building locally known as the "Wooden Cottage" on the District Plan Heritage Appendix.

Submissions (2/16(b)(i) and (ii) are supported by the Te Atatu Residents and Ratepayers association (2/127/65)

Discussion

A226-A234

The Council has had both of these buildings assessed by a heritage consultant in 1996, as attached at pages A226 to A234. The assessment of these two buildings concluded that both have sufficient historical significance to warrant inclusion in the District Plan Heritage Appendix. It is considered appropriate to list both of them as Category II items. Category II is defined in page 10 of Appendix D of the District Plan as

"Structures of value, but where change could be considered if it is in keeping with the character. This category mostly includes dwellings. No demolition would be considered."

These two items will require the allocation of a Cultural Heritage Inventory (CHI) number as part of their addition to the Heritage Appendix.

Consequently the submissions by A Grace and the Te Atatu Residents and Ratepayers Association are supported.

It is recommended that:

The submission by A Grace (2/16 (b)(I) and (ii)

And The further submission by the Te Atatu Residents and Ratepayers Association (2/127/65)

Be accepted.

7.8 That The "Brick Villa" Land (Lot 87 DP 203198) Be Identified As Open Space Environment

A Grace (2/16(a)) and the Te Atatu Residents and Ratepayers Association (2/22) seeks that Lot 87 DP 203198 (the "brick villa") be re-identified as Open Space Environment.

Submissions (2/16(a)) is supported by the Te Atatu Residents and Ratepayers association (2/127/65).

Submission (2/22) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobile (2/97/35), L Nobile (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

Discussion

The role of the Brick Villa in the Harbourview-Orangihina Park has been considered during the development of the Council's Open Space Management Plan. The Open Space Management Plan states that new buildings in the Park will not be provided for. Extensions to the existing buildings will be to provide facilities of visitors to the Park in appropriate places, to enable them to enjoy the Park without impacting on natural values (Policy 6.3 of the Open Space Management Plan).

While the building is identified as Living Environment, it is not part of the land identified as Open Space Environment, the use of the building will ensure that it is integrated with the activities of the Park. The Council, as owner of the building, can ensure that this remains the case.

The Plan Change seeks to retain the Living Environment identification that the Brick Villa currently has allocated it. This will enable a range of activities to achieve a resource consent to operate within the building. This range of activities will be wider than the activities likely to be consented to under the Open Space Environment Rules. While the use of the building has yet to be determined, the building's Living Environment identification means that if a non-residential activity occurs in the building, the Council will be able to appropriately assess the environmental effects of that activity via a resource consent process, and ensure that any adverse environmental effects are addressed by conditions of consent.

Seeking a resource consent for a non-residential activity under the District Plan Open Space Environment Rules is unnecessarily stringent, as the Open Space Rules generally only anticipate that "parks buildings" will be located in the Open Space Environment. Consequently the submissions by A Grace (2/16(a)) and the Te Atatu Residents and Ratepayers Association (2/22), and the further submissions in support of those two primary submissions are not supported.

It is recommended that:

The submissions by A Grace (2/16 (a)) and the Te Atatu Residents and Ratepayers Association (2/22) and

And the further submissions by

the Te Atatu Residents and Ratepayers Association (2/127/65), CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95)

be rejected.

Public View Issues

7.9 That A Public View Be Included In District Plan View Appendix

A Blackman (2/8), A Grace (2/10), and the Te Atatu Residents and Ratepayers Association (2/23) seek the protection of public views from Te Atatu South Road.

Submission (2/8) is supported by the Te Atatu Residents and Ratepayers Association (2/123/61). This support is based upon the reasons given in the original submission.

Submission (2/10) is supported by the Te Atatu Residents and Ratepayers Association (2/127/65). This support is based upon the reasons given in the original submission.

Submission (2/23) is supported by CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobilo (2/97/35), L Nobilo (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95). This support is based upon the reasons given in the original submission.

Discussion

The District Plan identifies several outstanding views, both into and from the City. These views contribute to the quality of the City's outstanding landscapes.

The Council has included a public view (number 44) in the District Plan Appendix K. Policy 11.25 states (among other things) that:

"A range of activities may be located and carried out within the Harbour View Special Area, provided that:

any structure is located so as to protect notable public views as set out in Appendix K and shown on Map 3.6(e) ..."

It is important to note that the explanation of this Policy states that:

"...The particular development direction for the site has not been established ..."

Please refer to Section 5.3 of this report for the full text of Policy 11.25.

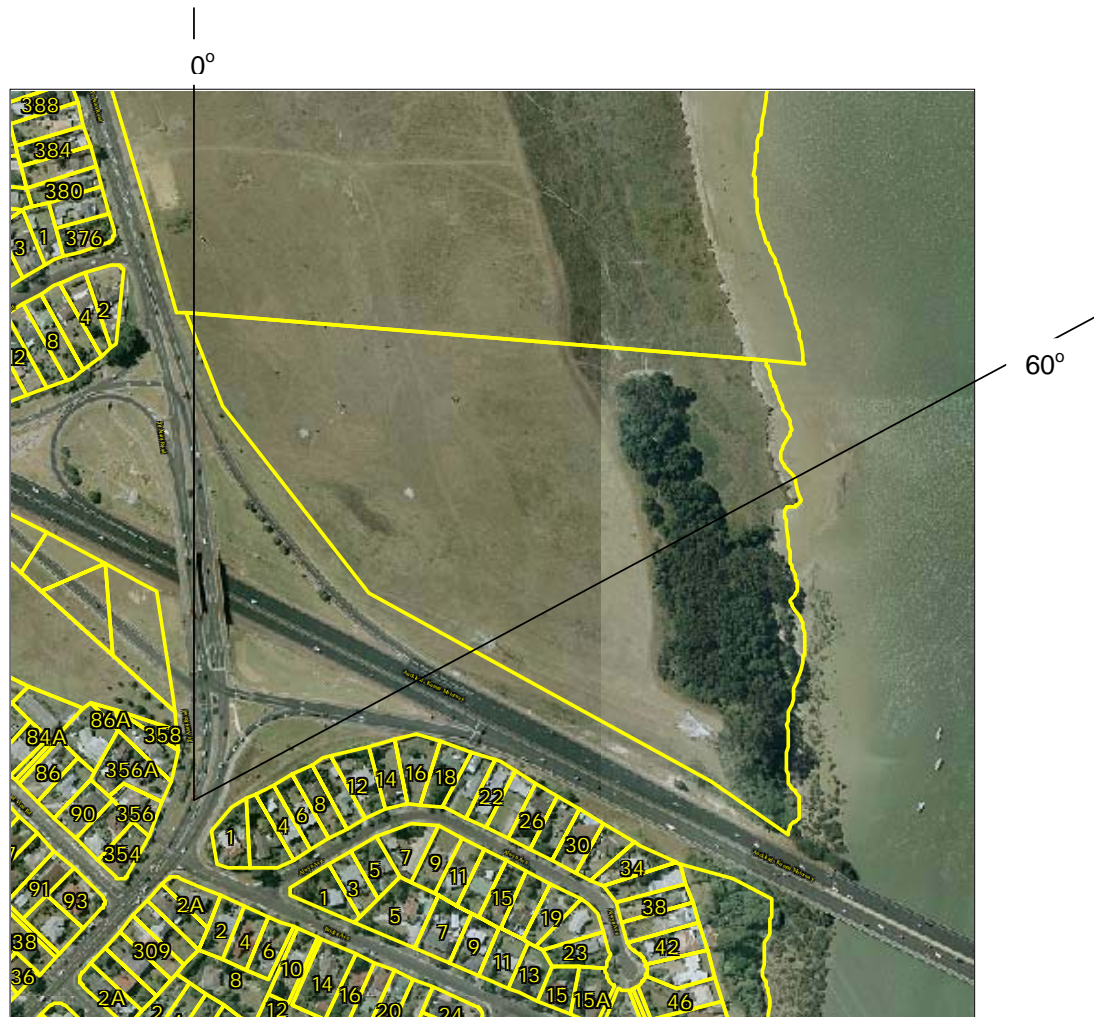
A234

The exact location of View 44 of this view is uncertain, and it is appropriate to identify the exact location of this view, and the arc that it covers, to assist in the sustainable management of this amenity value. The District Plan Appendix K states that View 44 is the "Sudden view of the Whau and the Waitemata Harbour from the Te Atatu interchange", as attached at page A234. However, the compass bearing listed in Appendix K does not equate to any logical location associated with the description of the View. the actual compass bearing taken from the ground in the vicinity of the Te Atatu motorway interchange.

A Grace (2/10), and the Te Atatu Residents and Ratepayers Association (2/23) have indicated on their submissions a point at which the view is identified, and an arc for the view. This point is adjacent to 358 Te Atatu Road, and has an arc from approximately 0° to 80°.

Following consideration from various locations adjacent to the Te Atatu interchange, and assuming that the view is seen from a motor vehicle, it is considered that the exact location of View 44 should be next to the right of way adjacent to the intersection of Te Atatu Road and Bridge Avenue. This is adjacent to 356A Te Atatu Road. The arc of the view is then 0° – 60° degrees. This level of specificity will ensure that there is no confusion in the future about where the view is from, and will provide certainty in the implementation of the District Plan.

The arc of this view is indicated below.



The views suggested by A Grace (2/10) and the Te Atatu Residents and Ratepayers Association (2/23) and the Council's arc will continue to cover the area of the Marae Special Area. The development of any marae activities on the Marae Special Area will need to avoid or mitigate any adverse environmental effects associated with the buildings intruding into View 44. Consequently the submissions are supported in part.

A Blackman's submission (2/8) seeks that any buildings to be located outside of the views from Te Atatu Road South. As indicated above, View 44 covers the area of the Marae Special Area. The consequence of requiring the exclusion of all buildings from View 44 via the District Plan Rules would mean that a marae could not be constructed within the Marae Special Area. It is considered that the Marae Special Area (Te Atatu) Policy and Rules will provide sufficient regulation to ensure that where development occurs, the development avoids or mitigates environmental effects associated with the buildings intruding into the View 44. These will be assessed at the time that the resource consent application is lodged. Consequently the submission of A Blackman is not supported.

It is recommended that:

The submissions by Grace (2/10) and the Te Atatu Residents and Ratepayers Association (2/23) and

The further submissions by the Te Atatu Residents and Ratepayers Association (2/123/61) and (2/127/65), CR Berry (2/65/3), BE Copland (2/66/4), Y Copland (2/67/5), K Manson (2/68/6), D Hartley (2/69/7), A Stratton (2/70/8), M Lucy (2/71/9), A Anthony (2/72/10), C Redgrave (2/73/11), S Hartley (2/74/12), R Mattson (2/75/13), S Watson (2/76/14), W Watson (2/77/15), L Burke (2/78/16), H Brewer (2/79/17), J Brewer (2/80/18), R Brown (2/81/19), T McKeown (2/82/20), L Brown (2/83/21), G McKeown (2/84/22), S Oxenham (2/85/23), M Valler (2/86/24), G Valler (2/87/25), I Bermingham (2/88/26), P Campbell (2/89/27), A Attwood (2/90/28), M Schaapvelo (2/91/29), M Smith (2/92/30), S Smith (2/93/31), A Bentley (2/94/32), B Goh (2/95/33), V Goh (2/96/34), F Nobile (2/97/35), L Nobile (2/98/36), D Ritchie (2/99/37), C Ritchie (2/100/38), J Renwick (2/101/39), F Helleur (2/102/40), J Helleur (2/103/41), E Grimmer (2/104/42), M Hatton (2/105/43), LJ Blick (2/106/44), L Blick (2/107/45), M Kerr (2/108/46), M Mears (2/109/47), M Burke (2/110/48), A Kelly (2/111/49), S Perry (2/112/50), D Hamilton, 2/113/51), J Mobberley (2/114/52), R Buckley (2/115/53), R Walsh (2/116/54), P Lindsay (2/117/55), C Cook (2/118/56), D Reeve (2/119/57), A Kerr (2/121/59), A Grace (2/151/88), D Hirtzell (2/154/92), B Hirtzell (2/155/93), I Hamilton (2/156/94), and P Field (2/157/95).

Are accepted in part, in that the existing view is clarified in the District Plan.

It is recommended that:

The submission by A Blackman (2/8)

Be rejected.

Pony Club Issues

7.12 That Land Currently Allocated To The “Pony Club” Remain At 10 - 12 Hectares

K Witten (2/32), R Roberts(2/33), A O'Connor (2/35), R Doody (2/38), M Jolly (2/42), D Jolly (2/43) seek that the area of land on Harbourview-Orangihina Park allocated to the Pony Club remain at 10 – 12 hectares.

S Kerr(2/36) and R Crammond (2/39) seek that an unspecified area of land be allocated to the Pony Club to enable the Club to continue and fill its role in the community.

C Hand (2/37) and R Kerr (2/49) oppose the Plan Change if the Pony Club will lose the land that is currently allocated to it as a result of the Plan Change.

Discussion

The Open Space Management Plan for Harbourview - Orangihina outlines the policy and approach being taken with regard to the Pony Club on the Park.

Policy 6.1 of the Open Space Management Plan states:

Provide for a variety of recreational pursuits and recreation needs while respecting the needs and values of all users.

Implementation

- *Investigate and allow a three year trial period, subject to a yearly review, for the Pony Club in the Park. If the trial is successful the Club will stay, if not, it will go.*

Policy 6.2 of the Open Space Management Plan states:

Provide a safe environment for the Park

Implementation

- *Provide safe pedestrian access to the Pony Club area with safety-proof fencing.*
- *Ensure safety-proof fencing around the Pony Club area is well maintained.*

Policy 10.5 of the Open Space Management Plan states:

Use the control of lease agreements to ensure the most effective and equitable use of the Harbourview Park.

Implementation

- *Identify the feasibility and extent of equestrian facilities within the Park through a three-year trial period, subject to a yearly review. If the three year trial is successful the Club will stay, if not the Club will go.*

The matter of the Pony Club has been considered as part of the development of the Council's Open Space Management Plan. The Pony Club is one of the few current active uses of the Harbourview land. It currently exists on the Harbourview land on a month-by-month lease. Policy 6.1 of the Open Space Management Plan states that the Council will allow a three year trial period, subject to a yearly review, for the Pony Club in the Park. If the trial is successful the Club will stay, if not, it will go.

In addition to Policy 6.1, the concept plan for the park (included in the Open Space Management Plan) outlines the exact area that will be provided for Pony club use and the location of pony clubrooms and associated public toilets. This area is located in the southern part of the Park between the road and the Marae Special Area. It is a maximum of five hectares in size.

A235-A236

The development of the Park is not anticipated to be completed for another three years. During this time, a "staged retreat" has been implemented for the areas that the Pony Club are grazing on a month by month lease, as attached at pages A235 to A236. As the different stages of the Park development are completed, the area of land utilized by the Pony Club will be reduced to the final location of five hectares of land adjacent to the motorway. This offers the club time to re-establish within the reduced area on a gradual basis and organise the functioning of the Club on a smaller area. It has never been anticipated that the Pony Club would retain 10-12 hectares of land, and the area of land allocated to the Pony Club through its lease is a matter outside of the scope of the Resource Management Act and the District Plan. Consequently the submissions related to this matter are not supported.

It is recommended that:

The submissions by K Witten (2/32), R Roberts(2/33), A O'Connor (2/35), R Doody (2/38), M Jolly (2/42), D Jolly (2/43) that seek that the area of land on Harbourview-Orangihina Park allocated to the Pony Club remain at 10 - 12 hectares;

The submissions by S Kerr(2/36) and R Crammond (2/39) that that an unspecified area of land be allocated to the Pony Club to enable the Club to continue and fill its role in the community; and

The submissions by C Hand (2/37) and R Kerr (2/49) that oppose the Plan Change if the Pony Club will lose the land that is currently allocated to it as a result of the Plan Change

Be rejected.

8.0 CONCLUSIONS

8.1 This report sets out the background, technical basis and Section 32 considerations for Proposed Plan Change 2. In addition, the report considers issues raised in submissions and further submissions on the Proposed Plan Change, and recommends changes to the Proposed Plan Change where the submissions have merit under the Resource Management Act 1991.

Having regard to:

- the purpose and principles of the Resource Management Act;
- the objectives, policies and rules of the District Plan for managing land use in the Open Space Environments and Marae Special Areas;
- the issues raised in submissions and further submissions lodged in respect of Plan Change 2;
- the Open Space Management Plan for Harbourview Park;

it is considered that Plan Change 2 should be adopted.

8.2 The issues raised in submissions have highlighted four amendments that are considered appropriate in terms of enhancing the ability of the Council to sustainably manage the natural and physical resources on the Harbourview land. These are identified as follows:

8.2.1 The inclusion of the building on Lot 87 DP 203198 (the building locally known as the "Brick Villa") on the District Plan Heritage Appendix as a Category II item, as follows:

CHI No	Location	Description	Category	Interior	Legal Description
<i>To be allocated</i>	Dwelling, 19 Longbush Road	1890's Victorian brick villa. Significance attributed to architectural and historical values.	Category II	No	Lot 87 DP 203198

8.2.2 The inclusion of the building locally known as the "Wooden Cottage" on the District Plan Heritage Appendix as a Category II item, as follows:

CHI No	Location	Description	Category	Interior	Legal Description
<i>To be allocated</i>	Dwelling, Harbourview Park	1880's wooden farm cottage. Significance attributed to architectural and historical values.	Category II	No	Lot 94 DP 208882

8.2.3 The location from where existing View 44 in Appendix K of the District Plan is clarified, and the compass coordinates for the viewing arc is amended, as follows:

ID	Location	Description	Compass Angle (L-R)
44	From Te Atatu Road, adjacent to 356A Te Atatu Road	Sudden view of the Whau River and the Waitemata Harbour	0° - 60°

8.2.4 The inclusion of a new Policy and a new Rule into the District Plan to provide a sound resource management framework to ensure that all Plan users have certainty about the development constraints for any marae development on the 2.5 hectares of Marae Special Area land. This is as follows:

Policy 11.32

Any development in the Marae Special Area (Te Atatu) shall be designed to be compatible with landscape features, amenity values, the existing and future development of the Harbourview-Orangihina Park, the special amenity and ecological qualities of the Whau River and Waitemata Harbour, and should in particular provide that:

- there are no more than minor adverse effects on natural resources, including water quality and native vegetation;
- while landscape character may change, ensuring that change is managed to provide environments which are visually compatible with the surrounding environs;
- pedestrian linkages are provided for, including through enhancement of the coastal edge; and
- the natural landscape qualities of the coastal edges are maintained and enhanced.

In having regard to the above, development shall proceed in a manner that recognises the need for a Comprehensive Development Plan approach to future development on the Marae Special Area (Te Atatu).

Consequently a Comprehensive Development Plan is required prior to the establishment of any buildings or development within the Marae Special Area (Te Atatu). Requirements which need to be shown in that Plan include the following:

- The location and design of proposed roads and infrastructure. Regard here will need to be given to the adequacy of road access and the capacity of and quality of infrastructure, such as storm water disposal, waste water disposal and water supply;
- The way in which earthworks and any existing vegetation are to be managed;
- Provision for aural and visual amenity between the Marae Special Area (Te Atatu) and any land adjoining that Special Area, having particular regard to the Open Space Environment which adjoins the Special Area;
- Design guidelines incorporating the location, design and scale of buildings taking into account the location of the development in relation to open space and public views identified in Appendix K of the Plan;
- Provision for car parking and manoeuvring areas; and
- Provision for landscape treatment.

Once the Comprehensive Development Plan has a resource consent, the applicant must undertake the development of the site in accordance with the Plan. If the applicant proposes development that is not in accordance with the approved Comprehensive Development Plan, a resource consent for a revised Comprehensive Development Plan must be granted before the proposed development may occur.

Explanation

The Harbourview land is a unique resource in Waitakere City. The landscape character of the Harbourview-Orangihina Park is defined in terms of its topographical landform, vegetation cover and the influence of human activity within the area. The area is located on the edge of the large metropolitan area of the Te Atatu Peninsula. The topographical landform within the Harbour View South Special Area is one of the most interesting landscape features. The steep escarpment clearly delineates the upper and lower terraces, and has served to determine land uses along the site during the last century.

Vegetation cover in the Harbour View South Special Area is limited, and is a mix of open pasture, exotic and native trees, weed species and streamside riparian vegetation. On the lower escarpment, the vegetation reflects the coastal marine area within which it sits.

The development of a marae has the capacity to create adverse effects on the environment. Overall this Policy recognises that a marae development will occur on the Harbourview land, however this development needs to be managed to ensure a well-designed marae that fits within the natural character is achieved. Consequently the development process will involve the creation of a Comprehensive Development Plan. This will be designed to take into account the unique qualities and characteristics of the environment including: existing and proposed Park development; landscape and heritage features; the coastal edge; the outlook over the harbour; amenity and design standards within and between areas of development; and the adequate provision of infrastructure.

Methods

District Plan Rules:

Marae Special Area (Te Atatu)

Amend Section 3.9 “Special Areas” of Chapter 3 “The City’s Environment” as follows

Marae Special Area (Te Atatu) - *This is an area of land comprising 2.5 hectares located within Harbourview-Orangihina Park, upon which a marae will be developed.*

Amend City Wide Rules Definitions Section by adding the following definition as follows

Marae Special Area (Te Atatu) means land shown on the Human Environments Maps as Marae Special Area (Te Atatu) and to which the Marae Special Area (Te Atatu) Rules apply.

Amend Special Areas Rules by adding the following Rule 21

Rule 21	MARAЕ SPECIAL AREA (TE ATATU)
<p>RULES</p> <p>21.0 General</p> <p>(a) The following rules shall apply to <i>Marae Activities</i> on land situated in the <i>Marae Special Area (Te Atatu)</i>.</p> <p>(b) Where there is any conflict between the following rules and other rules in the <i>Plan</i>, the following rules shall prevail.</p> <p>(c) All of the following rules shall apply, where relevant, to <i>Any Activity</i>.</p> <p>(d) For the purposes of these rules the “Comprehensive Development Plan” is</p>	<p>ASSESSMENT CRITERIA</p> <p>21(a) The extent to which roads, <i>driveways</i>, <i>car parking</i> buildings and other <i>development</i> are of a <i>size</i>, location, scale and <i>design</i> to be compatible with the landscape character</p> <p>21(b) The extent to which any development provides a good standard of aural and visual amenity</p> <p>21(c) The extent to which the landscape character of the Open Space Environment adjacent to the <i>Marae Special Area (Te Atatu)</i> is maintained</p>

Rule 21	MARAÉ SPECIAL AREA (TE ATATU)
<p>any Comprehensive Development Plan prepared and consented to pursuant to Rule 21.2 of these rules.</p>	<p>21(d) The extent to which <i>any activities</i> and the <i>design</i>, location and scale of <i>buildings</i> and <i>activities</i> avoids or mitigates adverse <i>effects</i> on natural landscape character and <i>amenity</i> values</p>
<p>21.1 Permitted Activities</p>	
<p>The following are <i>Permitted Activities</i>:</p>	
<p>(a) <i>Marae activities</i> not involving the erection of new <i>buildings</i></p>	<p>21(e) The extent to which <i>buildings</i> and/or <i>any activities</i> are compatible with <i>marae activities</i></p>
<p>(b) <i>Filming Activities</i> not involving the erection of new <i>buildings</i> or the external alteration of existing <i>buildings</i>, or requiring the <i>development</i> of new <i>infrastructure</i> to service the activity</p>	<p>21(f) The extent to which areas of open space and planting are used to offset the visual effects of <i>buildings</i></p>
<p>(c) Parks, playgrounds and walkways</p>	<p>21(g) The extent to which <i>landscape treatment</i> and <i>development</i> complements and enhances the landscape character</p>
<p>21.2 Limited Discretionary Activities</p>	
<p>The following are <i>Limited Discretionary Activities</i>:</p>	
<p>(a) <i>Marae activities</i> involving the erection of new buildings or other <i>development</i></p>	<p>21(h) The extent to which <i>driveways</i>, <i>car parking</i> and <i>road access</i> provides for safe and efficient provision for motor vehicles, cyclists and pedestrian traffic</p>
<p>(b) <i>Buildings</i> having a maximum <i>height</i> not exceeding 9.0 metres</p>	<p>21(i) The extent to which traffic generation creates adverse <i>effects</i> on:</p> <ul style="list-style-type: none"> • The capacity of <i>roads</i> giving access to the <i>site</i>; and • The safety of <i>road users</i> including cyclists and pedestrians
<p>(c) The establishment of <i>infrastructure</i> provided for as a <i>permitted activity</i> in Rule 17 of the <i>Living Environment</i></p>	
<p>(d) Any <i>sign</i> or <i>temporary sign</i> which does not protrude above or beyond the outline of a <i>building</i> or which is located below the verandah (<i>canopy</i>); and which are not flashing, moving, freestanding or illuminated</p>	<p>21(j) The extent to which <i>development</i> promotes a safe environment for pedestrians, including adequate lighting and appropriate location and <i>design</i> of entrances, windows and <i>driveways</i></p>
<p>Provided that in respect of (a), (b), (c) and (d) above, that any <i>proposed building</i> is to be shown on a Comprehensive Development Plan approved as a <i>Limited Discretionary Activity</i> under this Rule, and which indicates, for the whole of the <i>Marae Special Area (Te Atatu)</i>:</p>	<p>21(k) The extent to which <i>development</i> and <i>buildings</i> achieves the requirements of the Comprehensive Development Plan as set out in Policy 11.32</p>
<ul style="list-style-type: none"> • The location and <i>design</i> of proposed <i>roads</i>, <i>access</i> and <i>infrastructure</i>; 	<p>21(l) The extent to which more than minor adverse <i>effects</i> can be adequately avoided, remedied, mitigated or offset through payment or provision of a <i>financial contribution</i></p>
<ul style="list-style-type: none"> • The way in which <i>earthworks</i> and any existing <i>vegetation</i> are to be managed; 	<p>21(m) The extent to which <i>signs</i> are visually appropriate to the landscape character</p>
<ul style="list-style-type: none"> • Provision for aural and visual <i>amenity</i> between the <i>Marae Special Area (Te Atatu)</i> and any land identified as <i>Open Space Environment</i> adjoining that <i>Special Area</i>; 	<p>21(n) The extent to which <i>signs</i> should not create a situation hazardous to the safe movement of traffic</p>
<ul style="list-style-type: none"> • Provision for avoiding and/or mitigating any intrusion into the View 44 as identified in Appendix K of the <i>Plan</i>; 	<p>21(o) The extent to which <i>buildings</i> affect the outlook from View 44, Appendix K</p>
<ul style="list-style-type: none"> • Design guidelines incorporating the location, <i>design</i> and scale of <i>buildings</i>; 	<p>21(p) The extent to which residential or <i>non-residential activities</i> that are not <i>Marae Activities</i> adversely affect the</p>
<ul style="list-style-type: none"> • Provision for <i>car parking</i> and <i>driveways</i>; 	

Rule 21	MARAE SPECIAL AREA (TE ATATU)
<ul style="list-style-type: none"> • A traffic management plan; • Provision for <i>landscape treatment</i>; • Provision for <i>storm water treatment and disposal system</i>; • Provision for <i>waste water treatment and disposal system</i>; and • Provision for the protection and enhancement of the natural character of the area. <p>Assessment of <i>Limited Discretionary Activity</i> applications will be limited to matters of <i>road location and design, infrastructure location, capacity and design, bulk and location of buildings, car parking and driveways, screening and landscape treatment, aural and visual amenity</i>, protection and enhancement of natural character, and will be assessed having regard to the Assessment Criteria 21(a) to 21 (p).</p> <p>21.3 Discretionary Activities</p> <p>The following are <i>Discretionary Activities</i>:</p> <p>(a) Any <i>Non Residential or Residential Activity</i> not otherwise provided for in the Comprehensive Development Plan</p> <p>(b) <i>Buildings</i> having a maximum <i>height</i> exceeding 9.0 metres</p> <p><i>Discretionary Activity</i> applications will be assessed having regard to Assessment Criteria 21(a) - 21(p) and any other relevant matter under section 104 of the <i>Act</i>.</p> <p>21.4 Other Rules Applying</p> <p>The following rules of the <i>Plan</i> shall apply to <i>Any Activity</i>:</p> <ul style="list-style-type: none"> • All relevant <i>City-wide Rules</i> • All relevant <i>Natural Area Rules</i> • Living Environment Rule 5 - Height in Relation to Boundaries/Separation of buildings • Living Environment Rule 13 - Noise • Living Environment Rule 14 - Air Discharges, Odour, Glare and Vibration • Working Environment Rule 9 - Parking, Loading and Driveway Access • Open Space Environment Rule 10 - Signs <p>21.5 Non-Complying Activities</p> <p><i>Any Activity</i> which is not a <i>Permitted Activity</i> or a <i>Limited Discretionary Activity</i> or a <i>Discretionary Activity</i> under the above rules shall be deemed to contravene a rule in the <i>Plan</i> and shall be a <i>Non-Complying Activity</i>.</p>	<p style="text-align: center;">landscape character</p> <p>Note: See also Policies: 1.5, 1.7, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 2.4, 2.5, 2.6, 2.7, 2.11, 2.12, 3.2, 3.3, 3.4, 3.5, 4.3, 4.5, 5.3, 5.6, 5.7, 6.2, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 8.1, 8.2, 8.4, 8.5, 8.7, 8.8, 8.9, 9.3, 9.4, 9.10, 9.11, 9.13, 10.1, 10.2, 10.3, 10.7, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, 10.16, 10.19, 10.27, 11.6, 11.7, 11.8, 11.9, 11.10, 11.11, 11.12, 11.23, 11.31, 11.32, 12.1,12.2,12.3,12.4, 12.5, 12.6, 12.8.</p> <p>(Policy Section of the Waitakere District Plan)</p> <p>1.1 RESOURCE CONSENT CONDITIONS</p> <p>In granting a <i>resource consent</i> Council may impose conditions. Conditions may include any one or more of the following matters:</p> <ul style="list-style-type: none"> • Requiring alterations to <i>design</i> and/or location. • Requiring the provision of a <i>landscape treatment plan</i> and implementation of that <i>landscape treatment plan</i> within a given time. • Requiring alteration to the <i>car park(s)</i>, access design and/or location. • Limiting the bulk and scale of <i>activities</i> and other <i>development</i>. • The imposition of a <i>bond</i> to ensure satisfaction of conditions of consent. • Requiring <i>financial contributions</i> in accordance with the <i>Plan</i>. • Requiring <i>onsite</i> or <i>offsite</i> works and services to avoid, remedy, mitigate or offset <i>adverse effects</i>. • Such other matters provided for in section 108 of the <i>Act</i>.

Rule 21	MARAE SPECIAL AREA (TE ATATU)
<p>-----</p> <p>NOTES</p> <ol style="list-style-type: none"> 1. If an activity is not controlled or restricted in any way by any part of the <i>Plan</i> it is permitted, but may require consents under other legislation/ plans. 2. Activities must comply with all other relevant rules of the <i>Plan</i>, or be the subject of a <i>resource consent</i>. Check all other <i>Natural Area Rules</i> and <i>City-Wide Rules</i>. 3. Words in <i>italics</i> are defined - see the Definitions part of the <i>City-Wide Rules</i>. 4. Words in bold are explained - see the Explanations part of the Introduction to the Rules. 5. The Council may have a guideline to help interpret this rule - check at the Council Offices. 6. For <i>resource consents</i> see the Information Requirements in the <i>City-Wide Rules</i>. 7. Criteria relating to engineering matters can be met by satisfying standards in the Waitakere City Code of Practice – check with Council 	

RECOMMENDATIONS

1. That the information be received.
2. That subject to additional or contrary evidence presented at the hearing, that pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991 Plan Change 2 is adopted with the amendments as detailed in Section 8.2 of this report.

Report prepared by: Eryn Shields, Planner: Policy Implementation.

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