



**AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT  
COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE,  
LINCOLN, WAITAKERE CITY, ON TUESDAY, 8 APRIL 2003,  
COMMENCING AT 9.30 AM.**

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**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 CONFIRMATION OF MINUTES**

Ordinary - Tuesday, 11 March 2003

**RECOMMENDATION**

That the minutes of the Ordinary Meeting of the Environmental Management Committee held on Tuesday, 11 March 2003, as circulated, be taken as read and now be confirmed.



4 **SUBMISSION TO RODNEY DISTRICT COUNCIL - KUMEU, HUAPAI, WAIMAUKU AND RIVERHEAD WASTEWATER SERVICES OPTIONS**

**PURPOSE OF THE REPORT**

The purpose of this report is to update the Environmental Management Committee on the Rodney District Council's proposals for Kumeu, Huapai, Waimauku and Riverhead wastewater services. A presentation will be provided on these options and relevant technologies.

**BACKGROUND**

Council participated in the Western Wastewater Workshop from 1993 to 1995 as part of an initiative by Watercare Services Limited to define future wastewater services requirements to cater for growth in Waitakere City and parts of Rodney District.

The Western Wastewater Workshop identified the need to provide new wastewater collection, treatment and disposal facilities, although no consensus was achieved on the optimum solution. The reason for this was that Watercare Services Limited and Rodney District Council at that time favoured the construction of a large central wastewater treatment plant, whereas Waitakere City Council favoured a combination of stand alone and decentralised facilities.

Subsequently, Watercare Services Limited proceeded to purchase a property in Amriens Road, Taupaki for the construction of Project West and sought public submissions on the proposals. Council objected to the proposal and subsequently Project West has not progressed further.

The Rodney District Council is investigating options for wastewater services and those will have an impact on the future planning for wastewater in Waitakere City. Rodney District Council has carried out a number of investigations over a period of some twenty years into options for providing wastewater services to the townships of Kumeu, Huapai, Waimauku and Riverhead.

A report on this matter was submitted to the Environmental Management Committee on 12 November 2002, and the Committee resolved as follows:

1. *That the information and presentation by Rodney District Council be received.*
2. *That the Manager: EcoWater Solutions is authorised to make a submission to the Rodney District Council supporting the adoption of decentralised wastewater collection, treatment, recycling and disposal for Kumeu, Huapai, Waimauku and Riverhead.*
3. *That the Manager: EcoWater Solutions is authorised to discuss planning and innovation for wastewater and stormwater services in co-operation with Rodney District Council and North Shore City Council.*
4. *That progress reports be submitted to the Environmental Management Committee as required."*

3271/2002

## STRATEGIC CONTEXT

The Council's three waters platform has the objective of establishing Waitakere as a centre of innovative water management. One of the success measures to indicate progress in this direction is that sustainable management solutions for stormwater, water and wastewater have been achieved in all new development areas. Thus, the consideration of new wastewater technologies is fundamental to the achievement of sustainable solutions.

Planning for wastewater and stormwater services is also included in the Sector Agreement developed with Rodney District Council, North Shore City Council and the Auckland Regional Council. This agreement states that Sector partners will share technical knowledge and work co-operatively on innovative approaches for managing stormwater and wastewater.

## ISSUES

Wastewater services are needed in Kumeu, Huapai, Waimauku and Riverhead if the area is to progress. The area is largely serviced by privately owned onsite septic tanks. It is expected that anywhere from 10% to 30% of these are likely to be performing poorly, and pose potential environmental and health risks. The lack of adequate wastewater services also constrains the provision of water services, which poses a further health risk from an inadequate treated water supply. Increasing population pressures are expected to increase these risks still further. Adequate water and wastewater services are needed for the future of this area.

The options considered in the Preliminary Investigations report prepared by Rodney District Council include connection to the Watercare Services Limited network, standalone community schemes for Kumeu-Huapai and Riverhead, a combined community scheme for all four townships, and the provision of decentralised wastewater treatment systems under Rodney District Council Management.

The wastewater services options favoured by Rodney District Council include decentralised wastewater collection, treatment, recycling and disposal are considered more sustainable for Rodney District Council than connection to the Watercare Services Limited wastewater.

Rodney District Council carried out a consultation process comprising a series of public meetings, contacting other stakeholder and special interests groups, public displays at the Kumeu Library and Riverhead Hall, and the posting out of two Community Information Sheets and a feedback form.

About 12% of property owners completed feedback forms. The decentralised option was the most strongly supported option at 50%, followed by connection to the Watercare network at 18%, and the do nothing option at 14%.

The Rodney District Council's Works Committee considered these matters at its 5 December 2002 meeting and resolved as follows:

- That the Council adopt the decentralised approach as the preferred wastewater option for Kumeu, Huapai, Waimauku and Riverhead.
- That a further report be made to the Committee on the option of implementing a pilot project utilising the decentralised approach.

## **ASSESSMENT OF WASTEWATER SERVICES**

The Local Government Act 2002 Section 124 requires Council to undertake an assessment of water and wastewater (including stormwater) services. Section 128 of the Local Government Act also requires the Council to consider a holistic approach for the assessment.

In this context, wastewater technology considered by Rodney District Council can also be considered by Waitakere City Council. As well, there are now other wastewater technologies which provide efficient and effective wastewater services. In order to provide guidance to the Council, it is proposed to provide two presentations to this meeting as follows:

- findings of a study tour to the United States of America; and
- a short video on wastewater technologies developed in Japan.

In order to progress this matter it is proposed to report to the 13 May 2003 meeting of the Environmental Management Committee to outline the work programme for the assessment of wastewater services and implementation of new wastewater technologies.

## **CONCLUSION**

Investigations by the Rodney District Council for wastewater options and a range of new wastewater technologies provide a basis for Council's assessment of wastewater services.

This approach will be included in Council's work programme and reported back to the Committee on 13 May 2003.

## **RESOURCES**

There is no impact on resources apart from staff time to provide the submission and liaise with Rodney District Council. Provision has been made as the Long Term Council Community Plan for the assessment of wastewater services.

## **RECOMMENDATIONS**

1. That the information and presentations be received.
2. That a report be brought back to the Environmental Management Committee scheduled to be held on Tuesday, 13 May 2003 outlining the work programme for the assessment of wastewater services, including implementation of new wastewater technologies.

Report prepared by: Tony Miguel, Group Manager: Asset Management.



## **PART I - REGULATORY / ENFORCEMENT**

### **5 LEGAL UPDATE (AS AT 28 MARCH 2003)**

#### **INTRODUCTION**

The following is a list of legal actions in respect of matters within the scope of the Environmental Management Committee, which are currently before the Courts and which are ongoing or have been commenced since the date of the preceding report. The list does not include minor prosecutions for dogs, swimming pools, health and litter although advice on any particular such prosecution can be provided to the Committee if it wishes. The dates referred to in the headings are the dates on which appeals, informations or proceedings were first filed in Court.

#### **ENVIRONMENT COURT**

##### **Birdwood Structure Plan**

##### **Kitewaho Bush Reserve Company Limited & Ors v Waitakere City Council**

This was an application by the Council to strike out Kitewaho, Mr Mawhinney and associated entities reference on Variation 87 (Birdwood Structure Plan). The reference had sought that the Birdwood structure plan be extended to allow extensive subdivision rights throughout the entire non-urban parts of Waitakere City, including land holdings owned by Kitewaho et al in the Bethells/Waitakere area. The Court upheld Council's application and has struck out the entire reference by Kitewaho et al on the basis that it is an abuse of process. An application will be made for costs against Kitewaho et al shortly.

#### **APPEALS**

##### **Waitakere City Council v Auckland Regional Council (SH16/18) (14 March 2002)**

Appeal filed by Waitakere City Council against decision of Auckland Regional Council on earthworks, stormwater and related resource consents sought by Transit for SH16/18.

Several other parties have also filed appeals (namely Transit, John Boyle, Ockleston Family Trust). It now appears that the appeals aside from Waitakere City Council's appeal will soon be settled. Transit has now settled its appeal with Auckland Regional Council, by entering into a consent memorandum that confirms that the total amount to be spent by Transit on mitigatory measures for the entire SH16/18 project is \$768,000. Waitakere City Council is continuing with ongoing settlement negotiations with Transit. Waitakere City Council has recently agreed to resolve that part of its appeal that relates to the Greenhithe side of the motorway project. The basis upon which settlement has been reached is that Transit has agreed to consult with both Waitakere City Council and the North Shore City Council prior to the allocation of the mitigation package of \$768,000. This will ensure that Waitakere City Council has some input into the allocation of the funds. The remainder of Waitakere City Council's appeal remains live.

##### **Selak v Waitakere City Council (7 March 2002)**

##### **Collett & Nye v Waitakere City Council (8 March 2002)**

Appeals have recently filed by the applicant Messrs Selak and their neighbours, Messrs Collett & Nye. Both appeals relate to the operation of the Selaks' Go-kart track on their property at Kennedy's Road, Whenuapai. The Selaks have appealed a condition disallowing use of the track on Sundays and public holidays. The Colletts & Nyes have appealed Council's decision to allow the Go-Kart activity. Mr Selak has put forward a new proposal, involving additional mitigation of the noise impacts of the Go-Kart track, which is to be considered by all parties and may result in settlement of these appeals.

**Mobil Oil New Zealand Limited v Waitakere City Council (Appeal filed late September/early October 2001)**  
**Henderson Valley Developments Limited v Waitakere City Council (12 October 2001)**

Both the above appeals relate to the proposed 264 residential unit development intended for 2-6 Henderson Valley Road. There are on-going negotiations with the applicant/developer and valuations are currently under consideration. The parties reported to the Environment Court on 10 September 2002 that negotiations were continuing and requested that the appeals be set down for the next call-over.

**Abacus Developments Limited & Ors v Waitakere City Council (Feb 2000)**

This was an appeal by Abacus, Kitewaho and related entities (Mr Mawhinney) against subdivision consent conditions imposed for a subdivision at Bethells/Waitakere. The appeal was to be heard in February 2003 but has been adjourned pending the outcome of the High Court appeal referred to in this report. It is expected to proceed to a hearing in the last quarter of 2003.

**Estate Homes Limited v Waitakere City Council (31 August 2001) (Sturges Road)**

Estate Homes has appealed the financial reserves contribution assessed as payable for the second stage of its subdivision at 13-15 Sturges Road. A cash bond of the amount of the contribution in dispute has been paid and on that basis Council has consented to an Order allowing the subdivision to proceed. The matter has been adjourned at the request of Estate Homes Limited, which is considering whether to issue further proceedings.

**Coastal Environments Limited v Waitakere City Council - Coastal Subdivision at Piha (5 March 2001)**

This is an application for subdivision consent lodged by Coastal Environments Limited, which was declined by the Council. The Waitakere Ranges Protection Society and several residents groups are parties to the appeal. Coastal are presently considering whether to revise their proposal and a judicial conference is scheduled for April 2003.

**Spencer v Waitakere City Council - Lone Kauri Road, Karekare (29 August 2000)**

This is an appeal by Mr Spencer against a decision of the Council to refuse consent to allow a subdivision of his property located at Lone Kauri Road, Karekare. Both Waitakere Ranges Protection Society and several residents groups are parties to the appeal. An on-site meeting between all parties took place a proposal has been put forward and negotiations are continuing. Mediation took place on 29 March 2003, resulting in an agreement in principle being reached (the agreement will be forwarded for approval by this Committee shortly).

**Richmond Eden Limited v Waitakere City Council (4 February 2003)**  
**Waitakere Ranges Protection Society Incorporated v Waitakere City Council and Richmond Eden Limited (3 February 2003)**  
**Pradhir & Others v Waitakere City Council (February 2003)**

The above appeals relate to a decision granting resource consent to Richmond Eden Limited for a 12 Lot subdivision of a site at 39 Landon Road, Titirangi. The Waitakere Ranges Protection Society have opposed the decision, Pradhir & Others have opposed a condition that relates to parks and walkways and Richmond Eden Limited (the applicant) has appealed a number of the conditions. This matter is awaiting its first call before the Environment Court.

### **Poll v Waitakere City Council (January 2003)**

Vicki Poll has appealed Council's decision refusing an application for a land use consent to operate a café/restaurant and a wedding reception/private function centre from existing building and gardens at 164 Brigham Creek Road, Whenuapai, known as "Surreal Café". A number of surrounding residents have registered an interest in the appeal with the Environment Court as Section 271A parties.

Both Council and the appellant indicated a willingness to enter into mediation but the surrounding residents (Section 271A parties) did not and so a timetable will be set for the exchange of evidence between the parties in anticipation of a hearing either later in the year or early next year.

### **Cornerstone Limited v Waitakere City Council (February 2003)**

Cornerstone Limited has appealed the decision by the Council to refuse an application for a land use consent to develop 6 office units at 120 Titirangi Road, Titirangi. This matter is awaiting its first call before the Environment Court.

### **8 Wallace Road Limited v Waitakere City Council (November 2002)**

The company has appealed Council's costs and charges in respect of an application that was made for resource consent to develop 31 residential units on land situated at 8 Wallace Road, Ranui. The application was refused. This matter is awaiting its first call before the Environment Court.

## **HIGH COURT APPEALS**

### **Waitakere City Council v Kitewaho Bush Reserve Company Limited & Ors (Filed 22 January 2002)**

### **Kitewaho Bush Reserve Company Limited & Ors v Waitakere City Council (February 2002)**

These proceedings involve applications for declarations and enforcement orders by Kitewaho and associated companies relating to eight different subdivision applications and related applications for certificates of compliance. On 18 October 2001 Judge Treadwell released an interim decision rejecting Kitewaho et al's declaration and enforcement applications, and essentially finding in Council's favour.

In December 2001 the Court released its final decision. In that decision the Court found that the proceedings issued by Kitewaho and related companies were an abuse of process and largely misconceived. Costs were reserved. In other words, Council was successful in its defence of all aspects of these proceedings (other than certain findings by the Court in relation to s.91 and Section 92 RMA).

At a meeting of Council on 19 December 2001, it was resolved that an appeal should be lodged to the High Court to clarify the Court's decision in relation to matters of interpretation of the Resource Management Act. That appeal was filed on 22 January 2002 and has been served on the other parties involved (ie. Kitewaho and related entities and the Auckland Regional Council). Kitewaho and related entities served its own appeal on Council which was voluminous.

Separate to the above High Court appeals, both Waitakere City Council and the Auckland Regional Council have applied to the Environment Court for substantial costs against Kitewaho and related entities. The Court has deferred any decision on the costs application pending the outcome of the above High Court appeals.

The appeals were reviewed in the High Court on 9 September 2002 and Kitewaho has been directed to file an amended appeal. On 14 January 2003, outside the time allowed, Kitewaho filed its further amended points on appeal. Again this too was voluminous. Council made an application to strike out the appeal. The matter was called before the Court on 29 January. The Court decided to give Kitewaho further time to narrow the scope of its appeal on the basis that a hearing of the strike out application would occupy a number of days hearing. Council has applied to strike out Kitewaho's appeal and this was heard on 18 March 2003 before Justice Randerson. His Honour has reserved his decision on the application but has also asked for the parties to re-plead two of the points of Kitewaho's points on appeal to see if they can be further clarified. A memorandum complying with this request is to be filed on behalf of Council and the parties will await the Court's decision on the strike out application.

**Estate Homes Limited v Waitakere City Council (28 March 2002) (Ranui Station Road)**

Appeal against consent conditions imposed for proposed subdivision at Ranui Station Road. The appeal primarily relates to financial contribution conditions imposed, as well as certain conditions relating to the provision of infrastructure (water mains and roading). The parties have been involved in negotiations over the appeal, but have not resolved matters. The matter has recently been allocated a mediation, for April.

**ENFORCEMENT ORDERS**

**Waitakere City Council v Borrett - Sunnyvale Road, Red Hills**

Application for Enforcement Orders in relation to an alleged illegal landfill site in Sunnyvale Road. A search warrant and an Order to inspect the property were obtained from the Court in September 2001 and Council officers have since inspected the property. As a result of that inspection, amendments to the Enforcement Orders being sought were made. An agreed settlement has now been reached in principle with final details being resolved and final Enforcement Orders ultimately to be issued by the Court that will include cessation of the works and mitigation measures.

**PROSECUTIONS**

**Barry Cargill - 58A Rauhuia Crescent, Huia (17 May 2001)**

Informations have been laid against Mr Cargill under CRN Nos.1090017265 & 66 in relation to the clearance of bush in the Coastal Natural Area. The matter was set down for a depositions hearing on 14 June 2002, at which time the defendant conceded that he had a case to answer and he was committed for trial. The defendant's representatives and Council are finalising a replanting plan to remedy the damage caused on the property. Mr Cargill has pleaded guilty. Sentencing submissions have been made and the hearing adjourned to 30 April 2003 for a remediation to be progressed. The remediation package includes the gifting of land to the Auckland Regional Council that requires a subdivision consent, that has been granted by the Waitakere City Council and then a 224c certificate.

**Graham Gordon - 202 Shaw Road, Titirangi (16 November 2001)**

A number of informations were served on Mr Gordon in relation to breaches of the Resource Management Act for allowing car bodies to be stored on his property and allowing multiple household units to be established. Council alleges that these activities are contrary to the District Plan and to Enforcement Orders made against Mr Gordon by the Court in 1993. Mr Gordon has intimated a not guilty plea to all charges. The matter was adjourned to depositions hearing on 27 November 2002 for a one-day hearing but this did not proceed as Mr Gordon claimed to be unprepared. The matter was set down for a depositions hearing on 26 & 27 March 2003.

After initial complications with Mr Gordon's availability, he conceded that there was a case to answer and the Court committed him for trial. The matter has been set down for a pre-trial call over on 17 April 2003.

**Borrett Prosecution - 49 Sunnyvale Road, Red Hills (3 June 2002)**

Breach of alleged vegetation clearance, earthworks and interim enforcement orders. The Borretts have entered a plea of not guilty and requested trial by jury. The Borretts have been committed to a jury trial, following depositions in February 2003.

**Lorenzen Prosecution - 91 Kaurilands Road, Swanson ( 27 November 2003)**

Informations have been laid against Mr Lorenzen in relation to the clearance of bush in the Riparian Margin and General Natural Area. The matter was set down for a first call on 29 November 2002 but adjourned to enable Mr Lorenzen to seek legal advice, with a further date of 28 March 2003. On 28 March, Mr Lorenzen did not appear and a warrant for his arrest lies with the Court. A further date of 8 April has been set down.

**Kearney - 6 Dawnhaven Drive, Te Atatu Peninsula (January 2003)**

Informations have been laid against Mr Kearney in relation to breaches of the Building Act. Council alleges that unauthorised building work occurred on the Property. Building consent was granted for the construction of an additional dwelling and a double garage on the property and Code Compliance Certificate issued for that completed work. It was subsequently found that three dwellings and a carport instead of the two dwellings and the garage had been developed. The matter is to be called on 28 March 2003 but has been adjourned to enable Mr Kearney to obtain legal advice.

**Luff - 84B Colwill Road, Massey (January 2003)**

Informations were laid against Mr Luff in relation to breaches of the Building Act. The Council alleges that unauthorised building work occurred in the form of a stand alone carport and timber retaining wall over Council stormwater drains and the closing in of the original carport to form a laundry. The matter was heard on 28 March 2003, Mr Luff pleaded guilty and was fined \$4,500.

## HIGH COURT/APPEAL COURT - APPEALS FROM PROSECUTIONS

### Aik Law & Kim Lai - 34 Rathgar Road, Henderson (21 August 2001)

These defendants rented an unsanitary building, previously a garage, to a family of six for a period of four years and three months. On 25 May 2001, they were convicted in the Waitakere District Court pursuant to CRN Nos.0090028151 & 52 and sentenced to total fines of \$40,500. The defendants subsequently appealed the conviction and sentence and were granted leave by the High Court to produce a significant amount of new evidence during the course of the appeal. Council also produced evidence in response to this at the hearing, which took place in the Auckland High Court over three days from 24 to 26 July 2002.

On 16 August 2002 Justice Harrison gave a decision in Council's favour, and he dismissed the appeal both in relation to conviction and sentence. The High Court found that the new evidence did not affect the fact that the building was unsanitary for the time that it was occupied, and that those conditions must have been obvious to the owners of the property. Accordingly, the High Court upheld the full level of the sentence that had been imposed in the lower Court, even though it was and remains the highest imposed under the Building Act.

At a hearing in the Auckland High Court on 20 September 2002, before Justice Harrison, the defendants were refused leave to appeal to the Court of Appeal on sentence. Subsequently three more applications have been made as follow:

- (a) An application to the Court of Appeal for further leave to appeal against the substantive decision of Justice Harrison;
- (b) An application to the High Court for leave to appeal against the order for costs;
- (c) An application to the High Court to suspend the order for costs pending determination of the ongoing appeals.

The applications were heard in the High Court in December 2002. Justice Harrison ordered that memorandums be filed as to means and an amended application for leave to appeal against costs. The matter went before the High Court on 20 February 2003 and Justice Harrison refused leave to appeal. Subsequently, an application has been made to the Court of Appeal for further leave to appeal against the order for costs.

The Court of Appeal is to sit in Auckland on 30 April 2003 to hear first the requests for leave to appeal and then should leave be granted the substantive hearing would follow immediately.

### RECOMMENDATION

That the information be received.

Report prepared by: Catherine Knight, Contract Solicitor.



## 6 FEES AND CHARGES 2003 / 2004

### **PURPOSE OF THE REPORT - CONSENTS AND LICENCES**

The purpose of this report is to recommend fees and charges payable in the Consent Services and associated areas for the financial year 2003/2004. These relate to Regulatory functions; principally Consents, Licences and associated Bylaw approvals.

### **BACKGROUND**

The revenue from the fees and charges in the Consent Services and associated areas total around \$4,000,000.00 per annum and predominately falls in the Building Consent, Resource Consent and Licensing areas. Councils current Funding Policy sets the basis on which specific fees are to be set and in terms of Consents; 100% user funding applies. The existing and proposed Annual Plan are both geared in accordance with the draft revenue and financing.

Legislation provides that only reasonable and actual costs may be recovered through the fees set. In terms of the framework of charging "actual and reasonable", the following applies in respect of setting fees:

- (a) Actual Costs: These have been developed from a zero base against each activity.
- (b) Reasonable Costs: this is gauged in two ways:
  - Reference to the Market - where fees set compare favourably with Competitors or other authorities.
  - Cost Efficiency - where actual costs are only those incurred in supplying the service. These have been the basis of the recommended charges.

Audit New Zealand have previously indicated in a National Project Manual on Building Control that Cost Efficiency is the most appropriate measure of reasonableness for the following reasons:

- Councils will have different policies on the level of building control costs to be recovered through fees, directly impacting on the comparability of fee levels;
- Cost structures differ across the country, impacting the fee levels in different locations.

The fees as proposed framed the basis of the Annual Plan for the year 2003/2004. A review has now been completed to identify costs in relation to given processes/consents and this forms the basis of the proposed fee structure.

### **BENCHMARKING**

A brief analysis has been undertaken as to how Consent Services compare to a number of other Authorities in the Greater Auckland Region.

Given, the commercial sensitivity; only limited data was available from the Private Sector (i.e. Building Certifiers).

Definitions and Categories proved to be a major hurdle in ensuring comparability. Essentially there are two types of benchmarking: numeric analysis and best practice. This review is focussed on Fees and Performance Timeframes where available and, and assumption for comparison purposes has been made that the nature of the outputs/products are similar.

### **BUILDING CONSENTS**

Fees - Indicated that our overall our fees are set midstream in the market place, with "minor works" been slightly cheaper than the average.

## RESOURCE CONSENTS

### FEES

Lodgement costs for non-notified Resource Consents appear to be in mid range. Overall processing costs are at the upper level of mid-stream.

The proposed notified application fee is at the high end, however it should be noted that other Authorities are in the process of reviewing their base fee upwards due to outstanding debt issues with Notified consents.

### PERFORMANCE

As far as can be gauged, Waitakere City is amongst the top performers in relation to Statutory Timeframes.

### FEE STRUCTURE

*A1-A16* The existing fees and charges are made up of a series of fixed prices for various licences and miscellaneous services together with category and base fees for Building and Resource Consents. This basis for setting charges has been retained in the proposed schedule of fees is attached at pages A1 to A16. (Note: All fees as scheduled are GST inclusive.)

The recommended changes to the schedule are in line with the funding policy.

Where necessary, base charges have altered in order to cover the majority of the 'upfront' costs; thus improving debt management and further reduce 30 day outstanding invoices.

*A1-A16* Due to the complexity of fee table and the wide array of fees and charges, an existing fee schedule is attached at pages A1 to A16.

### CONCLUSION

The proposed fees are as previously outlined, in accordance with the current Policy together with the proposed Revenue and Financing policy and seek to recover 'Actual and Reasonable' costs in accordance with prevailing statute.

### RECOMMENDATIONS

1. That the information be received.
- A1-A16* 2. That the Consent Services, Fees and Charges as attached at pages A1 to A16, made pursuant to Section 28 of the Building act 1991; Section 690A of the Local Government Act 1974; the Health Registration of Premises Regulations, the Food and Hygiene Regulations and the relevant Council Bylaws as appropriate, be adopted and come into force on 1 July 2003 and remain in force until specifically revoked or amended.
- A1-A16* 3. That it be recommended to Council, pursuant to Section 36 of the Resource Management Act 1991 and Section 716A of the Local Government Act 1974, that it resolve by way of Special Order the fees as attached at pages A1 to A16.

Report prepared by: Grant Gillard, Group Manager: Regulatory.



**7 FOOD PREMISES GRADING - PROPOSED AMENDMENT TO FOOD SAFETY BYLAW**

**PURPOSE OF THE REPORT**

To consider a proposal to amend Bylaw No. 26 1994 Food Safety, to strengthen and update its provisions for food hygiene qualifications and introduce the grading of food premises.

**BACKGROUND**

Late last year, local and national media highlighted initiatives by the Auckland and Manukau City Councils to grade all food premises within their Districts, in relation to compliance with food safety requirements, and then ensuring that the grading is available to the public.

The public notification of the grade is intended to permit market pressure to provide a strong incentive for operators to achieve and maintain higher standards and therefore a higher grading, consequently leading to an improved level of food safety.

As an essential part of this grading initiative, both Auckland and Manukau passed amendments to their existing food safety Bylaws to provide a statutory basis for grading and the compulsion for food premises to publicly display their grade.

The public have no practical means of determining the standard of hygiene and food safety found in food premises, particularly in premises where food preparation, manufacture or storage areas, are not accessible or in view of the public. Food grading is a means to address this situation.

Waitakere City does not currently grade any of its approximately 700 food premises.

Field Services Environmental Compliance Team inspects all food premises within the City annually on a random but programmed basis. These inspections are aimed at assessing the compliance of the premise to the regulations. Any non-compliances will result in the issue of a requisition to the premises, which will detail the contraventions and stipulate a time frame in which a re-inspection to assess their compliance will be undertaken. If the subsequent re-inspection finds that the premise has not rectified the contraventions then further re-inspections will be programmed or if warranted, prosecution proceedings initiated.

The cost of more than one re-inspection per registration period is charged to the premise in question. The results of food premise inspections are not made available to the public. The results are premise specific and not comparable between different establishments.

The existing Waitakere City Council Bylaw No. 26 - Food Safety 1996, provides an appropriate context in which to place requirements relating to food grading by way of amendment to the Bylaw.

**STRATEGIC CONTEXT**

Council's Strategic Plan (Wellbeing Support Objective 7 - Protection from Nuisance and Hazards) has the overall aim of ensuring that Citizens of the City have a safe and healthy environment. One of the Council's roles in this respect is to protect and conserve public health and safety. A proposed Bylaw amendment for the grading of food premises, designed to improve the overall level of food safety within the City, is consistent with this objective.

## **CURRENT POWERS**

All food premises (except premises with approved food safety programmes) are required to comply with the Food Hygiene Regulations 1974. Council is responsible for the administration and enforcement of these regulations.

The Regulations require all food premises to possess a Certificate of Registration that is issued by Council annually. The Certificate of Registration notifies the public as to the name of the occupier, the nature of food premise for which they are registered and the inherent fact that they are subject to Council regulation and inspection. Council may only issue a certificate of registration if it is satisfied that the premise complies with the physical requirements of the regulations. No details as to the state of hygiene or food safety of the premises are required to be noted on the certificate.

The cost of inspection and licensing pursuant to the Food Hygiene Regulations 1974 is borne by the food premise occupier through the annual registration fee set by Council.

Council's Bylaw No. 26 1994 Food Safety provides for: the closure of food premises by Council; mandatory food hygiene training of food premise staff; and the setting of fees for inspections, certificates, consents, etc required under the Bylaw or other enactment.

## **FOOD HYGIENE QUALIFICATION**

The food hygiene qualification clauses of the Bylaw no longer satisfactorily reflect the national educational framework and are unspecific with respect NZQA principles or learning outcomes.

Consequently, the food hygiene qualification clauses have been upgraded and strengthened to reflect nationally recognised standards.

## **PROPOSED FOOD PREMISES GRADING SYSTEM**

The primary objective of food premise grading is to promote improved food safety standards in food premises. This objective is achieved through the application of market pressure from the publication of the grade awarded to each premise.

Grading or numerical rating of food premises with respect to risk, particularly the risk of causing food borne illness, is a well-developed methodology particularly when based on the Hazard Analysis Critical Control Point concept. Hazard Analysis Critical Control Point is internationally recognised as the best methodology to assess and evaluate the food safety within food premises and is the basis for exemption from the Food Hygiene Regulations 1974 through the adoption of a food safety programme.

Currently adoption of Hazard Analysis Critical Control Point principals within food premises is not a Statutory requirement. Compliance to the Food Hygiene Regulations is a statutory requirement that Council is mandated to enforce. Therefore the primary statutory elements of the Regulations have been incorporated as a primary component of the grading system.

The basic methodology adopted is for the risk presented by a food premise to be quantified in terms of: compliance to the major food safety elements of the Food Hygiene Regulations (both physical and conduct elements); degree of staff training; and systems to ensure the premise is maintained in a clean condition. Emphasis is allocated to components, which if not controlled, have proven to be a prime factor in outbreaks of food borne illness (e.g. temperature control, cockroach infestation, sanitary conditions).

During an inspection of the premises, each of components is checked and scored according to the degree on non-compliance to what is required.

The points for these components are then summed and the results weighted, to take into account the inherent risk associated with the particular type food undertaking. The resulting numerical score out of a finite possible maximum score provides the basis for the allocation of a grade.

The available grades are defined as follows:

- A - Grade = during the last grading inspection the premises was assessed to exceed statutory food hygiene requirements, displaying a high standard of cleaning and hygiene, and superior food handling practises.
- B - Grade = During the last grading inspection the premises was assessed to meet statutory food hygiene requirements, displaying a satisfactory standard of cleaning and hygiene condition with good food handling practises.
- D - Grade = During the last grading inspection the premises was assessed to fall below the minimum statutory food hygiene requirements, with improvements in cleaning, maintenance and food handling practises required, for which Council has issued a minor requisition.
- E - Grade = During the last grading inspection the premises was assessed to be in a poor condition, with deficient cleaning, maintenance and food handling for which Council has issued a major requisition.

There will be no "C - grade" awarded, so as to clearly delineate between premises that are acceptable and those premises that require improvement.

Consistency of the assessment between different Environmental Compliance staff was a major issue of concern, which is addressed through the requirement for the thorough documentation of the grading of each premise and the random auditing of the grading by senior staff.

Food grading will operate in conjunction with Councils current food premise inspection programme, but will be independent of it.

What this means is that the first inspection of a premise for a given food premise registration year, will be the inspection during which the premise will be graded. The grade given to the premises will apply until its grade is assessed during the first inspection of the next registration year, unless application is made for a re-grading.

Any re-inspections that are required to be undertaken as per Councils normal regulatory function (ie. re-inspection to check compliance to a requisition) will not serve to re-grade the premises.

## **OPERATIONAL FACTORS**

It is not envisioned that adopting food premise grading will generate any significant budgetary impacts other than the costs involved in printing grading certificates.

From December 2002 Field Services has been informally grading all food premises and has been providing the operators with details of their assessed grade and information on the proposed grading system, as one means of consultation and to assess the system in operation.

Further consultation has been undertaken through sending a copy of the proposed bylaw amendment to all relevant food trade organisations and associations for their comment.

Both Manukau City and Auckland City report positive feedback from the grading they have implemented and consider the initiative to be beneficial towards improving standards in food premises.

Re-grading inspections, would be on a cost recovery basis and thus borne by the applicant.

The level of re-grading applications is unable to be accurately predicted, but it is thought that it will not be high.

## **THE AMENDMENT**

A full copy of a proposed amended bylaw is included in the recommendations of this report. In summary, the amendment proposes to:

- Set out its application.
- Describes the provisions for closing premises.
- Defines food hygiene qualifications.
- Describes how the grading regime will operate.
- Sets out offences.

## **CONCLUSION**

The introduction of mandatory food grading that is readily visible and accessible to the public, will allow the public to be better informed about the condition of food premises and its standard of food safety, which the public may choose to use in their shopping and eating preferences.

Auckland City and Manukau City Council are both successfully operating a food grading program within their districts and confirm its benefits.

The proposed amendment of the a bylaw is commensurate with the aim of Councils Wellbeing Strategic Plan objective that Citizens of the City have a safe and healthy environment and Councils obligation under the Health Act 1956 to "promote and conserve public health within its District".

The Bylaw amendment sets to achieve this aim by setting up the legislative mandate for food grading and the compulsion for premises to display their grade where the public can see it.

Consequently it is appropriate for Council to amend Bylaw 26 1994 Food Safety to introduce the grading of food premises.

## **RECOMMENDATIONS**

1. That the information be received.
2. That consultation with relevant industry organisations is undertaken.
3. That it be a recommendation to Council that it amend Bylaw 26 1994 Food Safety, by way of Special Order. The amended Bylaw 26 1994 Food Safety is as follows:

### **BYLAW NO. 26 1994 - FOOD SAFETY - AMENDMENT NO. 1 2003**

The Waitakere City Council, acting in pursuance and exercise of the powers and authorities conferred on it by the Local Government Act 1974, the Health Act 1956, the Bylaws Act 1910, their respective amendments, and all other powers and authorities in any way enabling it HEREBY RESOLVES BY SPECIAL ORDER TO MAKE the following bylaw.

1. **SHORT TITLE**

The short title of this bylaw shall be the Waitakere City Council Bylaw No. 26 1994 - Food Safety, amendment no. 1 2003.

2. **COMMENCEMENT**

This amended bylaw shall come into force on the 1<sup>st</sup> day of July 2003.

3. **APPLICATION OF BYLAW**

This bylaw will only apply to Food Premises subject to Annual Registration by Council.

4. **PURPOSE**

The purpose of this amended bylaw is to further improve the standard of food safety in Food Premises through the mandatory display of a Grading Certificate in a prominent place on the Food Premises to which it relates, so as to be readily visible to members of the public visiting the Food Premises, thereby creating a motivation to improve standards and achieve a higher grading.

5. **INTERPRETATION**

In this bylaw, unless the context otherwise requires:-

**Annual Registration** means the registration of Food Premises required by the Food Hygiene Regulations 1974 and the Health (Registration of Premises) Regulations 1966.

**Appliance** has the same meaning as appliance in Section 2 of the Food Act 1981.

**Council** means the Waitakere City Council.

**District** means the district within the jurisdiction and under the control of the Waitakere City Council.

**Environmental Health Officer** means an Environmental Health Officer appointed by the Council under the authority of the Health Act 1956.

**Food** has the same meaning as Food in Section 2 of the Food Act 1981:

Anything that is used or represented for use as food or drink for human beings; and includes -

- (a) Any ingredient or nutrient or other constituent of any food or drink, whether that ingredient or nutrient or other constituent is consumed or represented for consumption by human beings by itself or when used in the preparation of or mixed with or added to any food or drink; and
- (b) Anything that is or is intended to be mixed with or added to any food or drink; and
- (c) Chewing gum, and any ingredient of chewing gum, and anything that is or is intended to be mixed with or added to chewing gum.

**Food Premises** has the same meaning as Food Premises in Regulation 2 of the Food Hygiene Regulations 1974:

- (a) Any premises -
  - (i) On or at which food is manufactured, prepared, packed, stored, or handled, for sale; or
  - (ii) On or from which food is sold; or
  - (iii) That is used in connection with any other food premises, for the purposes of their work, by persons who work on those other food premises.
- (b) Any stall.

**Grade** and **Grading** means the allocated grade resulting from an inspection of the Food Premises by an Environmental Health Officer assessed according to the grading system determined by Council from time to time and which shall take into account regulatory requirements and the current state of food safety knowledge, technology and practice.

**A Grade** means that during the last Grading Inspection the Food Premises were assessed according to Council's current grading system at the time, and found to exceed regulatory food hygiene requirements displaying a high standard of cleaning and hygiene and superior food-handling practices.

**B Grade** means that during the last Grading Inspection the Food Premises were assessed according to Council's current grading system at the time, and found to meet regulatory food hygiene requirements displaying a satisfactory standard of cleaning and hygiene and good food-handling practices.

**D Grade** means that during the last Grading Inspection the Food Premises were assessed according to Council's current grading system at the time, and found to fall below the minimum regulatory food hygiene requirements, with improvements in: cleaning and/or maintenance and/or food-handling practices required; for which Council has issued a Minor Requisition.

**E Grade** means that during the last Grading Inspection the Food Premises were assessed according to Council's current grading system at the time, and found to be in a poor condition and well below the minimum regulatory food hygiene requirements, with improvements in: cleaning and/or maintenance and/or food-handling practices required; for which Council has issued a Major Requisition.

**Local Authority** means the Council, person, or group of persons authorised by any Act to make bylaws, and which has made this bylaw, and includes the body corporate on behalf of which any such Council, or person or groups act.

**New Zealand Qualifications Authority** means the New Zealand Qualifications Authority established under Part 20 of the Education Act 1989.

**Occupier** means the occupier as defined in the Food Hygiene Regulations 1974.

**Officer** means any officer authorised to carry out or exercise the duties of an officer under this Bylaw.

**Requisition** means a written notice served on the Occupier of Food Premises by an Environmental Health Officer specifying works that are required to be carried out on the premises in order for the premises to comply with food hygiene legislation and reduce the risk of foodborne illness or contamination arising from any food prepared, manufactured, stored or sold from the premises.

**Major Requisition** means a Requisition that addresses any situation in which Food Premises or its fittings, fixtures or equipment are found to be in disrepair or dirty; or where any condition or set of conditions on the premises could expose food to contamination or taint, or that could allow food to become dirtied or deteriorated.

**Minor Requisition** means any Requisition that is not a Major Requisition.

**Sale** or **Sell** has the same meaning as in the Food Act 1981 and also includes the extended meaning given in Regulation 2(5) of the Food Hygiene Regulations 1974.

**Team Manager - Environmental Compliance** means an Environmental Health Officer appointed to that position or the person for the time being carrying out the duties of Team Manager - Environmental Compliance.

**Unit Standard 167** means Unit Standard 167 (Produce Safe Food) or equivalent New Zealand Qualifications Authority National Qualifications Standard.

**Unit Standard 168** means Unit Standard 168 (Present Food Contamination) or equivalent New Zealand Qualifications Authority National Qualifications Standard.

**Unit Standard 169** means Unit Standard 169 (Plan for Production and Service of Food) or equivalent New Zealand Qualifications Authority National Qualifications Standard.

**Unit Standard 170** means Unit Standard 170 (Supervise a Food Safety Programme) or equivalent New Zealand Qualifications Authority National Qualifications Standard.

6. **CLOSURE OF PREMISES**

The following provisions shall apply with regard to the sale of food in the District:

6.1 **Closure of premises for cleaning, repair** - Where any food premises or part of any food premises or any appliance, fitting or fixture or other equipment on any food premises by reason of their situation, construction, disrepair, or state are in such a condition that any food in the food premises may be exposed to contamination or taint or become dirty or deteriorated the Team Manager - Environmental Compliance may cause a notice in writing to be served on the Occupier of the Food Premises requiring him/her:

- (a) To cease to use the premises as food premises, or to clean or reconstruct, or to repair the premises, or part of the premises; or
- (b) To cease to use, or to clean, reconstruct, or repair any appliance, fittings, fixture or other equipment on those premises:

In accordance with the requirements and within the time specified in the notice.

6.2 **Permission to re-open** - Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until permission has been given in writing by an Environmental Health Officer.

6.3 **Operation to cease** - An occupier shall not continue to operate any food premises if the Council has revoked the Certificate of Registration pursuant to Regulation 9(3) and (4) of the Health (Registration of Premises) Regulations 1966.

7. **FOOD HYGIENE QUALIFICATION**

7.1 Every registered Food Premises shall, within three (3) months of its first registration, have working on the premises a person or persons who meet the following requirements:

- (a) The person, if that person is a natural person, has received credit for Unit Standards 167, 168, and 169, and will normally be present at the Food Premises when food manufacture, preparation, handling, sale or ancillary processes incidental thereto are being undertaken; or
- (b) There will be working on the Food Premises a manager, or a staff member with sufficient authority and with specific responsibility for staff training and supervision who has received credit for Unit Standards 167, 168 and 169; and

- (c) Every other person to be employed as a food handler on those premises has received credit for Unit Standards 167 and 168, or satisfies an Environmental Health Officer that they are enrolled in an appropriate course and pursuing a course of study with the intent of gaining such credits within twelve (12) months of the date upon which application for registration is made; and
  - (d) In the case of any Food Premises, including premises commonly known as supermarkets, where there are several departments or sections such as delicatessen, butchery, bake house, cake kitchen, produce or grocery, or where in the case of eating house premises, including premises licensed under the Sale of Liquor Act 1989 there are separate departments, sections or facilities within the premises for the preparation or service of food there shall be a departmental manager, section manager, or similar person with responsibility for the area of operation concerned who has authority for staff supervision and training who in addition to Units 167 and 168 has received credit for Unit Standard 169;
  - (e) In any case to which the provisions of Clause 7.1(d) apply there shall in addition to the persons described in that Clause be a manager or other person with authority for staff supervision and food hygiene and food safety training throughout the entire premises who in addition to Units 167, 168 and 169 has received credit for Unit Standard 170.
- 7.2 In any case where an Environmental Health Officer is of the opinion that any food premises is of such a size or of such a nature that it may present a considerable risk to public health if there is a lapse in food safety supervision, the holder of the Certificate of Registration or the occupier of the food premises may be required to employ a manager or other person with authority for staff supervision and training throughout the entire premises who has received credit for Unit Standards 167, 168, 169 and 170.
- 7.3 The qualifications referred to in Clause 7.1 shall be renewed after the expiry of five (5) years from its issue.
- 7.4 Subject to an applicant satisfying the Team Manager - Environmental Compliance that he or she has undertaken appropriate training and holds a qualification equal to or in excess of any of the Food Handling Unit Standards 167, 168, 169 or 170 that person shall be deemed to have complied with the appropriate provisions of this Bylaw.
- 7.5 The Team Manager - Environmental Compliance may grant an exemption from the requirements of Clause 7.1 if satisfied that it would be unreasonable or impractical to insist on compliance, having regard to the type of premises, or types of food being packed, stored, handled or sold.
- 7.6 The holder of the Certificate of Registration or the occupier of the food premises shall be responsible for ensuring that adequate records relating to the training of staff in matters relating to food hygiene and food safety and copies of all certificates or other evidence of persons employed on those premises having obtained the appropriate Unit Standards or other qualifications are kept on the premises where the food handlers concerned are employed.

7.7 The holder of the Certificate of Registration or the occupier of the food premises shall on request make available for perusal by any Environmental Health Officer the records required to be kept pursuant to Clause 7.6.

8. **GRADING**

During the first Annual Registration inspection of the Food Premises an Environmental Health Officer shall perform a grading inspection (the "Grading Inspection") and shall grade the Food Premises.

A Grading Certificate noting the grading as determined by the Environmental Health Officer shall be delivered to the Occupier of the Food Premises as soon as practicable following the Grading Inspection.

The current Grading Certificate shall be displayed in a prominent place on the Food Premises to which it relates, so as to be readily visible to members of the public visiting the premises.

The Grading Certificate shall remain the property of the Waitakere City Council.

The Grading Certificate shall be deemed to be current for a period of twelve (12) months from the date of the Grading Inspection from which the grade was determined or until such lesser time as it is amended or withdrawn by an Environmental Health Officer following a subsequent grading or re-grading inspection, or any other inspection during which the food hygiene of the premises has worsened when compared to the current Grading Certificate.

The Grading Certificate shall be specific to the Food Premises and Occupier of the Food Premises at the time of the Grading Inspection. Grading Certificates shall not be transferable.

Fourteen (14) days after the commencement of operation by a new Occupier of Food Premises, the new Occupier shall make an application for a Grading Certificate, provided that new Food Premises, or Food Premises with a new Occupier, shall not be graded until at least two (2) months have passed since the commencement of operation, or taking over the occupancy, of the Food Premises.

An application for re-grading of Food Premises may be made at any time in writing to Council's Team Manager - Environmental Compliance, accompanied by the appropriate fee, provided that no such application shall be considered until the expiry of a period of two (2) months following the receipt of the notification referred to in subclause 8.2.

An Occupier of Food Premises in respect of which a Grading Certificate has been issued under this Bylaw may contest their grading by writing to Council's Team Manager - Environmental Compliance within 14 days of receipt of the Grading Certificate.

9. **FEES**

**Setting of fees** - The Council may by resolution publicly notified prescribe fees in respect of any certificate, authority, approval, consent, service given or inspection made by the Council under this Bylaw or any other enactment in any case where that provision or enactment contains no provision authorising the Council to charge a fee, and does not provide that the certificate, authority, approval, consent, service or inspection is to be given or made free of charge.

**Reduction of licence fee** - Where an annual fee is payable in respect of a licence issued under this Bylaw or any Part thereof, such fee shall, where the licence is issued for less than one year, be reduced by one twelfth thereof for every complete month by which the term of the licence is less than one year.

10. **SERVING OF ORDERS AND NOTICES**

10.1 Except where otherwise expressly provided for in any Act, in any case in which it is provided by this bylaw, that an order may be made upon or notice be given to any person requiring him to do or abstain from doing anything, or any notice is required by this bylaw to be given or sent to any person, such order or notice shall be delivered to such person, and may be delivered to him either personally or by sending the same, by messenger or by registered post, to him at his last-known place of abode or business.

10.2 If such person is absent from New Zealand the order or notice may be sent to his agent instead of to such person, in any manner mentioned in the last preceding sub-clause.

10.3 If such person is not known, or is absent from New Zealand, and has no known agent in New Zealand, and the order or notice relates to any land or building the order or notice, addressed to the Occupier of such building or land, as the case may require, may be served on the person in occupation, or may be put on some conspicuous part of such building or land. It shall not be necessary in such notice to name the Occupier of such building or land.

10.4 Where an order or notice is sent by post it shall be sent so as to arrive in the due course of post on or before the latest time on which such order or notice is required to be served.

11. **POWERS OF DELEGATION**

In all cases where this bylaw provides for the issue of any order, notice or licence such order, notice or licence shall be deemed to be issued in compliance with this bylaw if the same be issued by any officer of the local authority authorised by the local authority for that purpose.

12. **INSPECTION**

12.1 For any of the purposes of this bylaw any inspector or other person duly appointed by the local authority in that behalf may at all reasonable times enter upon any land, building, or premises in order to carry out an inspection thereof.

12.2 Every person who obstructs or hinders any such inspector or other person as aforesaid in the execution of these powers hereunder shall be liable to prosecution for an offence against this bylaw.

13. **OFFENCES AND BREACHES**

- 13.1 No person shall do anything or cause any condition to exist for which a licence or approval from the local authority is required under this bylaw without first obtaining that licence or approval, and the failure to do so shall constitute a breach of this bylaw.
- 13.2 No application for a licence or authority from the local authority, and no payment of or receipt for any fee paid in connection with such application, licence, or authority, shall confer any right, authority, or immunity on the person making such application or payment.
- 13.3 Any person commits a breach of this bylaw who:
- (a) Does, or causes to be done, or knowingly permits or suffers to be done or be concerned in doing, anything whatsoever contrary to or otherwise than as provided by this bylaw; or
  - (b) Omits or neglects to do, or knowingly permits or suffers to remain undone anything which according to the true intent and meaning of this bylaw, ought to be done by him at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this bylaw he is required to abstain from doing; or
  - (d) Knowingly permits or suffers any condition of things to exist contrary to any provision contained in this bylaw; or
  - (e) Refuses or neglects to comply with any notice duly given to him under this bylaw; or
  - (f) Obstructs or hinders any officer of the local authority in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon him by this bylaw; or
  - (g) Fails to comply with any notice or direction given under this bylaw.
  - (h) Fails to display a current Grading Certificate in a prominent place on the Food Premises to which it relates, so as to be readily visible to members of the public visiting the premises, except during the 2 month period provided for in subclause 8.7 above.
  - (i) Displays a Grading Certificate that is not current, except during the 2 month period provided for in subclause 8.7 above.
  - (j) Displays a Grading Certificate that is not applicable to the Food Premises or Occupier to which the Grading Certificate relates, except during the 2 month period provided for in subclause 8.7 above.

14. **DISPENSING POWERS**

Where in the opinion of the local authority full compliance with any of the provisions of this bylaw, would needlessly or injuriously affect any person, or the course or operation of the business of, or be attended with loss or inconvenience to, any person without any corresponding benefit to the community, the local authority may, on the special application of that person dispense with the full compliance with the provisions of this bylaw.

Provided that any other terms or conditions (if any) that the local authority may deem fit to impose shall be complied with by such person as aforesaid.

15. **PENALTIES FOR BREACH OF BYLAWS**

15.1 Every person who commits a breach of this bylaw is liable to a fine prescribed by the Local Government Act 1974 or its successor.

15.2 The local authority may, after a conviction for the continuing breach of any bylaw, apply to any Court of competent jurisdiction for an injunction to restrain the further continuance of the breach by the person so convicted.

15.3 The continued existence of any work or thing in a state contrary to this bylaw shall be deemed a continuing offence within the meaning of this clause.

4. **ADVERTISING**

That the Council duly advertise its intention to introduce the amended Bylaw:

- (i) Not less than 21 clear days before confirming its intention to introduce the bylaw, and again,
- (ii) Not more than 14 days nor less than 7 clear days before introducing the bylaw.

5. **CONFIRMATION**

That the Special Order be set down for confirmation at an ordinary meeting of Council scheduled for Wednesday 24 June 2003, commencing at 5.30pm.

Report prepared by: Alan Ahmu, Team Manager Environmental Compliance.



## **PART II - DISTRICT PLAN / STRUCTURE PLANS**

### **8 PROPOSED PAKANUI STRUCTURE PLAN**

#### **PURPOSE OF THE REPORT**

The purpose of this report is to:

- Present to the Committee the privately initiated Pakanui Structure Plan prepared by Cato Bolam Consultants;
- Identify the changes necessary to the Waitakere City District Plan (“the Plan”) to enable subdivision and development in accordance with the proposed Pakanui Structure; and
- Recommend that the Pakanui Structure Plan be publicly notified as a “change” to the Plan.

#### **BACKGROUND**

The Pakanui Structure Plan has been developed by Cato Bolam Consultants over the last three years on behalf of landowners in the Pakanui Structure Plan area. The Waitakere City District Plan anticipates that parties other than the Council will initiate structure plans but that these will be developed in close partnership with the Council. In this regard Section 6.2.1 of the Plan states:

“It is expected that structure plans initiated by any parties other than Waitakere City Council will be undertaken in close partnership with the Waitakere City Council and in consultation with residents, the Regional Council and other interested parties.”

*A17-A63*

The Pakanui Structure Plan is the first privately initiated structure plan that the Council has received. A copy of the Section 32 report (without the technical appendices) is attached at pages A17 to A63.

This report is comprehensive out of necessity in order to satisfy Resource Management Act 1991 requirements to carry out a Section 32 analysis. The report relies on technical information that has been provided by Cato Bolam consultants and reviewed by Council officers. It is intended that this report along with the accompanying technical information, provide sufficient information to enable the Committee to reach a decision in relation to the above matters. The Council decision on submissions will be made at a hearing following notification of the Plan change.

#### **Pakanui Structure Plan area**

The Pakanui catchment is a discrete north facing catchment located at the northern end of the foothills of the Waitakere Ranges. The Pakanui catchment is approximately 700 ha, of which 180 ha comprise the Pakanui Structure Plan area. The structure plan area is bounded by Rodney District in the north, McEntee Road in the south, Amriens Road in the west and Sunnyvale Road in the east.

The Pakanui Structure Plan area is a typical foothills catchment. Its topography ranges from gently undulating land in the north to steeply rolling land in the southern upper reaches of the catchment. The majority of the catchment is in pasture with pockets of native and exotic vegetation found throughout. The most significant area of native vegetation is found on the Luckens Block at the southern end of the catchment and on land comprising the upper reaches of the Pakanui Stream. Both areas of bush are identified as Managed Natural Area in the Plan.

There are two major watercourses within the Pakanui catchment including the Pakanui and Copedo streams. The confluence of these two streams is in the northern part of the catchment. Beyond their confluence, these two streams form a large artificially formed pond at the northern boundary of the structure plan area. The stream system within the Pakanui catchment is relatively degraded. There is very little riparian planting and weed species are prevalent.

The Pakanui Structure Plan area is unserviced apart from reticulated water supply provided to the southwest part of the catchment.

Existing land uses within the structure plan area are a mix of rural and rural-residential. The most significant rural land use within the structure plan area is the Bromley Hatcheries that occupies a 30-hectare land holding in the central southern part of the catchment.

Visually, the Pakanui Structure Plan area is self-contained. Views from the main roads from surrounding roads are limited by the topography of the catchment and existing vegetation along the road frontage. There are currently no roads passing through the structure plan area that provide extensive views into the catchment.

### **STRATEGIC CONTEXT**

The Pakanui Structure Plan area is identified as Foothills Environment in the Waitakere City District Plan. The District Plan management approach to protecting the integrity of the foothills as a visual and ecological buffer to the bush-clad Waitakere Ranges and establishing a permanent settlement pattern is via structure plans. Structure plans allow development to be determined by the capacity of the land and the cumulative impacts of settlement as well as providing opportunities for greater environmental protection and enhancement through the regulatory process.

The structure plan approach is consistent with regional expectations about how demand for countryside living will be managed. The Regional Growth Strategy identifies the majority of the foothills (including the Pakanui Structure Plan area) as existing "Countryside Living". The Regional Policy Statement states that in some circumstances provision for countryside living will be consistent with the regional strategic direction, which is to accommodate future population growth primarily within the existing metropolitan area. Countryside living is subject to constraints as to location, scale and extent to avoid remedy or mitigate adverse effects. It is expected that significant adverse effects on the environment including rural character will be avoided.

The Pakanui Structure Plan is one of four structure plans that have been developed for foothills catchments. Other structure plan areas include Oratia, Swanson and Birdwood. The District Plan provides for the development of structure plans throughout the foothills initiated either by the Council or by private individuals.

Recent Council processes to introduce other structure plans into the Waitakere City District Plan have raised issues in submissions around the extent to which structure plans establish a permanent pattern of settlement for the foothills, retain the rural character of the foothills, deal with cumulative environment effects and maintain the integrity of the foothills as a buffer to the Ranges. These issues form the basis of a number of references (appeals) before the Environment Court in respect of the Swanson and Birdwood Structure Plans and associated rule changes. It is the Council's current view that structure plans are an appropriate tool for managing subdivision and development in the foothills. However it is recognised that further work is required to assess the extent to which the structure plan provisions are delivering the kind of environmental outcomes anticipated by the District Plan. A recent resolution of this Committee has been to support references that seek to make subdivision beyond that provided for by a structure plan a prohibited activity rather than non-complying. The Environment Court has not yet heard these references.

The Pakanui Structure Plan is possibly one of the least contentious given its geographical location at the northern end of the foothills and that is a relatively degraded landscape that could benefit from environmental enhancement. While the Pakanui Structure Plan is physically contiguous with the landform that comprises the foothills, it is some distance from that part of the Ranges that have high ecological value. For this reason, the Waitakere Ranges Protection Society has indicated that it has no interest in further subdivision of this area, providing it is subject to the prohibited activity subdivision status. The ARC has indicated its ongoing strategic concerns about cumulative effects resulting from the scale and extent of potential countryside living in the foothills and cross-boundary issues with Rodney District, in particular stormwater management. It is in the context of these strategic issues that the Committee must make its decision regarding progressing the Pakanui Structure Plan.

## ISSUES

### Pakanui Structure Plan Methodology

The Pakanui Structure Plan has been prepared in accordance with an established structure plan methodology consistent with other structure plan areas. The consultants who have prepared the technical studies that form the basis of the structure plan are qualified experts who are familiar with Council structure plan processes.

### Assessment of Environmental Constraints

A number of technical studies have been undertaken to identify the existing natural and physical constraints to development within the Pakanui Structure Plan Area. These include:

- A Landscape and Visual Assessment - Boffa Miskell Limited
- An ecological study - Boffa Miskell Limited
- A Geotechnical Study - Ormiston Associates & Soil & Rock Consultants
- A Catchment Analysis & Stormwater Management Study - Applied Geographics
- An Archaeological Study - Clough & Associates
- A Wastewater Assessment - Soil & Rock Consultants
- A Traffic Impact Assessment - Traffic Planning Consultants

### Landscape Study

Boffa Miskell has undertaken a landscape and visual assessment of the Pakanui catchment. The Pakanui catchment is considered to have a low visual quality and high visual absorption capability. The key local landscape features of this area include the areas of significant vegetation in the central southern part of the catchment, the existing watercourses, the steep land and existing ridgelines.

The report states *“the existing pattern of landform and vegetation creates a landscape character which has the ability to accommodate additional built development and, with appropriate siting and enhancement planting, lead to better landscape and visual outcomes for the area.”*

However it is noted that despite limited constraints with the catchment *“care is required with siting of additional dwellings and their access to ensure an overall rural-residential character is maintained ....”*

The report identifies opportunities for landscape enhancement including weed removal, riparian planting to strengthen the natural pattern of the landscape, and planting in gullies and to link existing treed areas. These are reflected in the Bush Protection, Revegetation and Streamside Enhancement Areas identified on the proposed structure plan map.

## Ecological Study

Boffa Miskell has also completed an ecological study of the Pakanui catchment. The Pakanui catchment comprises three distinct ecological units including bush land, rural-residential farmland and land based industry. The existing bush areas within the catchment comprise mainly remnant manuka-kanuka shrub lands. The most significant areas are contained within the Luckens Block in the southern central part of the structure plan area and land comprising the headwaters of the Pakanui Stream.

The existing stream network within the structure plan area is in poor condition, with limited aquatic function, low biodiversity, heavy sedimentation resulting mainly from grazing practices, and fish passage barriers (caused by the existing pond at the northern end of the structure plan area).

The report identifies opportunities for limited rural-residential development subject to the implementation of the revegetation and restoration recommendations. This will result in long term ecological benefits through the protection of riparian margins and significant improvements in water quality, stream habitat and protection of locally significant vegetation.

The report recommends increases to the existing riparian margins. The District Plan currently identifies 7 metre riparian margins for both the Copedo and Pakanui Streams. There is no recommendation for riparian margins in respect of existing non-riparian streams shown on the District Plan Natural Area maps. Council officers have considered these recommendations and are of the view that increases in riparian margins should be consistent with other structure plan areas where riparian widths are based on stream orders. This ensures that riparian margins serve a stormwater management (erosion control) function as well as an ecological function.

For this reason, this report recommends that riparian margins on the main stream channel increase from the Boffa Miskell recommended 10 metres to 15 metres and that all existing non-riparian streams within the structure plan area shown on the District Plan maps adopt a 5 metre riparian margin. This proposed increase will not compromise any of the identified building platforms.

## Geotechnical Study

Ormiston Associates have completed a geotechnical study for the Pakanui catchment. The report states that the Pakanui catchment shows some evidence of both relict and recent slope instability. Evidence of both shallow and deep-seated instability was also observed.

The presence of shallow and deep-seated instability is typical of foothills catchments. Generally, development can be accommodated within these areas with minimal stabilisation and remedial work. The geotechnical study provides a useful guide as to where land is most suitable for additional buildings and access. Where land is identified with more severe stability constraints, more detailed investigations are required to demonstrate that the development will not pose a future risk to property or human life and do not require stabilisation works that would significantly modify the foothills landscape, destabilize surrounding land or lead to sediment contamination of waterways.

The geotechnical study divides the structure plan area into three main 'zones'. Zone A is land suitable for development, Zone B is land suitable for development subject to specific geotechnical input, and Zone C is land that is probably unsuitable for development. A further Zone D is identified as land excluded from development for reasons such as bush or riparian protection. This primarily relates to land shown on the structure plan as Bush Protection or Streamside Enhancement Areas.

The majority of the structure plan area is within Zone B. Some land is identified as Zone C. These areas include land comprising the upper reaches of the Pakanui Stream, existing gullies along the western part of the structure plan area and land within the northeast part of the structure plan area. Landowners of three properties (28, 30 and 32 Sunnyvale Road) identified as Zone C have chosen to undertake more detailed geotechnical investigations to identify suitable building platforms. This work has been undertaken by Soil & Rock Consultants who has confirmed an additional two building platforms on each of the three sites subject to some stabilisation engineering works.

The Covich landfill site on Sunnyvale Road has also been classified as Zone C. While the assessment of development opportunities shows that in terms of landscape constraints, further development is possible, no detailed geotechnical information has been provided regarding the suitability of this site.

### **Stormwater Catchment Study**

A stormwater catchment study has been carried out by Applied Geographics. The sub-catchments that comprise the Pakanui Structure Plan area are part of a larger catchment that is approximately 900 hectares. The Pakanui Structure Plan sub-catchments are within Waitakere City and form the upper reaches of the Pakanui and Copedo Streams.

The wider Pakanui catchment is a sub-catchment of the Kumeu River catchment. The majority of the Kumeu River catchment is within Rodney District. Existing flooding problems in the Kumeu River catchment are well known and documented. For this reason it is critical that any new development within the Pakanui structure plan area does not exacerbate these existing problems.

The analysis undertaken by Applied Geographics based on the Auckland Regional Council TP108 guideline indicates that to achieve hydrological neutrality 5.5m<sup>2</sup> of compensatory bush planting should be provided for every 1m<sup>2</sup> of impervious surface. In addition, the report recommends that all stream channels should be left in their existing state and runoff discharged to streams as dispersed flows.

In respect of the required area of compensatory bush planting, this has been the subject of some debate. The Countryside & Foothills Code of Practice for Stormwater Management developed for the Council by URS New Zealand Limited indicates that a ratio of 2000m<sup>2</sup> bush planting per 600m<sup>2</sup> of impervious surface is sufficient to achieve hydrological neutrality, depending on the location of the planting and the spacing of plants. The discrepancy in the required planting results from the underlying assumptions made when developing the stormwater model. It is clear from correspondence from Auckland Regional Council sent to Cato Bolam Consultants that it will accept a planting ratio somewhere between 2000m<sup>2</sup> and 3500m<sup>2</sup>. The details of this requirement will be determined at the time of subdivision.

### **Archaeological Study**

Clough & Associates has undertaken an archaeological and waahi tapu study of the Pakanui Structure Plan area. No archaeological sites relating to pre-European Maori occupation have been recorded in the general Swanson/Birdwood area including Pakanui. While some archaeological sites relating to post-European history have been found in the wider Swanson area, none of these sites are located in the Pakanui structure plan area.

### **Wastewater Study**

An assessment of the onsite wastewater disposal capabilities of land within the Pakanui structure plan area has been prepared by Soil & Rock Consultants. The report notes that the sub-soil conditions of the Pakanui catchment a mix of sandy clay, non-swelling clay and silty clay, all being slow draining. It is likely that the uppermost clayey soils have poor permeability with an increased risk of slope instability if wastewater is disposed of via soil percolation with conventional trenches. The report recommends that systems that dispose of treated effluent via evaporation and evapo-transpiration, such as treatment plants or sand filters are used.

Recommendations for the design and appropriate type of wastewater disposal system are set out in the Soil & Rock Consultants wastewater report that accompanies this structure plan.

### **Traffic Impact Assessment**

Traffic Planning Consultants have undertaken a traffic impact assessment of the Pakanui structure plan area having regard to possible future development potential. The generation of additional traffic was assessed in terms of the capacity of the existing roading network, in particular the McEntee/Amriens Road and Sunnyvale/Redhills intersections.

The development potential identified for the catchment will result in the order of 600-750 additional vehicle trips per day, once fully developed. Of this volume, approximately 10% would occur during peak hours. The impact of this volume of traffic was assessed against traffic flow counts for the morning and afternoon periods of the day. This assessment found that the key intersections presently perform well, and that additional traffic generated by future development would have no more than minor effects on the safety and efficiency of this network.

The report notes that in general, vehicle entry site lines are adequate for the majority of properties. However, at the time of future subdivision, when vehicle access ways are confirmed, regard should be given to visibility and remedial measures such as trimming of vegetation.

### **CONSULTATION**

Cato Bolam Consultants have consulted with a number of different parties including:

- Existing landowners within the structure plan area and the surrounding area;
- Te Kawerau A Maki and Ngati Whatua;
- Auckland Regional Council;
- Rodney District Council;
- Royal Forest & Bird Protection Society;
- Waitakere Ranges Protection Society.

All landowners within the structure plan area appear satisfied with the process and have had an opportunity to participate in the development of the structure plan including funding the necessary technical studies.

Surrounding landowners were invited to a drop-in-day that was held on 22 July 2002. The draft structure plan was made available at this meeting in order to provide feedback. Approximately 10 people attended this meeting. No significant concerns were raised at this meeting.

A64-A87

Cato Bolam has received written feedback from Rodney District Council, Auckland Regional Council, and the Royal Forest and Bird Protection Society. Copies of these responses are attached at pages A64 to A87. Key concerns raised by Rodney District Council include consistency with the Regional Growth Strategy and the Northern & Western Sector Agreement and future management of stormwater in terms of avoiding downstream flooding. The written response from Cato Bolam to these issues appear to have satisfied the concerns Rodney District Council has expressed, however this council may wish to lodge a submission when the structure plan is publicly notified.

The issues raised by the Auckland Regional Council are similar to those expressed in its submission on the Swanson Structure Plan. Amongst other things, these issues includes concerns about the cumulative effects arising from the scale and extent of provision for countryside living in the foothills as well as the management of stormwater in wider Kumeu River catchment (of which the Pakanui Structure Plan area is a sub-catchment) and protection of natural heritage. The Auckland Regional Council make reference to an agreement by Waitakere City Council to consider the cumulative effects of structure plans throughout the foothills and that the Pakanui Structure Plan should await the outcome of this study. The Committee will be aware of the current debate around structure plans in the foothills and the extent to which they are delivering the kind of environmental outcomes anticipated by the Plan. It should be noted however that there are a number of structure plans that have been in the development stages for quite some time having been based on the management approach that currently exists in the District Plan. The Pakanui Structure Plan is one of those structure plans.

A88

The response from Royal Forest & Bird Protection Society supports the structure plan and the level of restoration that will occur within the catchment as a result of subdivision. In terms of the Waitakere Ranges Protection Society, a recent email confirms that the Waitakere Ranges Protection Society has no interest in the Pakanui Structure Plan proposal provided the prohibited activity status applies as per their appeal on the Birdwood Structure Plan. It would appear from this the Society is mainly interested in securing a permanent settlement pattern for the whole of the foothills rather than the details of the Pakanui Structure Plan itself. A copy of the email from Waitakere Ranges Protection Society is attached at A88.

No written or verbal responses have been received from either Te Kawerau A Maki or Ngati Whatua. However, consultation on previous structure plans has shown both iwi to be comfortable with the methodology adopted by Clough Associates in identifying pre and post European sites of archaeological significance and the structure plan approach to managing effects relating to water quality and protection of significant bush areas.

Cato Bolam Consultants have sought feedback from Waitakere City Council officers on various aspect of the Pakanui Structure Plan including stormwater and wastewater management, identification of ecologically significant areas, land stability and traffic impacts, as well as the structure plan methodology. It is considered that the approach taken by Cato Bolam is consistent with the structure plan methodology that is established in the District Plan. Feedback on the ecological study has been provided by Carol Bergquist and satisfactory amendments incorporated into the structure plan. Similarly, feedback on stormwater and wastewater management has been provided by EcoWater. EcoWater support the use of the Countryside and Foothills Code of Practice for Stormwater Management in this area.

Consultation with Council's Transport Assets Section has not identified any significant traffic issues. In respect of land stability, Council officers have relied on the recommendations of Ormiston Associates and Soil & Rock Consultants, both of which are reputable geotechnical engineering firms. Ormiston Associates were engaged by the Council to peer review the work undertaken by Tonkin & Taylor in respect of the Birdwood Structure Plan so are very familiar with the area and structure plan processes.

### Proposed Pakanui Structure Plan

A89

A copy of the proposed Pakanui Structure Plan is attached at page A89. Key features include:

- Bush Protection Areas;
- Revegetation Areas (total approximately 10.3 hectares);
- Streamside Enhancement Areas (total riparian planting approximately 5.25 hectares);
- Provision for 71 additional sites;

Necessary changes to the existing Human Environment and Natural Area maps include changes to the riparian margins that apply to the Pakanui and Copedo Streams. It is recommended that these increase from 7 metres to 15 metres and that 5 metre riparian margins apply to all non-riparian streams within the Pakanui catchment currently identified on the District Plan maps. In respect of the Human Environment maps, an outline showing the location of the Pakanui Structure Plan should be included.

There are no changes proposed to the existing objectives, policies or rules.

### RESOURCES

Ongoing staff resources will be required to progress the Pakanui Structure Plan through the statutory plan change process.

### CONCLUSION

The purpose of this report is to present the Pakanui Structure Plan that has been privately initiated by Cato Bolam Consultants on behalf of landowners in the structure plan area. The structure plan has been developed in accordance with an established structure plan methodology and is based on technical studies carried out by qualified experts. Council officers are satisfied that the structure plan is consistent with the approach taken to other structure plans in the Foothills environment.

This report recommends that the Council resolve to publicly notify the Pakanui Structure Plan as a change to the District Plan. However it is recognised that this would need to be done in the context of current debate around the scale and extent of structure planning in the foothills and delivery of desired environmental outcomes.

Council officers consider the Pakanui Structure Plan to be one of the least contentious, particularly given that it is some distance from the bush-clad Waitakere Ranges. Furthermore, development of the Pakanui Structure Plan has happening over a number of years, and there is an expectation from landowners that Council will support the existing management approach within the District Plan that provides for structure plans as a tool for managing subdivision and development in the foothills environment.

### RECOMMENDATIONS

A89

1. That the information be received.
2. That pursuant to Part I of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to change the Waitakere City District Plan to include the Pakanui Structure Plan as attached at pages A89.

Report prepared by: Deanne Rogers, Locality Planner.



## 9 **STRUCTURE PLANNING REVIEW**

### **PURPOSE OF THE REPORT**

The purpose of this report is to seek approval of the Committee to undertake a review of structure planning.

### **BACKGROUND**

Structure Plans are a regulatory tool that has been adopted by Waitakere City Council in order to meet its environmental enhancement and restoration objectives, and to manage the effects of development arising from subdivision within the Foothills and Countryside Environments. They are based on a water catchment area as a means of managing potential cumulative effects. Structure Plans are intended to establish a long term, permanent settlement pattern in these areas.

The opportunity to prepare structure plans was established through the Proposed District Plan, which was publicly notified on 14 October 1995. At the present time, structure plans have been prepared for the Oratia, Birdwood, Swanson, Waiarohia and Pakanui catchments.

The Proposed District Plan identifies structure plans as the preferred method for addressing the issue of subdivision within the Foothills and Countryside Environments.

Structure Plans are generally initiated through the Council's Annual Plan process where funding is allocated to complete the work. In some cases, structure plans may be privately initiated.

### **STRATEGIC CONTEXT**

Structure plans are intended to enable Council to achieve a number of desirable outcomes that assist in meeting its strategic objectives. These include enhancement of the Green Network, comprehensive catchment management, participation by local communities in planning for their area, and greater subdivision flexibility that is more consistent with an effects-based approach to subdivision and sustainable land management in the City's Foothills and Countryside Environments.

The strategic intent for the Foothills Environment is to establish a permanent settlement threshold that maintains the role of the foothills as a visual and ecological buffer between the urban area and the Waitakere Ranges. In this regard, the protection of open space character, native vegetation, riparian areas and limiting the provision of urban infrastructure are all key to maintaining the integrity of the foothills area.

### **ISSUES**

It is proposed that staff co-ordinate a review of the use of structure plans as a method available under the District Plan. The review would have independent input from consultants who have experience in resource management and environmental policy. The findings of the review would be reported back to the Committee for consideration.

The purpose of the review would be to determine whether structure planning is still the most appropriate method for managing development in the Foothills and Countryside Environments, and for implementing the Council's ecological enhancement objectives. If the review concludes that the development of structure plans remains the best available option, then the focus would be to recommend improvements that could be made in the implementation of structure plans to ensure that the best possible environmental outcomes are achieved.

It is considered appropriate at the present time to review the structure plan approach, to determine if it is delivering outcomes that accord with the objectives of the Council. A review at this stage is supported for a number of reasons.

Firstly, implementation of the Oratia Structure Plan in particular has now occurred to an extent whereby it is possible to obtain a significant body of information that can be used to reveal the effectiveness of the structure plan. Monitoring of subdivision consents provides data that can be analysed to determine whether anticipated environmental outcomes have materialised. The proposed review is effectively a District Plan monitoring project, and the Council has a statutory obligation to monitor its District Plan to ensure it remains an effective planning tool.

Secondly, there are other areas in the City that could be considered as candidates for the development of a structure plan, most notably the Opanuku and Upper Kumeu River catchments. Some landowners in these areas are requesting that Council initiate structure plans, in the hope that they may provide development opportunities for their land. However, it seems sensible to review the Council's current approach before raising landowner expectations by embarking on further structure plans.

A review at this point in time would also have the potential to assist in resolving Environment Court appeals relating to structure plans. The Council has recently released its decision on the Swanson Structure Plan, and this has prompted a total of 19 appeals to the Environment Court. In addition, there are unresolved appeals relating to the Birdwood Structure Plan. In this context, it seems inevitable that the Council will be required to defend its position on structure plans before the Environment Court.

It is noted that the structure plan approach has been subject to legal scrutiny previously, when the Environment Court considered the appeals relating to the Oratia Structure Plan. On that occasion, the decision of the Court supported the use of structure planning as an appropriate method for managing the effects of subdivision and development in a rural environment. However, several years of structure plan implementation enable a clearer picture of the ability of structure plans to effectively mitigate the effects of more intensive development and, on the basis of this new information, it is possible that the Courts may reach a different conclusion.

A number of key stakeholders in the structure plan debate have lodged appeals in relation to the Swanson Structure Plan. These stakeholders include the Waitakere Ranges Protection Society and the Auckland Regional Council. The Society has indicated support for a structure plan review, particularly if there is a degree of independence within the review team. It is hoped that the findings of the review may assist in resolving the appeals currently before the Court, with the potential to save the Council significant expense in defending the Swanson and Birdwood decisions.

It is anticipated that the majority of the work comprised in the review would be completed by the end of the current financial year. The Parliamentary Commissioner for the Environment has indicated that his office may be prepared to peer review the methodology and findings of the structure planning review.

## RESOURCES

Staff time is available to co-ordinate and participate in the project, and to provide necessary background information. However, there is currently no funding specifically identified to progress the proposed structure planning review.

A total of \$40,000 has been allocated through the 2002/2003 Annual Plan to fund technical studies associated with a possible structure plan in the Opanuku catchment. It is proposed to divert this money to fund the review.

It is acknowledged that some landowners in the Opanuku catchment are likely to feel aggrieved if this funding is reallocated to the structure plan review. However, in the current circumstances, it is not considered appropriate to progress these technical investigations when there are fundamental questions to be answered about the effectiveness of structure plans.

## CONCLUSION

It is proposed to undertake a review of structure planning as an approach to managing rural development. Funding would be diverted from money previously set aside to complete technical investigations into development constraints in the Opanuku catchment.

## RECOMMENDATIONS

1. That the information be received.
2. That staff co-ordinate a review of structure planning as the preferred method for managing development and enhancement of the Foothills and Countryside Environments.
3. That funding for the review be sourced from the budget originally intended to undertake the technical studies directed at identifying the physical constraints to development in the Opanuku catchment.

Report prepared by: Philip Brown, Group Manager: Planning & Community Services, and Deanne Rogers, Locality Planner.



## **PART III - ENVIRONMENTAL MANAGEMENT**

### **10 PROTECTION OF WAITAKERE RANGES - PROCESS**

#### **PURPOSE OF THE REPORT**

At the September 2002 meeting of the Environmental Management Committee, the Committee considered a report on "The Waitakere Ranges - Our Green Network Taonga" and passed the following resolutions:

*"That the Environmental Management Committee approves work to investigate and analyse the full range of options for protection of the Ranges, including the option of a 'Waitakere Ranges Heritage Area' (name yet to be chosen), and for comparison the status quo option. The initial investigation will identify the objectives and the main options, and analyse the advantages and disadvantages of each option."*

2801/2002

*"That a programme of consultation to gather the concerns and suggestions of the community in regard to Councils plans for increased protection of the Waitakere Ranges be reported back to the Environmental Management Committee."*

2811/2002

*"That Council officers be asked to discuss with Te Kawerau A Maki and Ngati Whatua a joint process for developing a partnership relationship with regard to work on the Waitakere Ranges."*

2813/2002

A related report forming part of this agenda entitled 'Options for Long Term Protection of the Waitakere Ranges' addresses the policy work required through the first of the resolutions. This report is written in response to resolutions 2811 and 2813/2002, and outlines the process to guide the Waitakere Ranges protection project.

#### **BACKGROUND**

##### **Description**

The Waitakere Ranges are an icon of Waitakere City, a scenic backdrop to much of Auckland and a place of recreational pursuit, aesthetic beauty and spiritual replenishment for the people of Auckland and, increasingly, visitors from elsewhere.

The Waitakere Ranges contain many Natural Features identified as outstanding in value. Botanically, they are considered of national and international importance with a wealth of plant and animal life, and many Outstanding Native Vegetation Sites and Outstanding and Significant Fauna Habitats. From a visual point of view, much of the City's west coast and Waitakere Ranges are classified as outstanding or high landscape quality.

The area is identified as a heritage area for Te Kawerau A Maki and has significance for Ngati Whatua, with many Waahi tapu and heritage Items, both European and Maori, associated with the coastline and Ranges areas.

### Strategic Objective

A key strategic platform of the Council is permanent protection of the Waitakere Ranges. There are a number of values associated with the Ranges that are being increasingly threatened by pollution, weeds and pests and pressures from the adjacent rapidly growing urban area of wider Auckland and visitors, as outlined in the September 2002 report to this Committee and the related report in this agenda. Council wishes to progress this project in partnership with iwi and in close consultation with other government organisations and the community, recognising that there needs to be clear understanding of the problems (what values associated with the Ranges are not being adequately protected), and the options for dealing with them, before particular solutions are arrived at. The Council has indicated a strong commitment to this process, and the Green Network platform of the draft Strategic Plan indicates that implementation of the actions required to ensure protection of the Waitakere Ranges will be commenced in 2004.

The strategic objective of the 'Waitakere Ranges Protection' project could therefore be described as:

*"In partnership with iwi and in close consultation with stakeholders, to achieve long-term protection for the natural and physical values of the Waitakere Ranges and West Coast."*

A broad view has been taken of the Waitakere Ranges, to include the Foothills and coastal villages as well as the core areas. Details of the area within the Ranges study area are set out in the related report entitled 'Options for Long Term Protection of the Waitakere Ranges'.

### Consultation to Date

To date, three 'Creative Conversations' have been held on the protection of the Waitakere Ranges.

- 20 September 2002 - (By invitation - In conjunction with the visit of the Parliamentary Commissioner for the Environment).
- 24 October 2002 - Large Landowners.
- 10 March 2003 - West Coast Plan Liaison Group.

A meeting has also been held with the Waitakere Ranges Protection Society. Generally, concerns have focused on the perceived lack of protection for the Ranges now and in the future, the pressures on the foothills, the confusion around what a Ranges Heritage Area would achieve and the importance of involving the community and other agencies in the process, the importance of thorough consideration of the options and issues, the importance of flexibility around protection and concern about any further restrictions being placed on landowners.

Council staff have held preliminary talks with Auckland Regional Council, Parks staff around co-ordination of this project with the Auckland Regional Council Waitakere Ranges Regional Parkland 'visitor strategy' (name yet to be decided).

A number of relevant Council processes are in place in the Waitakere Ranges. There are mediation processes underway in Swanson and Titirangi / Laingholm around resolution of District Plan references relating to subdivision and development, and the location of the Metropolitan Urban Limit. In addition, a review is underway of structure plans in the Foothills Environment.

## Iwi Partnerships

Discussions have been undertaken with Te Kawerau A Maki and Ngati Whatua regarding a partnership relationship for this project. Both iwi have expressed interest in working closely with the Council from the beginning of the project and have to date been part of the project development team with Council staff. Specific proposals for ensuring ongoing partnership on this project are contained in this report.

## STRATEGIC CONTEXT

In 1993, Waitakere City was declared an eco city, on a pathway to sustainability. In 1996, the Council's first strategic plan, the Greenprint, committed to:

- Providing a vision.
- Taking a holistic approach to sustainable development - interconnecting people/environment/ community.
- Having a long-term perspective.
- Taking a precautionary approach.
- Encouraging community-led initiatives - economic/social/environment.
- Providing for partnerships.

The Greenprint recognises the central importance of the West Coast, Waitakere Ranges and their foothills, and emphasises Waitakere's clear responsibility as a community to protect and restore the environment and ensure that its values are available for future generations. The importance of community involvement in protecting and restoring their environment is acknowledged.

A major strategic theme in protection of the Ranges is the setting of a Metropolitan Urban Limit to combat runaway consumption of foothills land for urban uses, provision for higher housing densities within the existing urban area to accommodate expected population growth, and creation of vibrant urban spaces that are attractive living areas.

These themes are confirmed through the Regional Growth Strategy and the new draft Strategic Plan.

Other Council policy and plans that help protect the Waitakere Ranges include the Weeds Strategy, the Stormwater Strategy, and the Council's District Plan, which sets out objectives, policies and rules aimed at sustainable management of the City's natural and physical resources. In particular, the District Plan sets out to protect significant vegetation and fauna habitat, valued landscapes, water quality and quantity, heritage and the mauri of land, forest and water.

Relevant community - based plans include the Karekare Community Management Plan and the West Coast Plan, a strategic plan for the west coast beaches and Waitakere Ranges, which was developed through an intensive community process from 1997 -2001. This plan sets out a vision, guiding principles, priorities, responsibilities and actions. Strategic Actions in the West Coast Plan include:

1. Investigate ways to improve the co-ordinated management and protection of the Waitakere Ranges.
2. Continue to provide opportunities for debate on the different aspirations of stakeholders for both private and public land in the Waitakere Ranges and West Coast.
3. Encourage the further identification of the Waitakere Ranges as an area of national significance.

4. Encourage all relevant local and national agencies and authorities to investigate strategies to limit local and regional population growth pressures on the West Coast.

In addition, Council's commitment to Agenda 21 and the Community Interaction Policy commits the Council to helping the city's diverse communities to contribute to the development of an eco-city, acting in partnership with the community to give voice to community hopes and aspirations, listening to the community and mediating between conflicting interests for the public good.

The Council has indicated a strong commitment to achieving resolution on the issue of protection of the Ranges, while recognising that there are many different values that need to be protected, the tools for protection are likely to be many and varied, and the community views diverse. A robust process is critical to achieving community understanding of, and long-term commitment to involvement in, solutions arising from the process.

## ISSUES

### National, Regional and Local Policy, Projects and Programmes of Relevance

There are significant numbers of groups and agencies at a national, regional and local level involved in work relevant to the protection of the Waitakere Ranges and West Coast. The list below serves to demonstrate the complexity of the protection issues in the Ranges. These efforts all contribute towards the protection of the West Coast and Waitakere Ranges, and it is appropriate that these organisations and groups have the opportunity to participate in the process.

#### National Level

- Sustainable Development for New Zealand - Programme of Action (Office of the Prime Minister).
- National Coastal Policy Statement (currently under review, MfE).
- Biosecurity Review.
- Oceans Policy (under preparation by MfE).
- Superb or Suburb? - International case studies in icon landscapes (Under preparation by the Parliamentary Commissioner for the Environment).
- Managing Change in Paradise - Sustainable Development in Peri-urban Areas (PCE 2001).

#### Local Government Level

- Bat research (Auckland Regional Council and Waitakere City Council).
- Waitakere Wetland willow clearance programme (Auckland Regional Council, Waitakere City Council and Rodney District Council).
- Waitakere City Council Weed Strategy, Stormwater Strategy, District Plan, Wastewater Plan.
- Waitakere City Council Project Twin Streams.
- West Coast Plan (Community Plan sponsored by Waitakere City Council).
- Waitakere City Council Green Network Community Assistance Programme.
- Waitakere City Council District Plan appeal processes, Titirangi/Laingholm and Swanson.
- Waitakere City Council Stream, fish, bird and herpetofauna monitoring programmes.
- Waitakere City Council beach lagoon water quality monitoring programme.
- Keep Waitakere Beautiful activities.
- Weedfree Waitakere Trust activities.

### Regional Level

- Auckland Regional Council Regional Policy Statement, Regional Coastal Plan, Regional Weed and Pest Management Strategies and Regional Earthworks and Sedimentation Plan and Regional Parks Management Plans.
- Proposed Waitakere Regional Park 'Visitor Strategy' 2003/2004.
- Auckland Regional Council Environmental Initiatives Fund.
- Auckland Regional Council bird and forest monitoring in the Waitakere Ranges Regional Park.
- Auckland Regional Council Operation Forest Save (possum control programme on public and private land in the Ranges).
- Auckland Regional Council parks visitor monitoring programme.
- Auckland Regional Council consents processes, particularly relating to air and water discharges.
- Auckland Regional Council led work on Lake Wainamu water quality (with the community).

### Community Initiatives

- West Coast Marine Park (Royal Forest and Bird Society).
- Work on Waitakere Ranges Heritage Area (Environmental Defence Society and Waitakere Ranges protection Society).
- West Coast Plan Liaison Group.
- Ark in the Park.
- La Trobe / Karekare Mainland Island.
- Karekare Weedfree Group.
- Toxins Awareness Group.
- Laingholm Weedfree Group.
- Piha Coast Care Group.
- Bethells Beachcare Group.
- Waitakere Rivercare Group.

### **Information**

Although there is much information available on the issues and problems with protecting the values of the Ranges, much is not yet in a form that can be easily extracted and used. There is a significant body of work needed to bring together the information and present it in a way that can be used as part of the community process, and this is underway now. Once this exercise is completed, the community process can get underway.

### **Partnership and Consultation Plan**

The Ranges project encompasses a complexity of issues that cannot be addressed purely through legislation or Council activity alone, for example, adequate control of weeds and pests. The role of community support and voluntary compliance is therefore of great importance, and the community needs to be part of developing solutions to ensure they are appropriate and have the buy in of the majority of those affected.

The protection of the Waitakere Ranges is of interest to a wide variety of parties based locally, regionally, and nationally and including iwi, community and landowners, environmental groups, government agencies and the Parliamentary Commissioner for the Environment. The Council has indicated that it is committed to considering the options for achieving protection of all of the attributes and values of the Waitakere Ranges in partnership with iwi and in close consultation with other agencies and diverse community interests. It is important that the Council is seen as even-handed, considering all of the issues raised around the potential options for the long - term protection of the Ranges, including the status quo, and providing opportunities for all interested parties to contribute and be part of the process. It is anticipated that some of the solutions emerging through the process would be ready for implementation next year.

### **Structure for Partnership and Consultation**

To enable the development of an appropriate and inclusive process to provide direction and advice to this project, a structure is recommended that provides for:

- a Political Liaison Group;
- a Staff Liaison Group; and
- a Community Process Group.

The suggested composition, process, aim and outcomes of these groups is outlined below. The intention would be, in the first instance, to work with the Community Process group to find the most appropriate ways of working with each of the communities in the Ranges and West Coast, and with other interest groups. From this, a detailed community consultation plan would be developed.

### **Political Liaison Group**

Essentially, this group would provide a political forum to:

- Work to achieve a comprehensive, integrated approach to the Ranges.
- Share information and discuss crossover issues.
- Receive and debate issues, reports and project updates and provide advice to staff.
- Liaise with key partners and other local MPs and relevant Ministers of the Crown.
- Represent the political wing at community consultation exercises, and consider feedback.
- As appropriate, keep their respective organisations informed and seek direction/decisions.

### Suggested Composition

- Two Waitakere City Councillors (and an alternate).
- Two Auckland Regional Councillors.
- Lynne Pillay MP for Waitakere and/or David Cunliffe MP for New Lynn.
- One Te Kawerau A Maki representative.
- One Ngati Whatua representative.

The Auckland Regional Council, MP's and iwi may also wish to appoint alternatives.

### Auckland Regional Council

At the Creative Conversation with the West Coast Plan Liaison Group, the Auckland Regional Council elected member voiced concern that there have, to date, been no discussions over this issue between the political wings of the Regional Council and Waitakere City Council, and while there are many rumours circulating about the Ranges Heritage Area, the Auckland Regional Council would like to hear directly from Waitakere City about the approach that Waitakere is taking to this issue in particular. Setting up a structure as outlined below will achieve good communication, but in the short term the possibility of a presentation to an Auckland Regional Council Committee meeting is being discussed and a verbal update will be given at the meeting.

### **Officers' Advisory Group**

#### Purpose

- Provide organisational support for the Political Liaison Group.
- Work to achieve a comprehensive, integrated approach to the Ranges.
- Manage the project to ensure integration of all its elements.
- Share information and discuss crossover issues.
- Prepare and debate issues, reports and project updates.
- Liaise with key partners.
- Develop and manage community engagement process.

Ultimately, this would be the group that would be responsible for developing the Waitakere Ranges Protection Plan, including identifying options and undertaking cost/benefit analysis

#### Suggested Composition

- Iwi Staff
- Waitakere City Council
- Auckland Regional Council
- Ministry of Environment
- Department of Conservation
- Watercare Services
- Ministry of Social Development

### **Establishment Process for the Political and Staff Groups**

It is anticipated that Waitakere City staff would prepare draft terms of reference for the Political and Staff Groups, which would include purpose, communication, decision making, administration, key relationships. These would be referred back to the parent bodies for mandating. The first Staff Advisory Group meeting would be scheduled to take place in April, with the Political Liaison group meeting as soon as the representatives can be appointed. It is anticipated that there would be reports back to the parent bodies, including Councils, in May.

### Community Process Group

It is considered that there may well be two separate stages where community advice on the protection of the Waitakere Ranges will be required.

Firstly, advice on the most effective community engagement process will be necessary. It is important that the group providing this advice is seen as representing the diverse interests within the community and the wider city. The suggested composition of the group to provide this advice is:

- West Coast Plan Liaison Group (includes representatives from Huia/Cornwallis Ratepayers, Waatarua Ratepayers and Residents, Piha Ratepayers, Bethells/Te Henga Community Group, Anawhata Ratepayers, Karekare Residents and Ratepayers Trust, Waitakere Ranges Protection Society, Royal Forest and Bird Society and Emergency Services. There are also elected representatives from the Auckland Regional Council and Waitakere City Council on the West Coast Plan Liaison Group, but these two bodies are represented elsewhere).
- The Swanson, Titirangi and Paturoa Ratepayers Groups.
- Environmental Defence Society.
- Large landowners.
- Community Boards.

The Committee's direction is sought as to whether other individuals and groups should be added. It is anticipated that a meeting of this group could be organised in the near future, and a process agreed.

At the second stage, the community engagement framework would be implemented. As part of the process of going out to these groups, advice would be sought on the desirability and composition of a Waitakere Ranges Forum or Summit to discuss the key issues and options that emerge from the process. The Committee's direction is also sought as to whether an ongoing Community Reference Group should be established.

It is considered that an independent facilitator would be required to run both of these processes to ensure that they are seen to be fair and equitable to all concerned.

### RESOURCES

An amount of \$15,000 remains in the 2002/03 budget to support the process around the Waitakere Ranges Protection project, and a further \$60,000 is available through the 2003/2004 draft Annual Plan.

### CONCLUSION

The Ranges contain many outstanding features and values and their protection has been identified by Council as a strategic priority. There are numerous, complex issues of interest to many parties, and many policies and tools are already in place directed at the protection of the values of the Ranges. Such complexity requires an inclusive process that provides early involvement of key partners and community groups in developing solutions.

To ensure maximum buy-in from all parties, solutions must be found together with the community and the Council's partners. The process would sit alongside Council policy work to identify gaps and options, and work being undertaken by community groups. A process and mechanisms to achieve this are presented for the Committee's consideration.

## **RECOMMENDATIONS**

1. That the information be received.
2. That the Committee approve the establishment of the Political Liaison Group and the Staff Advisory Group.
3. That the Committee appoint three Council representatives to attend the Political Liaison Group, on a voluntary basis.
4. That the Committee approve the structure and process for community engagement on the Waitakere Ranges Protection project.
5. That the Committee provides direction as to the establishment of an ongoing Community Reference Group.

Report prepared by: Jenny Macdonald, Acting Manager: Strategic Policy and Monitoring and Tony Mayow, Strategic Partnerships and Advocacy Manager.



## **11 CURRENT STATUS OF PROTECTION FOR THE WAITAKERE RANGES**

### **PURPOSE OF THE REPORT**

The purpose of this report is to present to the Committee the current policy and management framework with regard to the Waitakere Ranges. The report is an initial investigation that identifies the advantages and disadvantages of the main options for protecting the Waitakere Ranges (2810/2002).

### **BACKGROUND**

A report on the natural resources and values of the Waitakere Ranges was presented to this Committee at its meeting of 10 September 2002. This report is a summary of the management tools currently available to deliver on the protection of these natural resources and the values we place on them. The report provides further background information that can guide the process of securing protection for the Waitakere Ranges. It will be used as an input to the community participation and consultation process being considered in a separate item on this agenda, and as the basis for further research and policy development to guide Council's deliberation on the issue.

A broad view has been taken of the Waitakere Ranges, which have been deemed to include:

- The Waitakere Ranges Regional Park land and Water Care Services land for water supply purposes.
- The Coastal Villages Human Environment.
- The Waitakere Ranges Human Environment.
- The Bush Living Human Environment.
- The Foothills Human Environment, excluding Redhills.
- Waitakere City Open Space Environment, including esplanade reserves, adjacent to the above Human Environments.
- Special Areas adjacent to the above Human Environments, such as the Quarry Special Area and the Marae Special Area.
- Community Environments adjacent to the above Human Environments, such as the Titirangi shopping centre.

## STRATEGIC CONTEXT

The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development, and the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna are matters of national importance under Section 6 of the Resource Management Act 1999.

Several documents provide the imperative for long-term protection of the Waitakere Ranges. The Auckland Regional Policy Statement identifies the Waitakere Ranges as a major landform; a botanically rich area containing some endangered or depleted fauna species, and considered to be of national and international importance. Whatipu Beach is considered separately to be of national importance for its nesting and feeding areas for endangered shore birds and for its freshwater wetland diversity. Te Henga-Wainamu area is of national importance for its complex of habitats with rich and diverse flora and fauna. Huia is noted for its estuarine and salt marsh habitats. These areas have also been identified as Outstanding Fauna Habitat in the Waitakere City District Plan.

In the Auckland Regional Policy Statement much of the Waitakere Ranges has been given a landscape value rating of 6 (High). The whole of the west coast and the Waitakere Ranges have been given an Outstanding Landscape classification in the Waitakere City District Plan. It is identified as a heritage area for Te Kawerau A Maki and has significance also for Ngati Whatua.

There are many Outstanding Vegetation Sites, Outstanding Natural Features, Outstanding and Significant Fauna Habitats, Heritage Items and Waahi tapu associated with the coastline and scheduled in the District Plan. The objectives, policies and rules in the District Plan support the protection of these natural resources.

The West Coast Plan, a non-statutory planning document, has amongst its guiding principles:

- Protect the wild and remote qualities of the West Coast and Waitakere Ranges.
- Ensure everyone is able to experience and enjoy the West Coast and Waitakere Ranges.
- Work co-operatively to protect the sea, the coast and the ranges.

In 2000, in response to public concern about subdivision in the Waitakere Ranges, the Parliamentary Commissioner for the Environment carried out an investigation. The Commissioner concluded, because of the polarity of views regarding site-specific aspirations for protection or for development, that what is needed is a strong vision of how the community wants the Waitakere Ranges to be in the future. The Commissioner expressed the view that the Resource Management Act may not be sufficient on its own to protect environmental qualities that depend on preventing cumulative degradation.

One of the targets for Council under the strategic platform for the Green Network is for the Waitakere Ranges and West Coast to be permanently protected.

## ISSUES

### Land Ownership

#### Kaitiaki

Te Kawerau A Maki are manawhenua and kaitiaki of the Waitakere Ranges and the West Coast. The Kaitiaki is the tribal guardian that protects the mauri or life force of all things in a way which ensures that the quality of all tribal taonga in their rohe (tribal area) passed on to future generations is protected and enhanced. The Waitakere Ranges are included as part of the Treaty Claims by Te Kawerau A Maki.

### Public Ownership

Two-thirds of the Waitakere Ranges forested area is in the Regional Park and water catchment area. Even if this area is adequately protected, it still needs to be managed for weeds and pests.

The WaterCare land is managed for water catchment purposes and not for biodiversity or ecological purposes. The type of vegetation cover does not matter for water catchment purposes. WaterCare land has restrictions for pesticide use because of drinking water quality and public health, and this has an impact on weed and pest management.

### Private Ownership

Much of the land on the eastern flank of the Ranges, most visible to the wider region, is in private ownership. The privately owned part of the Waitakere Ranges encompasses a total 34% of the area.

## **Management Issues**

### Public Land

*A90-A91*

The issues, and methods for addressing these issues, have been summarised as attached at pages A90 to A91. Approximately two-thirds of the Waitakere Ranges are in public ownership and therefore not subject to development pressure. Within this area there is still the imperative to manage plant and animal pests that present a threat to the bush and its biodiversity, and to manage the impact of visitors. This is currently in the hands of the Auckland Regional Council and Water Care. However, Waitakere City Council is responsible for weed management of road berms. The roads provide a corridor of open ground for weed pests to establish and spread into bush areas. The Auckland Regional Council has recently begun work on its Waitakere Ranges visitor strategy and has indicated that it is keen to work with Waitakere City Council.

The two community initiatives centred on public land, Ark in the Park and the West Coast Marine Park proposal, are focused on a collaborative approach with local and central government.

### Private Land

For the privately owned land, the District Plan rules and the Green Network Community Assistance programme are the main management tools in operation. The Green Network programme is highly successful in engaging landowners in the protection or restoration of streams and bush but is limited by resources available and staff time.

One of the key issues is development pressure and the level of development that is currently provided for under the District Plan. The 1997 Waitakere Ranges Subdivision Study indicated that there was little potential for subdivision in the Waitakere Ranges and Bush Living Environments but there was already subdivided vacant land that could increase the density as indicated in Table 1 below:

Table 1: Potential Number of Lots Available for Development.

	Potential Additional Lots on Subdivision (in 1997)	Additional Lots Through Structure Plans in 2003	Number of Vacant Lots (1997)
Bush Living	40-55		630+
Waitakere Ranges	50-65		
Oratia	220		
Birdwood		97	
Swanson		256	
<b>Total</b>	310-340	353	630++

The study did not include vacant land in the coastal villages. In addition, the Structure Plans that have now been notified provide for further additional lots, providing the potential for a total of 1300-1400 new dwellings with more in the coastal villages and even more if minor household units are developed. Although Council can manage subdivision applications and Structure Plans to minimise the loss of bush as a result of development, for example, by arranging sites to take advantage of clear areas, there is little ability to avoid bush clearance for dwellings on sites that have remained vacant since the 1940s subdivisions occurred.

#### **Additional Tools Available to Council for Private Land**

Apart from the existing district plan provisions and the advocacy and information available through the Green Network programme additional methods are as follows:

##### Active Management

Undertake active weed management on private property to complement the pest removal through Operation Forest Save.

##### Land Purchase

Additional purchase land for inclusion in a park.

#### **Alternative Protection Measures Available for Public and Private Land**

##### Privately Owned Reserves

Land in private ownership can be managed as a reserve under the Reserves Act. An example of this situation is Bastion Point owned by Ngati Whatua Trust Board. The land is managed and maintained by Auckland City Council and open to the public. A management plan must be prepared and approved by the Minister of Conservation. The local authority, as administering body, would carry the costs of maintenance. Privately owned land can also be protected by a conservation covenant under section 77 of the Reserves Act. In this case, maintenance costs fall to the landowner.

### National Policy Statement

It is possible for the Minister for the Environment to consider preparing a national policy statement for each of the matters of national importance. However, to date there has only one national policy statement released, and that is the New Zealand Coastal Policy Statement. There has been some preparation work for a national policy statement on biodiversity following the release of the Biodiversity Strategy. However, this has not progressed, in favour of more Central Government funding and effort being put into direct restoration projects rather than more planning tools. A National Policy Statement on Outstanding Landscapes would provide a mandate for protecting those landscapes held in high regard by the community, whether the land was in public or private ownership.

### Conservation Area

Land held for conservation purposes under the Conservation Act must be managed by the Department of Conservation. Land held under the National Parks Act also must be managed by the Department of Conservation.

### Special Legislation

Alternative methods may lie with special legislation through Central Government. We can draw from international examples of such legislation in Britain, Canada and South Africa. A review of options for protection under different legislation being undertaken by the Environmental Defence Society will be of interest.

Table 2 below summarises the major advantages and disadvantages of various options for protective management of the Waitakere Ranges, whether public or privately owned.

Table 2: Advantages and Disadvantages of Various Options for Protection.

<b>Method</b>	<b>Advantages</b>	<b>Disadvantages</b>
<b>District Plan Rules</b>	Easily administered through resource consent process. Legally enforceable. Rules decided through an extensive consultation process.	Plan Changes must be publicly notified and may be challenged through the Environment Court. Reliant on compliance with rules or costly enforcement procedures. The District Plan provides for flexibility through: - Non-complying applications. - Private Plan Changes. - Ten yearly, or rolling reviews.
<b>Advocacy and Information Including Green Network Community Assistance</b>	Simple to set up and administer with minimal costs.	Totally reliant on community acceptance and action.
<b>Active Management</b>	Ensures standard level of management, even when landowners cannot physically or financially manage their land adequately.	May not be acceptable to landowners. Costly to Council/ratepayers.

<b>Method</b>	<b>Advantages</b>	<b>Disadvantages</b>
<b>Land Purchase for Reserve</b>	Ensures land is protected for public enjoyment in perpetuity.	May be public and landowner opposition. Costly to Council/ratepayers.
<b>Land as Private Reserve Under the Reserves Act</b>	Land managed as a reserve but at either landowner's cost or at Council's cost.	May or may not be accessible to the public. May be a high cost to Council/ratepayers to maintain.
<b>National Policy Statement for Outstanding Landscapes</b>	Provides policy guidelines to regional and local management levels.	Doesn't offer any protection itself but provides a mandate for implementation through district plans.
<b>Designate as Conservation Area Under the Conservation Act</b>	Ensures protection of natural values.	Land must be managed by the Department of Conservation.
<b>Designate as National Park Under the National Park Act</b>	Ensures protection of natural values. Provides for public access.	Land must be managed by the Department of Conservation.
<b>Special Legislation for the Waitakere Ranges</b>	Site specific and "customised." May offer more permanent protection than can be achieved through the District Plan.	Lengthy process through Central Government.

### Summary

Further research is needed to clearly establish the degree to which the Waitakere Ranges are at risk long-term, and whether the greatest risk is from residential development or from plant and animal pests. Particular legislation may be able to address some of the development issues but will not necessarily provide a means of funding weed and pest control, which may be more critical.

### RESOURCES

Resources needed for further research and monitoring on effectiveness of the provisions of the District Plan and for consultation on the issues and options for further protection measures have been identified in the Long Term Council Community Plan and 2003/2004 Annual Plan.

## CONCLUSION

This report summarises the major policy and management tools for Waitakere Ranges Protection. It also identifies some of the options for alternative protection measures, with some consideration of their advantages and disadvantages.

The range of options may be reduced broadly to three:

1. Status quo with reliance on a mix of district plan provisions, advocacy and incentives.
2. An active programme of land acquisition to increase the area of reserve land.
3. Changes to, or new, legislation.

Within the strategic goal already adopted by Council of permanent protection for the Waitakere Ranges, what Council and the community together needs to do now is to identify clearly the outcomes desired, and then work out how they can be achieved in the most cost-effective manner.

Further work will be carried out on the options in the course of the community engagement process to be undertaken.

## RECOMMENDATIONS

1. That the information be received.
2. That the information in the report be used as part of the Waitakere Ranges Protection community engagement process.

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



## 12 PAINTED APPLE MOTH UPDATE REPORT FROM THE MINISTRY OF AGRICULTURE AND FORESTRY

### PURPOSE OF THE REPORT

A92-A93

The purpose of this report is to present the fifteenth of the monthly Painted Apple Moth update reports from the Ministry of Agriculture and Forestry, as requested by the Council at its meeting of 17 August 2001. The Ministry of Agriculture and Forestry report is attached at pages A92 to A93. Additional information on the painted apple moth eradication programme is also presented here.

### BACKGROUND

Nine targeted aerial sprays against painted apple moth were completed over the period from January to September 2002. A combination of a fixed wing aircraft and a helicopter sprayed up to 900ha.

Eight expanded aerial spray rounds have been completed from 23 October, 13-15 November, 2-3 December, 20-21 December 2002, 7 and 15 January 2003, 30-31 January, 16-17 February and 14 and 17 March 2003. Three aircraft - a Fokker Friendship, a small, fixed wing aircraft and a helicopter - have been used to spray up to 10,300 hectares. Aircraft have suspended spraying at 8:00-9:00am, 12:15-1:00pm and 3:00-4:00pm when children are walking to and from school and eating lunch.

## STRATEGIC CONTEXT

The Ministry of Agriculture and Forestry has an obligation to do all that is required in terms of its legal responsibilities under the Biosecurity Act 1993. Council has encouraged and facilitated this where possible.

Council has an obligation to protect native ecosystems, native flora and fauna habitat and the ecological processes associated with these systems both under the Resource Management Act 1991 and under the District Plan issues 5.2 and 5.5. Equally, Council has an obligation to protect and represent the residents of Waitakere City.

## ISSUES

### Current Aerial Spray Programme

The eighth expanded aerial spray round saw a 600 ha reduction in the spray zone - the first reduction since aerial spraying began in January 2002. The western and southern boundaries of the aerial spray zone were shrunk, taking out Oratia and parts of New Lynn and Avondale.

A94

The Ministry of Agriculture and Forestry has announced a further 900 ha reduction for the ninth expanded aerial spray round taking out a section through the centre of the spray zone, as attached at page A94. The flight paths of the aircraft will follow a similar pattern to previous operations, which will take them over the land removed from the spray zone, but the spray nozzles will be turned off. Some spray drift is anticipated for properties near the aerial spraying boundaries.

The combined reductions in size means the expanded aerial spray zone area has decreased from 10,300 ha to 8,100 ha.

Several areas have been identified as hotspots (areas where there are repeated finds of caterpillars and moth trap catches) and are to receive aerial spraying every 7-10 days, weather permitting. There is no direct spraying of residents in these areas. Five hotspot sprays have been conducted to date; Meola Creek on the 21 November 2002, Meola Creek plus Hobsonville on 17 December 2002, Hobsonville on 28 December 2002, all hotspots 15-16 January 2003 and all hotspots except Henderson Creek islands on 7-8 February 2003. Weather conditions have cancelled two of the scheduled hotspot sprays and are currently delaying the hotspot spraying scheduled for 21 March 2003 at the time of writing this report.

Expanded aerial spray rounds nine and ten are scheduled for 31 March and 22 April 2003.

The Ministry of Agriculture and Forestry expect to announce changes to the large-scale aerial spraying operation by the end of April 2003. At the time of this report no details were available as to what form the future operation would take, however, it is still going to require some mode of aerial spraying.

### Moth Trap Catches

February 2003 recorded 24 moths caught in traps, compared to approximately 2,300 moths caught in February 2002. The final figures for March 2003 were not available at the time this report was prepared, however from the data available moth trap catches ranged from 1 to 5 moths caught per week. Persistent populations are located in and around hotspot areas that are characterised by dense vegetation, tall canopies and physical impediments that make spray treatment of foliage difficult.

### **Sterile Insect Technique**

The Ministry of Agriculture and Forestry is conducting weekly releases of sterile male moths in Waikumete Cemetery, Hobsonville and Ranui - known hotspot areas with persistent larvae finds and/or moth trap catches. The male moths are marked with fluorescent powder so they can be identified from wild male moths in the trap catches.

### **Vegetation Control Zone**

The Ministry of Agriculture and Forestry has finally erected signs at the major entrances and exits to the vegetation control zone that came into force on 9 December 2002.

### **Caterpillar Finds**

An egg mass was found in Waikumete Cemetery in mid March 2003. The egg mass was located in a stand of wattles near Amber Crescent. These wattles were already earmarked for elimination as part of the host removal work in the Cemetery and have since been felled.

At the same time the reduction in the expanded spray zone was announced for the mid March spray round the Ministry of Agriculture and Forestry discovered caterpillars at Ranui Domain, a park just inside the border of the aerial spray zone. The Domain was aerielly sprayed as part of the usual aerial spray round and has subsequently received a targeted helicopter operation spray covering the park and a buffer zone. This expanded area has since been incorporated into the ninth aerial spray zone. In addition, wattles within the park area have been felled as part of the host removal operation.

### **Host Removal Work**

Waikumete Cemetery is historically a known hotspot and has been a difficult site to eradicate painted apple moth. Brush wattle, *Acacia* and lone pine trees have been felled from identified areas within the Cemetery. Chipping and clean up operations are scheduled to be completed by 13 June 2003.

Council has received complaints about host removal work, particularly in relation to the old grave area parallel to Glen View Drive. The complaints relate to felled vegetation blocking public access up the rows, obscuring graves that relatives wish to visit, creating unsightly areas, impeding weed control contractors and the potential fire hazard posed by felled vegetation. These issues have been raised with AgriQuality, the Ministry of Agriculture and Forestry's contractor responsible for painted apple moth operations. Access up rows has for the most part been cleared, discussions are continuing on the remaining points.

The potential fire hazard became a reality on 24 March 2003 with a fire burning 1.5 ha of felled host material in Roman Catholic C. Investigations are being conducted on the cause of the fire but at this stage arson is suspected.

Host removal work has also occurred at Ranui Domain and was in progress at Duke Park, Hobsonville at the time this report was written. Future host removal work by the Ministry of Agriculture and Forestry is planned for Singer Park/Rangeview Road in early April 2003. Discussions are continuing with AgriQuality and its contractors, as Council is not currently satisfied with the state in which host removal sites are being left.

### **Reinstatement Issues for Council**

Estimated costs and areas for reinstatement were outlined in the September 2002 report to the Environmental Management Committee. Discussions between Council and the Ministry of Agriculture and Forestry are expected in April to resume progress on this issue. Some provision for the replanting of host removal sites has been allowed for in the draft 2003/2004 annual plan.

## Regulatory Investigations Under the Health Act 1956

The Manager Field Services provided an update to the committee at the time of the March Environmental Management Committee meeting. Council staff determined that at this stage they are not satisfied that a nuisance exists that is likely to be injurious to health. However, Council will continue to monitor health concerns and receive information from the public.

## Community Liaison Group

A95

The Community Liaison Group is to replace the disbanded Community Advisory Group. The Community Liaison Group comprises 12 members, 8 from community representatives and 4 AgriQuality staff, as attached at page A95. Contact details for members of the Community Liaison Group are not directly available. A message or request to be contacted is to be left for them through the Ministry of Agriculture and Forestry's free phone number 0800 96 96 96.

## RESOURCES

An earlier report detailed the resourcing levels required for this project. With the issue continuing into the 2002/2003 financial year, the impact on current and proposed work programmes is significant. It is not expected that Council will put any additional financial resources into the eradication operation as it is a matter of national biosecurity and is under the jurisdiction of the Ministry of Agriculture and Forestry through the Biosecurity Act 1993.

Provision of funds to undertake some revegetation of Council land where host removal work has been undertaken by the Ministry of Agriculture and Forestry has been allowed for in the draft 2003/2004 annual plan.

## CONCLUSION

Nine rounds of targeted aerial spraying to eradicate the painted apple moth have been completed along with eight expanded aerial sprays. The date for the ninth round of expanded aerial spraying is 31 March 2003. Hotspot spraying over unoccupied areas is scheduled for every 7-10 days, weather dependent.

Moth trap catches are significantly reduced with 24 moths caught in February 2003 compared to approximately 2,300 for February 2002.

The Ministry of Agriculture and Forestry has also begun weekly releases of sterile male moths as another eradication tool.

Discussions continue with the Ministry of Agriculture and Forestry to resolve the issues around host removal/reinstatement.

## RECOMMENDATION

That the information be received.

Report prepared by: Kerry Bodmin, Landscape Planning Co-ordinator.



13 **PLAN CHANGES UNDER AN OPERATIVE DISTRICT PLAN**

**PURPOSE OF THE REPORT**

The purpose of the report is to advise the Environmental Management Committee of issues relating to the preparation of Plan Changes in relation to the operative District Plan.

The report also seeks endorsement in principle of the list of Plan Change priorities prepared to date by staff, and requests the Committee's consideration and identification of any other issues that may need to be addressed by way of Plan Change.

**BACKGROUND**

The Proposed District Plan was publicly notified on 14 October 1995. A substantial number of submissions and further submissions were received in relation to the provisions of the Proposed Plan. Council's (then) District Plan Committee considered the submissions in groups relating to particular issues, through a series of hearings that ran for many months.

The Council's decisions in relation to the submissions were released in 1998, prompting a significant number of references (appeals) to the Environment Court. Since that time, Council has invested significant effort in an attempt to resolve these references. This approach has proven to be successful, with the vast majority of references having been settled by agreement between the parties without the need for a hearing in the Environment Court.

With the agreement of the Court, the Council was able to make the Proposed Plan 'operative' on 27 March 2003, save for the few provisions that remain subject to unresolved references. This milestone event has a number of implications for the Council.

**STRATEGIC CONTEXT**

The Resource Management Act 1991 requires the Council to produce a District Plan, and imposes an obligation to ensure that the Plan is current and effective in achieving the purpose of the Act.

The District Plan is an important tool that can assist in the achievement of the Council's strategic objectives.

**ISSUES**

There are a number of issues that the Committee should be aware of that will arise as a result of the District Plan being made operative.

**Plan Changes and Variations**

Plan Changes are amendments and modifications to an operative district plan. Prior to a District Plan becoming operative (when the Plan is in its 'proposed' stage), any modifications are known as 'variations'.

The Council has been reluctant to initiate variations in the past two years, given that the Environment Court would be unlikely to agree to the Plan becoming operative if there were a significant number of unresolved variations in existence. This moratorium on variations has effectively created a deferred maintenance situation resulting in the need to address a number of provisions of the newly operative District Plan. The Council has a statutory duty to monitor the suitability and effectiveness of its Plan, and must take action to remedy any shortcomings.

The Resource Management Act requires that all Plan Changes must be publicly notified. Any person can lodge a submission in relation to a particular Plan Change. A summary of submissions is then prepared, and an opportunity is provided for parties to lodge further submissions either supporting or opposing the original submissions that were received. The Council is required to convene a hearing to consider all the submissions and any other relevant information before making a decision on the Plan Change. Generally, the process would be expected to take at least six months, and longer if the Council's decision is subject to appeal.

### **Plan Change Work Programme**

It is proposed to publicly notify a number of Plan Changes in the near future, in order to progress several required amendments. Within the past year or so, the Committee has resolved that a number of Plan Changes should be initiated once the District Plan is operative. These proposed Plan Changes are as follows:

- Re-identify 1 and 1A Glendale Road from Open Space Environment to Community Environment.
- Re-identify the Harbourview land from Harbourview South Special Area to Open Space Environment.
- Update the Roding Hierarchy map.
- Delete all references to Special Soils in the District Plan.
- Introduce the Birdwood Urban Concept Plan into the District Plan.

Council staff are also aware of a number of other provisions of the District Plan that may need to be modified, as they are either inefficient or are not delivering the desired environmental outcomes. The deficiencies in these provisions have been identified through a number of sources, including from members of the community, elected members, and staff responsible for implementation of the District Plan. Examples of provisions that are proposed to be reviewed include:

- Community Environment rules relating to urban design and parking in town centres;
- Open Space Environment rules; and
- Development controls in Piha and other West Coast settlements.

A96

A copy of the draft prioritised Plan Change list is attached at page A96. The Committee's endorsement in principle is sought for the programme outlined in the list, in order to provide some direction to staff in relation to the identified Plan Changes. Any proposed Plan Change would still need to be separately reported to the Committee for approval prior to being publicly notified.

The Committee is also requested to consider any other matters that it wishes to see investigated further, with a view to a possible Plan Change.

It is noted that the staff resources and budget available to progress the Plan Change work programme are such that prioritisation of possible projects will need to occur. The Resource Management team will assess possible Plan Changes to ensure that a regulatory response is the most appropriate means of addressing the particular issue, and will undertake a cost / benefit analysis in accordance with the requirements of section 32 of the Resource Management Act.

### **Private Plan Changes**

The Resource Management Act provides for privately initiated Plan Changes. Private Plan Changes can only be initiated in relation to an operative District Plan.

If a Private Plan Change is received within two years of the date on which the Plan was made operative, it can only proceed with the agreement of the Council. The Council has discretion to refuse to accept the Private Plan Change within this period. This discretion is exercised by the Environmental Management Committee.

Any decision to refuse to accept a Private Plan Change can be appealed to the Environment Court.

### **RESOURCES**

Responsibility for monitoring the effectiveness of the District Plan, and for progressing any subsequent Plan Changes that arise from that function lie with the Resource Management section of the Council. Additional staff resources have effectively been transferred from the Strategy and Development Unit to assist with the anticipated work programme. This has been possible as the volume of work performed by the District Plan team has diminished, as the District Plan references have been progressively resolved.

The "ownership" of the District Plan would remain with the Strategy and Development Unit in recognition of the strategic importance of the Plan. All operational aspects of Plan Changes and District Plan monitoring would be dealt with by the Resource Management section, which is based in the City Services unit.

### **CONCLUSION**

The Council now has an operative District Plan. This provides an opportunity to initiate Plan Changes to address a number of provisions of the Plan that have been identified as requiring attention. A preliminary list of potential Plan Changes has been compiled, and the Committee's endorsement in principle is sought to ensure that the proposed work programme is consistent with the Committee's objectives.

It is also requested that the Committee consider any other issues that may necessitate a change to the District Plan. Staff can then review these possible Plan Change issues, and a report would be brought back to the Committee at a future meeting to enable further consideration.

### **RECOMMENDATIONS**

1. That the information be received.
2. That the list of Plan Change priorities presented as an attachment to this report be adopted as Council's priorities in principle, subject to all Plan Changes being approved by the Committee prior to being publicly notified.
3. That the Committee advise staff of any other issues that may need to be addressed as a priority by way of Plan Change, and that staff prepare reports addressing any such identified issues for consideration at a future meeting of the Committee.

Report prepared by: Philip Brown, Group Manager: Planning & Community Services.



14 **PLAN CHANGE TO REPLACE AN INCORRECT OPEN SPACE IDENTIFICATION ON 335 WEST COAST ROAD, GLEN EDEN**

**PURPOSE OF THE REPORT**

A97

The purpose of this report is to seek approval from the Environmental Management Committee to notify a plan change to the District Plan to remove an incorrect reserve identification at 335 West Coast Road, Glen Eden (LOT 1 DP 200228 and LOT 1 DP 199170), and replace it with an appropriate Human Environment identification for these lots, a map is attached at page A97.

**BACKGROUND**

The land in question lies at the end of Waikaukau Road, Glen Eden, between the northern bank of the Waikumete Stream and the rail corridor. It is undeveloped, and largely covered in weedy exotic vegetation, with some pockets of native trees. There are a number of informal walking tracks on the property. The southern portion of the land adjacent to the Waikumete Stream is subject to flooding. A footbridge over the Waikumete Stream connects the property to Waikaukau Road.

At one stage the Council had a lease from Railcorp over the land and managed it in conjunction with the adjacent Singer Park. However, the Council declined to purchase the land when Tranzrail put it up for purchase, and the land was subsequently sold to the current private landowner.

Under the previous District Plan the property was identified as Industrial B zoning, with a rail designation on the rail corridor. However, when the new District Plan was notified in 1995 it incorrectly identified the property as Open Space Environment (possibly due to confusion arising from the previous leasing arrangement). The lots providing the property's legal access off West Coast Road have been identified as Working Environment. The Council identifies the land as residential for rating purposes.

Most of the properties along Waikaukau Rd are identified as Working Environment, and have existing industrial premises. Directly to the west of the property, there is a 1.5ha Living Environment property with a dwelling. To the east, Singer Park abuts.

There is a 15m Riparian Margin along the Waikumete Stream here, and the majority of the rest of the site is identified as Restoration Natural Area (although this is likely, ultimately, to be inappropriate as the property is subject to vegetation control by Ministry of Agricultural and Forestry as part of the painted apple moth campaign).

**APPROPRIATE DISTRICT PLAN PROVISIONS**

Section 32 of the Resource Management Act 1991 requires the Council to assess the necessity, reasons for and against, costs and benefits of any proposed district plan provision. All land in the City must have a Human Environment identification, so the responsibilities under Section 32 in this instance relate to identifying which Human Environment is appropriate for this property.

There are only two feasible Human Environment identifications for the site - Living Environment or Working Environment.

There is a general consensus that of the two, a residential development is likely to be the most appropriate land use for the site, largely because the site does not lend itself to an industrial use.

Access from the south is severely constrained by the Waikumete Stream, and from the west would involve crossing or abutting residential land. The stream itself is subject to flooding in this area, and the site is generally too steep away from the stream to easily accommodate industrial premises.

Residential development could potentially be accessed from the west from Sherrybrooke PI, either through the adjacent Living Environment land (as part of an integrated development over both properties), or along the rail corridor. (Tranzrail have informally indicated that purchase of surplus parts of the rail corridor here might be possible.) Subdivision would also offer the opportunity for the acquisition of an esplanade reserve, contributing to a linking of Parris and Singer Parks along the Waikumete Stream. There are a number of existing (and new) houses directly adjacent to the industrial sites on Waikaukau Road, indicating that there is some demand for housing in this area. The owner has expressed a desire for a residential zoning for the property.

However, the site is far from being a highly desirable residential location. The outlook is directly over the industry along Waikaukau Road, which is unattractive, noisy, and possibly malodorous, although there are good views over this to the Waitakere Ranges. Any residential development would have to be carefully controlled to ensure that a reasonable standard of housing resulted. There are also "reverse sensitivity" issues, in that it would be undesirable for pressure to be brought on the existing and future industrial usage of adjacent land from residents keen to reduce the impact of industry on their homes. Identification of the property as Living Environment would make residential land use a Permitted Activity, and the Council would have no control over the design of buildings, which would not be desirable on such a problematic site. There are also issues around the cohesiveness of the District Plan in that a Living Environment would sit somewhat awkwardly with the Working Environment of most adjacent properties.

Identification of the land as Working Environment would not preclude the development of housing on the site as residential activities are a Discretionary Activity in the Working Environment. Moreover, a Discretionary Activity status gives the Council some influence over the design of dwellings, and an opportunity to impose conditions to mitigate the effects of having industry in such close proximity. Additionally, a Working Environment identification would provide for industrial development on the site should that prove more feasible or desirable in the future, and would result in a more cohesive District Plan in this area.

Taking all these factors into account, a Working Environment identification is considered the most appropriate Human Environment for this site.

## **CONCLUSION**

An incorrect Open Space Environment identification on the property at 335 West Coast Road needs to be removed, and it is the conclusion of this report that a Working Environment is the most appropriate identification for this site. This provides the opportunity for residential development on the site with design controls to mitigate the effects of adjacent industrial properties, as well as not foreclosing industrial development on the site should that become feasible in the future. A plan change is required to give effect to this.

## **RECOMMENDATIONS**

1. That the information be received.
2. That the Environmental Management Committee approve the preparation of a plan change to change the Open Space Environment identification on the property to a Working Environment identification.

Report prepared by: Jenny Fuller, District Plan Team.



**15 CITIES FOR CLIMATE PROTECTION - ENERGY EFFICIENCY - MONTHLY UPDATE**

**PURPOSE OF THE REPORT**

To provide the Environmental Management Committee with an update of this month's energy efficiency initiatives.

**BACKGROUND**

Council joined the international Cities for Climate Protection programme in March of last year. Since then staff have compiled a draft greenhouse gas emissions inventory for the city and developed an action plan that was approved by this committee in November.

**STRATEGIC CONTEXT**

Climate protection and energy efficiency are integral parts of Waitakere City's EcoCity philosophy. This is being reaffirmed by the draft Long Term Council Community Plan.

**APRIL UPDATE**

**Communities for Climate Protection**

The New Zealand Climate Change Office has contracted the International Council for Local Environmental Initiatives to run a local version of their international Cities for Climate Protection campaign. The programme will be launched in July 2003 and will be called Communities for Climate Protection. Staff are in touch with the International Council for Local Environmental Initiatives and the Climate Change Office to ensure that the programme develops in a manner beneficial to Waitakere City Council.

**BASIX - A Sustainable Building / Development Assessment Tool**

Bruce Taper's visit to New Zealand was extremely well received. Council staff are investigating the option of implementing a similar system in New Zealand.

**Eco Day**

The Eco Day had a strong energy focus. Exhibitors included energy efficient lighting providers, companies selling alternative cars and eco design consultants. In the seminar tent there were several presentations relating to energy issues and the eco bus tours were very well received. 2500 to 2800 people attended the event and the feedback from sponsors, stallholders and the public was very positive.

**Green to Go**

'Green to Go' is a annual youth environmental conference sponsored by Keep Waitakere Beautiful. At this year's event Council staff organised an energy workshop to raise awareness about energy issues and gauge the understanding about energy issues among secondary school students.

**Cleaner Production Printing Project**

At a recent boat building project meeting the Accident Compensation Corporation reported that it has noticed a drop in the severity of claims resulting from neurotoxicity and associated issues within the printing industry. Initial analysis linked this reduction with the introduction of citrus based cleaners into the workplace. The cleaner production printing project promoted citrus based cleaners which were not previously used in New Zealand. Staff are working with the Accident Compensation Corporation to verify these links.

### Energy Pro

For this energy management package to function well historic data is required. Genesis, our electricity supplier, was contracted to provide this data electronically backdating to July 2000. After seven months Genesis has still not provided this data and staff have decided to enter the data manually from invoices.

### RESOURCES

Resources for all described initiatives are available in the current annual budget.

### RECOMMENDATION

That the information be received.

Report prepared by: Katja Lietz, Project Manager: Sustainability Projects.



## 16 APPEAL NO. A116 - BYERS - WAITAKERE RANGES SUBDIVISION AND VEGETATION CLEARANCE

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

### PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely Appeal No. A116 - Byers - Waitakere Ranges Subdivision and Vegetation Clearance.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
Appeal No. A116 - Byers - Waitakere Ranges Subdivision and Vegetation Clearance	The withholding of information is necessary in order to: <ul style="list-style-type: none"><li>• Maintain legal professional privilege.</li></ul>	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2)(g) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *The subject matters contains legal and commercial information.*

