



NOTICE OF MEETING

ENVIRONMENTAL MANAGEMENT COMMITTEE

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

DATE: **Tuesday, 9 September 2003** **TIME:** **9.30 am**

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

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

3 September 2003

Owena Schuster
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

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

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

(Quorum 5 members)

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

**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, 9 SEPTEMBER 2003,
COMMENCING AT 9.30 AM.**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	APOLOGIES	1
2	URGENT BUSINESS	1
3	CONFIRMATION OF MINUTES	1
	<u>PART I - REGULATORY / ENFORCEMENT</u>	2
4	LEGAL UPDATE (AS AT 29 AUGUST 2003)	2
5	GAMBLING ACT	8
6	UPDATE ON NON-RESIDENTIAL ACTIVITIES - SALES OF MOTOR VEHICLES FROM RESIDENTIAL AREAS	12
	<u>PART II - DISTRICT PLAN / STRUCTURE PLANS</u>	17
7	REMOVAL OF DEFENCE PURPOSES DESIGNATION OVER PART OF THE LAND AT HOBSONVILLE AIRBASE	17
8	PROPOSED PLAN CHANGE 1 - HEARING AND COMMISSIONER'S RECOMMENDATION	19
9	PROPOSED PLAN CHANGE 8 - TO IDENTIFY NEW ROADS OR RESERVES THAT HAVE BEEN VESTED IN COUNCIL AS TRANSPORT ENVIRONMENT AND OPEN SPACE ENVIRONMENT	22
10	PROPOSED PLAN CHANGE 9 - RE-IDENTIFICATION OF LAND AT 1 RANGIWAI ROAD FROM OPEN SPACE ENVIRONMENT TO BUSH LIVING ENVIRONMENT	30
	<u>PART III - ENVIRONMENTAL MANAGEMENT</u>	40
11	AIR, LAND AND WATER PLAN	40
12	WAITAKERE RANGES PROTECTION - CONSULTATION UPDATE	43
13	DISTRICT PLAN - PENIHANA APPEAL	45
	PROCEDURAL MOTION TO EXCLUDE THE PUBLIC	45

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, 9 SEPTEMBER 2003, COMMENCING AT 9.30 AM.

1 APOLOGIES



2 URGENT BUSINESS

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

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

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

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



3 CONFIRMATION OF MINUTES

Ordinary - Tuesday, 12 August 2003

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Environmental Management Committee held on Tuesday, 12 August 2003, as circulated, be taken as read and now be confirmed.



PART I - REGULATORY / ENFORCEMENT

4 LEGAL UPDATE (AS AT 29 AUGUST 2003)

INTRODUCTION

The following is a list of legal actions in respect of matters within the scope of the 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 and 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 for costs against Kitewaho has been filed with the Court. In the meantime the companies have been placed in liquidation and the liquidators have indicated a willingness to negotiate a settlement of the costs claims and abandonment of all of the references by those companies. (This will have implications for the other proceedings initiated by Mr Mawhinney and noted in this report.)

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 and Nye v Waitakere City Council (8 March 2002)

Appeals filed by the applicant Messrs Selak and their neighbours, Messrs Collett and 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 and 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 NZ 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. Both appeals have now been settled, with the resource consent cancelled by the Court, at Mobil's request.

Abacus Developments Limited and Ors v Waitakere City Council (February 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 below 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, with a further report date of 31 October 2003. Estate Homes Limited has issued High Court proceedings relating to a contested reserves contribution assessment in respect of the first stage of its Sturges Road subdivision.

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

An appeal against consent conditions imposed for a proposed subdivision at Ranui Station Road. The matter was argued in the Environment Court on 25-27 August 2003. The appeal in respect of the reserve fund contribution was abandoned leaving Council's contribution to the road as the only matter in dispute. Awaiting Court's decision.

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

Appeal by Mr Spencer against Council's decision declining consent for subdivision of a property located at Lone Kauri Road, Karekare. Both the Waitakere Ranges Protection Society and several residents' groups are parties to the appeal. An on-site meeting between all parties took place and a proposal has been put forward, with negotiations continuing. Mediation took place on 29 March 2003, resulting in an agreement in principle being reached, with the details still to be finalised.

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 and 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 Landing Road, Titirangi. The Waitakere Ranges Protection Society has opposed the decision; Pradhir and Others have opposed a condition that relates to parks and walkways; and Richmond Eden Limited (the applicant) has appealed a number of the conditions. A mediation is scheduled for 3 September 2003.

Poll v Waitakere City Council (January 2003)

Vicki Poll has appealed Council's Commissioners' (Harry Bhana/Alan Watson) 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 Bringham Creek Road, Whenuapai, known as "Surreal Café". This decision was contrary to the reporting officer's recommendation. A number of surrounding residents have registered an interest in the appeal with the Environment Court as Section 271A parties.

Although Council and the appellant were willing to enter into mediation, the surrounding residents (Section 271A parties) did not wish to enter mediation and therefore the matter went to hearing. The hearing took place over three days during the week of 18 August. His Honour Judge Thompson along with Commissioners Priest and McIntyre presided over the hearing. The decision was reserved.

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 six office units at 120 South Titirangi Road, Titirangi. As of 29 April 2003 there were 21 parties who had filed Section 271A or Section 274 notices. Cornerstone has provided its initial evidence and Council has filed evidence in reply. Cornerstone yet to provide rebuttal evidence with a hearing scheduled for late September 2003, likely to be adjourned.

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 has been listed for hearing during the fortnight beginning 18 August 2003 but has been adjourned due to the length of time taken by the appellants in the disclosure process, which preceded the preparation of evidence. The Court has set a revised timetable for the production of evidence and will be set down for hearing after 20 October 2003 when the parties' evidence has been completed. It is anticipated that the hearing will take two days.

Waitakere Ranges Protection Society v Waitakere City Council R and L Thompson v Waitakere City Council

These proceedings involve two references concerning subdivision, filed in relation to Variation 87 of the Proposed District Plan. Council's solicitors reported to the Court on 7 July 2003. The Waitakere Ranges Protection Society has proposed a meeting to attempt to resolve all matters including the Thompson reference and those of the Juderon Family Trust (a Section 271A party to the Waitakere Ranges Protection Society appeal). Council, the Thompsons and the Waitakere Ranges Protection Society are relatively close to finalising terms for an agreed settlement of the Thompsons' site-specific reference, and the Waitakere Ranges Protection Society reference. It is also hoped that the Juderon Family Trust's position is consistent with the position of the other parties. A meeting is scheduled for 5 September between Waitakere Ranges Protection Society, Juderon, Auckland Regional Council and Council to clarify these parties' positions and before reporting to the Court. Kitewaho Bush Reserve Company Limited have been joined to these proceedings by a previous Environment Court decision and therefore any resolutions reached between the other appellants will still be subject to resolution of the Kitewaho reference.

There is also a Section 274 party, the Vaughans and Council is attempting to clarify the full extent of the relief that they are seeking and whether this is consistent with the relief other parties are seeking.

**Bay Olympic Sports and Soccer Association v Waitakere City Council (March 2003)
Friends of Crum Park Incorporated v Waitakere City Council (March 2003)**

These are two appeals relating to Council's decision to partially grant consent to night-light fields at Crum Park, Green Bay subject to conditions. Bay Olympic has appealed the restrictions imposed by Council, and Friends of Crum Park have contested the lack of further restrictions. Bay Olympic and Friends of Crum Park have been involved in ongoing Council-facilitated mediation in an attempt to reach agreement. This has continued for some weeks. If agreement cannot be reached then Council intends to suggest that the parties undertake Environment Court-assisted mediation.

Prema Trust v Waitakere City Council and Auckland Regional Council (July 2003)

An appeal against a joint Waitakere City Council/Auckland Regional Council decision refusing consent for an alternative healing centre at 36 Grassmere Road. A reply to appeal has been filed with the Environment Court, on behalf of Waitakere City Council. Auckland Regional Council have also filed a reply. A call over of the appeal will occur in due course.

HIGH COURT

**Waitakere City Council v Kitewaho Bush Reserve Company Limited and Ors
(Appeal filed 22 January 2002)
Kitewaho Bush Reserve Company Limited and Ors v Waitakere City Council
(February 2002)**

These proceedings involve applications by Kitewaho and associated companies for declarations and enforcement orders 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 Section 91 and Section 92 Resource Management Act).

At a meeting on 19 December 2001, Council 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 was served on the other parties involved (ie. Kitewaho and related entities and the Auckland Regional Council). Kitewaho and related entities served its own (voluminous) appeal on Council.

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. There have been a number of preliminary steps required in these proceedings to address the voluminousness and imprecision of Kitewaho's points on appeal. This has resulted in a number of re-pleadings. Notification has now been received that this matter is to be heard in the week beginning 17 November 2003. It has been set down for a four day hearing.

Bible College (New Zealand) Inc and Ors v Waitakere City Council (17 July 2003)

Bible College (New Zealand) Inc filed a notice of proceedings for an application for judicial review of Council's decision granting consent (non-notified) for development of a Pak N Save, Mitre 10, etc. on the Lincoln Park site. Evidence exchange set down (Council 23 September 2003). Discussions continue.

Peat v Waitakere City Council

Appeal by Mr and Mrs Peat against Council decision to decline subdivision consent application seeking a non-complying 3 lot subdivision in 26 Auhiorangi Road. The subdivision would, if granted, 'jump the gun' by proceeding prior to resolution of both the Swanson Structure Plan references and the current global review by Council of structure planning, and Council's evidence in being prepared on this basis. Presently scheduled for a hearing in the week of 13 October 2003.

ENFORCEMENT ORDERS

Waitakere City Council v Borrett - Sunnyvale Road, Massey

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. Mediation was held on 1 May 2003 before an Environment Commissioner with a further on-site mediation held in late May and 29 July 2003, respectively. Settlement was ultimately not reached and a fixture is allocated in the week of 13 October 2003.

PROSECUTIONS

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

Informations have been laid against Mr Cargill (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 had been made and the hearing adjourned on a number of occasions for remediation to be progressed. The remediation package includes the gifting of land to the Auckland Regional Council that requires a subdivision consent, which has been granted by the Waitakere City Council, and then a Section 224(c) certificate. Mr Cargill has had difficulty progressing his subdivision plan due to difficulties with his wastewater disposal. In these circumstances the Court has further adjourned sentencing until 10 September 2003.

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

A number of informations were served on Mr Gordon in relation to Resource Management Act breaches 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 entered not guilty pleas to all charges and elected trial by jury. He has been committed to trial after conceding that there is a case to answer. The Court has indicated that the matter will be heard in November 2003. It is anticipated that it will require a three day hearing.

Susan and Andrew Borrett - 49 Sunnyvale Road, Red Hills (3 June 2002)

Informations were laid for Resource Management Act offences for unauthorised vegetation clearance, earthworks and breaches of 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. At this point the trial is scheduled for September 2003.

Lorenzen - 91 Kaurilands Road, Titirangi (November 2002)

Information has 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. Mr Lorenzen has entered a plea of not guilty and requested trial by jury. Depositions occurred on 14 May 2003 with the defendant agreeing that there was a case to answer. The pre-conference trial occurred on 19 June 2003. The Crown Prosecutor has advised that the next call over will be on 10 September 2003.

Ivan and Alona Covich - 40 Sunnyvale Road, Massey (May 2003)

Information has been laid against Mr and Mrs Covich. Council alleges that the Covich's are operating a landfill without a resource consent and therefore are acting in contravention of the District Plan and the Resource Management Act. The matter was called on 30 June 2003, the Covich's entered a not guilty plea and elected trial by jury. The matter had a pre-depositions call over date of 20 August 2003. Council is awaiting confirmation of a depositions date.

Meng Teck Yeo, Kee Bong Yeong and MTY Properties Limited - six properties at various locations (May 2003)

Numerous information were laid against the defendants for Resource Management Act and Building Act offences in relation to six properties that were rented to tenants. Each of the properties is alleged to be unsanitary and in breach of the District Plan requirements relating to the number of occupants allowed in dwelling units. Disclosure has taken place. The matter was adjourned from 29 August for the purpose of further discovery and is due to be called on 26 September 2003.

COURT OF APPEAL - APPEALS FROM PROSECUTIONS

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

These defendants rented an unsanitary building, previously a garage, to a family of 6 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 from 24 to 26 July 2002.

Following the High Court's (Harrison J) refusal to grant leave to appeal to Law and Lai, an application was made to the Court of Appeal for further leave to appeal against the order for costs. The Court of Appeal granted special leave to Law and Lai to appeal to the Court of Appeal against the convictions, sentences and the order for costs made by the High Court. The matter is scheduled for a one-day hearing on 18 November 2003.

RECOMMENDATION

That the Legal Update report be received.

Report prepared by: Brigid McDonald, Contract Solicitor.



5 GAMBLING ACT

PURPOSE OF THE REPORT

The purpose of this report is to inform the Environmental Management Committee of the Council's role under the Responsible Gambling Bill, which will soon be enacted as the Gambling Act.

BACKGROUND

The Responsible Gambling Bill (the Bill) had its second reading on 12 August 2003 and passed by a small majority. It will come back to Parliament in September for a third and final reading. The United Future and Green Parties may propose some amendments.

The Bill resulted from a review of gaming activities in New Zealand conducted by the Department of Internal Affairs in 2002. The Bill will repeal the Gaming and Lotteries Act 1977 and the Casino Control Act 1990 and establish the Gambling Commission. Regulation of the Gaming Industry is to be shared between the Gambling Commission and the Department of Internal Affairs. The Ministry of Health will develop and manage an integrated problem gambling strategy.

Councils will be required to complete Gaming Venue Policies for class 4 gaming venues (non-casino gaming machines) within six months of enactment of the Bill. Councils are required to undertake a social impact assessment, which provides information to ensure that when the Gambling Venue Policy is developed, the following objectives of the Bill are met, ie.:

- (i) Ensuring that gambling is used primarily to raise funds for the community.
- (ii) Minimising the harm caused by gambling.
- (iii) Ensuring community involvement in decisions about the availability of gambling.
- (iv) Controlling the growth of gambling.

Waitakere City Council made a submission on the Bill in March 2002. The Council supported the proposals in the Bill requiring territorial local authorities to set policy on the number and location of gaming machines in their area, but expressed concern at the transfer of costs of implementing this obligation from Central Government to Local Government. The Council requested that Central Government funding accompany the new requirements under the Bill.

The Council also submitted that Local Government should be responsible for setting up local allocation committees to allocate the proceeds of gambling for community purposes.

Four speakers at the meeting will present information about the Bill and gambling issues in general. The presenters are:

- John Raeburn: Director of Health Research, University of Auckland.
- Richard Northey: Director Local Government Advisory Services, Problem Gambling Foundation.
- Murray Spearman: Chief Executive Officer: Portage and Waitakere Licensing Trusts.
- Vivian Cheung: Asian Network.

STRATEGIC CONTEXT

The Council's Gaming Venue Policy must be viewed in the context of the following Strategic Platforms:

- *Strong Communities*, which includes developing the City as a renowned hub of social activity, arts, leisure, sports and recreation.
- *Urban and Rural Villages*, which includes an urban consolidation programme, encouraging people to live and work in town centres and building a city that is socially inclusive, and protecting and celebrating the City's cultural diversity and heritage.
- *Strong Innovative Economy*, which includes promoting local economic development and quality jobs, designing high quality town centres that are hubs of creativity and economic vitality, identifying and working towards the overall economic wellbeing of residents, and increasing the City's profile to attract investment.

The impact of gambling on the City's residents has long-term implications that must also be considered in the context of the Five Priorities underpinning the above Strategic Platforms. These are the Treaty of Waitangi, Sustainable Development, Safe City, First Call for Children and Lifelong Learning.

The Council has, and is developing, a range of tools that can have a major impact on the gambling environment, including the Gaming Venue Policy, Liquor Licensing Policy and Citywide Alcohol Strategy, District Plan regulations, and Bylaws.

The Council's Gaming Venue Policy should also be considered in the context of the wider legislative framework – including the Resource Management Act, the Local Government Act 2002, the Prostitution Reform Act 2003 and the District Plan.

ISSUES

Regulation of Gaming Machines under the Gambling Bill

Under the Bill, non-casino gaming machines may only be run by corporate societies (including RSA's and clubs), and only for authorised purposes. Authorised purposes include charitable purposes and non-commercial purpose beneficial to the whole or significant section of the community.

A society must have both an operator's licence and a venue licence to run gaming machines. Societies will be responsible for distributing funds raised from gaming machines.

Existing class four venues (those licensed before 17 October 2001) must not operate more than 18 gaming machines.

New venues (licensed after 17 October 2001) will be restricted to 9 gaming machines. Societies with venues licensed between 17 October 2001 and the date the Gambling Act comes into effect will have to remove the extra machines immediately.

All societies with venues licensed since 17 October 2001 and after the commencement of the Gambling Act will require territorial local authority consent. The Council's Gaming Venue Policy must guide the consent process.

Gambling Venue Policy

The Bill states that in adopting its Gambling Venue Policy the Council **must**:

- (i) Have regard to the social impact of gambling with its district.
- (ii) State whether or not Class 4 venues may be established and, if so, where located.

The Bill also states that the Gambling Venue Policy **may**:

- (i) Specify restrictions on maximum numbers of gambling machines.
- (ii) Include regard for the following characteristics in determining numbers and locations of machines: characteristics of the district, location of kindergartens, early childhood centres, schools, places of worship and other community facilities, the number of machines at a site, the cumulative effects of additional opportunities for gambling in the district, how close any venue should be to any other venue and what the primary purpose of any venue should be.

In addition the Council must use a Special Consultative Procedure for developing the Gambling Venue Policy and is required to review the policy after three years.

Gambling Venue Policy Development Process

The Council will have six months from the date of the commencement of the Gambling Act to develop its Gaming Venue Policy. The diagram below indicates the process that the Council will be required to follow when the Bill has been enacted.



Social Impact Assessment

The Social Impact Assessment will provide the basis for developing the Council's Gaming Venue Policy and therefore it is imperative that it will be able to withstand peer review and potential legal challenge.

The Councils in the Auckland region face many of the same issues relating to the impacts of gambling. Council officers from all seven Councils have agreed to work collaboratively and have agreed to pool resources from existing budgets to contract out the work. This will ensure the development of an assessment that will be useful at a regional level, as well as at the individual Council level. Such an assessment will include the economic, environmental, cultural and social impacts of gambling and an evaluation and monitoring component, which will facilitate future policy reviews.

It is also anticipated that the process of developing the Gambling Impact Assessment will enable the establishment of a methodology and framework that could be adapted to assess the impact of other legislation (such as the Prostitution Reform Act 2003).

This collaborative effort also provides an opportunity to lobby together for Central Government funding so that councils can meet the legislative requirements imposed by the raft of social legislation recently imposed on local government.

RESOURCES

Staff time and resources for developing the Gaming Venue Policy are included in the 2003/2004 Annual Plan.

CONCLUSION

Under the Bill, all societies with class 4 gaming venues (non-casino gaming machines) licensed since 17 October 2001 and after the commencement of the Gambling Act will require territorial local authority consent.

The Council will be required to complete a Gaming Venue Policy for class 4 gaming venues within six months of the Bill's enactment.

The Council is also required to undertake a social impact assessment when developing its Gaming Venue Policy.

Council officers from the Councils in the region have agreed to pool resources from existing budgets to develop a regional gambling impact assessment that includes the social, economic, cultural and environmental impacts of gambling.

It is anticipated that a methodology and framework for a gambling impact assessment will include an evaluation and monitoring component which will facilitate future policy reviews.

It is also anticipated that the process of developing the Gambling Impact Assessment will enable the establishment of a methodology and framework that could be adapted to assess the impact of other legislation (such as the Prostitution Reform Act 2003).

This collaborative effort also provides an opportunity to lobby together for Central Government funding so that councils can meet the legislative requirements imposed by the raft of legislation recently imposed on local government.

RECOMMENDATION

That the Gambling report be received.

Report prepared by: Annika Lane, Senior Analyst: Social Policy.



6 **UPDATE ON NON-RESIDENTIAL ACTIVITIES - SALES OF MOTOR VEHICLES FROM RESIDENTIAL AREAS**

PURPOSE OF THE REPORT

The purpose of this report is to provide the Environmental Management Committee with some background on the Council's position with regard to non-residential activities and their implications for sales of motor vehicles from residential areas.

BACKGROUND

The Committee received a report in June this year on the adequacy of Council's existing regulatory framework to control the activities of motor vehicle traders under the Motor Vehicle Sales Act 2003. A discussion of the District Plan provisions relating to non-residential activities has also been outlined as part of an agenda item on the Prostitution Law Reform Act 2003. The primary issue raised in the report on Motor Vehicle Sales was whether or not the rules in the District Plan, or any relevant bylaws, are sufficiently robust to respond to these new circumstances.

Conclusions 2 and 3 from the earlier report state:

- “2. Some beefing up of the signage rules for the Transport Environment may be desirable to clearly capture signs within or upon motor vehicles. The rules presently appear to focus on the promotion of activities, rather than simple “for sale” signs.
3. The “street trader” definition in the District Plan needs to be reworked if it is effectively to prohibit intermittent and casual retail activity on the road.”

The Committee resolved:

“That the rules of the Transport Environment and the Rural Villages be reviewed in the light of the conclusions 2 and 3 in the report with a view to recommending changes to the District Plan if appropriate, with that review to be completed by 30 September 2003 so that any plan change can be approved by the Council and publicly notified no later than 30 November 2003.”

1180/2003

STRATEGIC CONTEXT

The Council is generally supportive of non-residential activities locating within residential areas of the City, provided that the individual and cumulative effects do not detrimentally affect amenity values and neighbourhood character. Non-residential activities including home occupations play an important part in strengthening the local economy by providing local employment opportunities and reducing vehicle trips. However, changes in residential and rural character must be carefully managed so that the mix of activities contributes to the enhancement of local neighbourhoods, and does not undermine them to the point that further pressures are created to move away from these areas.

ISSUES

The District Plan is an effects-based document - that is it manages the effects of activities rather than the activities themselves. It is therefore necessary to identify what effects certain activities have and then determine what mechanism should be used to manage the effects identified. Finally, it needs to be determined whether the effects to be managed are a matter that the district plan can deal with.

The Council received two District Plan appeals relating to its home occupation rules. The two appellants were Mr P Walbran and Mr JC Whittaker. The appeal by Mr JC Whittaker was lodged as a “backstop” to other appeals on the Oratia Structure Plan. The appeal by Mr Walbran sought changes to the rules to enable electronic transactions or mail order operations to be included within the non-residential activity provisions. In addition, the appellant wanted some recognition that home occupations are “an occupation, craft or profession ...” that inherently involves the generation of income as opposed to hobbies. There was one interested party to the Walbran appeal - Mrs BJ Oliver who was concerned that panel beating and spray painting should not be permitted and this provision remains in place.

In general, the effects associated with home occupations and other non-residential activities include:

- Traffic Generation
- Noise
- Signage
- Residential Character

Traffic Generation

- In the Living Environment (urban residential areas) non-residential traffic is limited to no more than 20 vehicle movements per day - above this threshold requires resource consent.
- Non-residential activities are limited to front sites.
- In the Community and Working Environments (commercial and industrial areas) traffic generation is not limited.
- In all other Human Environments (Countryside, Foothills, Waitakere Ranges etc.) traffic is limited to no more than 20 vehicle movements per day or not more than 1% of the roads daily traffic volume, whichever is the greater. Above this threshold a resource consent is required.

The basis for these rules is that commercial and industrial areas are generally in accessible locations on or just off main routes and road access should not be a problem. Home occupations are limited to front sites to prevent properties down right of ways creating a nuisance to their neighbours by parking in access areas. The Community and Working Environments are less sensitive in terms of traffic impacts than residential environments. In residential and non-urban areas, road access may not be sufficient to provide for efficient traffic movement, and impacts of traffic and parking on amenity could be significant. In those areas traffic generation as a permitted activity is limited to 20 vehicle movements a day, with resource consents required for proposals that generate more than that limit.

Noise

- Noise thresholds in the commercial and industrial areas (Working and Community Environments) are measured from any part of any site within an adjoining residential environment (eg. Living, Foothills, Bush Living, Rural Village or Countryside Environment)
- Higher noise limits are allowed, if the residential properties face a strategic arterial or regional arterial roads.
- Any non-residential activity in a residential area is subject to the same noise thresholds as a residential property.

Signs

A similar hierarchy is adopted in respect of District Plan management of signs. General rules provide that:

- Any sign is permitted in the Working and Community Environments, provided that it does not extend beyond the outline of the building, is not flashing or moving and is not illuminated if the sign is adjacent to any residential area.
- Resource Consent is required for any other sign (and also for free standing signs in the Working Environment).
- In residential areas (all other Human Environments) signs are limited to a maximum size of 0.1m². Any other sign requires resource consent.

Residential Character

Section 7(c) of the Resource Management Act 1991 refers to the need to have regard to “the maintenance and enhancement of amenity values.” Amenity values are defined in the Act as meaning:

“Those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes.”

Current Position

- Settlement of the District Plan appeals relating to home occupations has strengthened the definition of home occupation to refer to “any commercial activity, profession or service which is secondary to the use of the site for residential purposes”.
- Spray painting and panel beating continue to be specifically excluded from home occupations ie. not allowed.
- In all of the Human Environments (except the Working and Community Environments) home occupations are permitted activities provided that they meet the performance standards including: there are no more than five persons engaged in the business, they are carried on within an existing building and do not generate more than two heavy vehicle movements per week and 20 normal vehicle movements per day.
- The home occupation, apart from the parking of one vehicle, is screened from the adjoining sites and the road.
- Except where goods are primarily ordered by mail or electronic transaction and redistributed by post/courier, any retail sales and services are confined to front sites with individual driveway access and a minimum net site area of 450m².

The consent order entered into with Paul Walbran altered the definition of home occupation to:

“home occupation(s) means any commercial activity, profession or service carried out on a site by the occupier in which -

- *The use of the site is secondary and incidental to the use of the site for residential purposes, and*
- *The activity meets the terms and standards of the relevant Environment Rules;*
- *but excludes Any Activity involving spray painting, panel beating, motor and motor vehicle repairs, including fibre-glassing, sheet metal work and wrecking of motor vehicles.”*

In addition the consent order altered the performance standards for permitted activities in the Living Environment, Rural Villages, Bush Living, Waitakere Ranges, Foothills and Countryside Environments to provide for:

- *Home occupations meeting the following requirements:*
 - *no more than five persons are engaged in the home occupation, at least one of whom resides on the site; and*
 - *the home occupation is carried out within an existing building; and*
 - *the home occupation does not involve traffic generation involving a heavy motor vehicle exceeding two vehicle movements per week; and*
 - *except where goods are primarily ordered by mail or electronic transaction and redistributed by post or courier, any retail sales and services are confined to front sites with individual driveway access and a minimum net site area of 450m² and shall be of goods produced on site; and*
 - *the home occupation, apart from the parking of one vehicle, is screened from the adjoining sites and the road.*

The terms of the consent order have been correctly noted in all of the Human Environments, except the Rural Villages Environment. This has now been drawn to the attention of the District Plan Team, who will arrange for the correct version to be sent to all District Plan holders. Consequently retail sales of motor vehicles, whether sourced by mail, electronic transaction, telephone or personal visitation and inspection will not be a permitted activity in any of the Human Environments (excluding the Working and Community Environments).

Definition of “Street Trading”

The Transport Environment permits “street trading” associated with, and of a scale subsidiary to an adjoining site within either a Community Environment or within a site scheduled for retail activity. Any street trading that does not meet the permitted threshold is a discretionary activity. The definition of street trading states:

“means any retail sales conducted within a road and exceeding one hours duration in any one location.”

To date the Council’s enforcement section has had relatively few complaints regarding street trading. It is considered that it would be inappropriate to take action in either direction without first undertaking a careful analysis of the nature of the problem and identifying the best regulatory and non-regulatory solutions to deal with any particular issue. The introduction of the Motor Vehicle Sales Act 2003 may not necessarily result in motor vehicle traders seeking to conduct retail sales of vehicles from the side of the road. The Committee needs to balance whether or not a Plan Change affecting signs and the definition of street trader may prevent legitimate private sales of vehicles and pleasure-craft versus regulating in response to a known problem. It may be less expensive of both staff time and budget to essentially “wait and see” and respond to an issue once it materialises.

RESOURCES

If the Committee wishes to pursue a Plan Change, the costs are covered within existing budgets but may be estimated to be within a range of \$10,000-100,000 depending on how many submissions and consequently appeals are lodged against a proposed Plan Change.

CONCLUSION

There are sound strategic reasons for providing for non-residential activities in the City. Although the provisions were the subject of appeal, they have now been satisfactorily resolved. It would appear to be premature to promote a Plan Change in response to a perceived risk that may not materialise and that could put the non-residential activities provisions back into an appeal process before the Courts. Given that the legislation regarding Motor Vehicle Sales Act 2003 is new, it may be prudent to monitor its effectiveness against known complaints lodged with Council.

RECOMMENDATIONS

1. That the Non-Residential Activities - Motor Vehicle Sales report be received.
2. That a plan change does not need to be undertaken at this time, although Council will continue to monitor motor vehicle trading in residential areas.

Report prepared by: Alina Hughes, Service Planner: City Services.



PART II - DISTRICT PLAN / STRUCTURE PLANS

7 REMOVAL OF DEFENCE PURPOSES DESIGNATION OVER PART OF THE LAND AT HOBSONVILLE AIRBASE

PURPOSE OF THE REPORT

The purpose of this report is to inform the Environmental Management Committee of the removal of part of the Defence Force designation over a portion land at the Hobsonville Airbase.

BACKGROUND

The Defence Force is in the process of vacating the Hobsonville Airbase and the Minister of Defence has given notice that the "Defence Purposes" designation is no longer required over a total of nearly 35 hectares of land at the Airbase. This land is in the process of being transferred out of Defence ownership to Housing New Zealand.

A1-A3

The designation is listed in the Designations Appendix of the District Plan as "MD1 - Defence Purposes". The areas of land over which the designation is uplifted are the 4.3ha esplanade reserve around the Bomb Bay peninsula that was established as a result of the Sovereign Yacht subdivision (the designation over the land now owned by Sovereign Yachts was uplifted in 2001) and a 30.39 ha area of land including the whole of the Bomb Bay Peninsula and adjoining the 12 ha block that has recently been offered back to the original owners under the section 40 of the Public Works Act. A copy of the Notice of Removal, including a plan of the land to which it relates are attached at pages A1 to A3. It should be noted that the Defence Purposes designation still remains over the 20 ha of land (including the 12 ha offered back to the original owners) identified as being suitable for the initial core marine industrial cluster.

STRATEGIC CONTEXT

The closure of the airbase at Hobsonville provides an opportunity for Council to further its sustainable development objectives as well as an opportunity for the development of a marine industrial cluster, due to the availability of deepwater access to the Waitemata Harbour. Council has identified in the Long Term Council Community Plan that the establishment of a marine industry cluster on the Hobsonville Peninsula is an important step in realising the goal of strong innovative economy in the City.

The land which is the subject of the designation removal has been set apart for housing purposes by Housing New Zealand Corporation. Development of the "greenfield" areas of Hobsonville Airbase for housing is not planned for several years and would require a shift of the current Metropolitan Urban Limits as defined in the Auckland Regional Policy Statement. Once a designation is removed, the land reverts to the underlying zoning, in this instance, Countryside Environment. The Council will be looking to promote a plan change that will include the subject land, which would restrict development but recognise its potential for future urban and future marine development when comprehensive urbanisation for the Hobsonville takes place, once the Metropolitan Urban Limits is shifted.

ISSUES

Section 182 of the Resource Management Act applies to any proposal to remove a designation. This section of the legislation states as follows:

"182. Removal of designation -

- (1) If a requiring authority no longer wants a designation or part of a designation, it shall give notice in the prescribed form to-*
 - (a) The territorial authority concerned; and*

- (b) *Every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and*
- (c) *Every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.*
- (2) *As soon as reasonably practicable after receiving a notice under subsection (1), the territorial authority shall without further formality, amend its district plan accordingly.*
- (3) *The provisions of the First Schedule shall not apply to the removal of a designation or part of a designation under this section.*
- (4) *This section shall apply, with all necessary modifications, to a notice by a territorial authority to withdraw its own designation or part of a designation within its own district.*
- (5) *Notwithstanding subsection (2) to (4), where a territorial authority considers the effect of the removal of part of a designation on the remaining designation is more than minor it may, within 20 working days of receipt of the notice under subsection (1), decline to remove that part of the designation.*
- (6) *A requiring authority may object, under section 357, to any decision to decline removal of part of a designation under subsection (5)."*

Basically once a designating authority gives notice that a designation is to be removed then it should be done "as soon as reasonably practical" and "without further formality". Accordingly, this part of the designation has already been removed from the Plan.

When only part of a designation is to be removed, Section 182 (5) does give Council some ability to decline to remove the part of the designation if the "effect of the removal of part of the designation on the remaining designation is more than minor". In this instance although the Minister is only seeking to remove part of the designation, this would have little effect on the remainder of the designation and as such the request to remove part of the designation has not been declined.

RESOURCES

There are no additional or unbudgeted resources required in order to remove the designation.

CONCLUSION

The Minister of Defence has given notice that the designation for "Defence Purposes" over part of the land at Hobsonville Airbase is no longer required. Section 182 of the Resource Management Act 1991 requires that Council remove the designation from the Planning maps as soon as practicable and without formality and this has already been done. Although only part of the designation would be removed the removal would have no effect on the remaining designation.

RECOMMENDATION

That the information be received.

Report prepared by: Elizabeth Wells, Principal Planner.



8 **PROPOSED PLAN CHANGE 1 - HEARING AND COMMISSIONER'S RECOMMENDATION**

PURPOSE OF THE REPORT

The purpose of this report is to request that the Environmental Management Committee make a decision in relation to Proposed Plan Change 1 to the District Plan.

BACKGROUND

Proposed Plan Change 1 seeks to re-identify a site on the corner of Glendale and West Coast Roads in Glen Eden, locally known as 'Glen Eden Green' from Open Space Environment to Community Environment. The land was transferred from the Council to its property development company, Waitakere Properties Limited (minute 2442/2001), to enable it to be used in conjunction with the adjoining land to the south to facilitate a comprehensive commercial development. The current classification of the land as Open Space Environment was not considered appropriate for commercial activities.

Public notification of Proposed Plan Change 1 attracted one submission. The submitter indicated that he did not wish to be heard but subsequently advised Council that he would like to attend a Hearing. To avoid a possible conflict of interest with respect to the ownership of the land a Commissioner was appointed to conduct a hearing in relation to Proposed Plan Change 1, and to make a subsequent recommendation back to the Committee, at its meeting on 9 September 2003.

ISSUES

Hearing and Officer's Report

A4-A5

A hearing in relation to Proposed Plan Change 1 was held by an independent Commissioner on 24 July 2003. A copy of the Council officer's report to the hearing, including a map of the subject site, on the proposed plan change are attached at pages A4 to A5.

The officer's report supported the re-identification of the subject land in Glen Eden as the most appropriate means of providing for the future management of the land, having regard to the Council's strategic objectives, the current ownership (Waitakere Properties Limited) of the land, and the framework required by the Resource Management Act 1991. In addition, the re-identification of the subject land is consistent with the Auckland Regional Council's approach to consolidation of urban growth as outlined in its operative Regional Policy Statement.

The potential environmental effects arising from the re-identification of the subject site from Open Space Environment to Community Environment were assessed in terms of amenity and landscape, traffic and transport, infrastructure, noise and the social and economic environment. The assessment of effects indicated that the use of the land for a commercial activity could be managed to ensure the amenity values of the adjoining residential property were maintained.

The evaluation in accordance with Section 32 of the Resource Management Act concluded that the rules under the Open Space Environment would not be appropriate for the future use of the land, as they provide for recreational activities. Given that residential development on land in the Living Environment adjoins the western boundary of the subject site the option of re-identifying the land for residential use was also discounted because future commercial development would be a non-complying activity and would potentially require notification. Furthermore, "mixed use development" which would enhance Council's strategic direction by consolidating a range of uses including higher density residential development, on sites such as the subject site and around transport nodes, would not be precluded by the re-identification of the land to Community Environment.

The concerns of the submitter to the Proposed Plan Change included not wanting shops next to their property, the suitability of the existing open space for use by families and people working in Glen Eden and querying whether an equivalent area of land would be available on the corner of Glendale Road and Glen Mall for use as open space. Further verbal submissions were presented at the Hearing, including concerns with the potential for late night illicit activities if the area was used for car parking. This concern was underlined by behaviour problems from young people using the toilets and open space late at night, which have necessitated calling the police. Another issue he raised related to uncontrolled stormwater runoff into his property from the open space. Mr Ward did however concede that when shops had occupied the site there had been no difficulties. He indicated when questioned by the Commissioner that if the drainage was attended to and if any car park area was closed off at night he would be less concerned about the effects of the re-identification of the land.

The future development of the subject site would be required to comply with the rules of the Community Environment. Additional rules apply to the development of sites adjoining a property zoned for residential activities (Living Environment), with yard and height in relation to boundary controls requiring a generous setback and the provision of a 1.8m high fence on the boundary to provide screening. Other rules require vehicle access and loading doors into buildings, fans, air conditioning equipment or air discharge devices to be 20m from a boundary of a Living Environment. The parking areas within the site would be landscaped to protect neighbourhood amenities. There is already existing fencing and vegetation on the boundary between the residential property of the submitter and the subject land. The environmental assessment of the proposed re-identification of the land considered that the rules of the Community Environment would ensure that potential adverse effects were minimised.

The officer's report concluded that future commercial development of the subject land would result in a change to the open appearance of the land. However, the provision of a landscaped pedestrian precinct in association with the proposed new library would offset the loss of the open space on the subject site. The development of the new library will also provide a new civic focus to the town centre and has the potential to make a significant contribution to the development of Glen Eden town centre in a manner that is consistent with the Council's strategic direction.

Commissioner's Recommendation

A6-A8

Section 34(3) of the Resource Management Act 1991 prevents a local authority from delegating to a Commissioner the power to approve a plan change. As such, the Commissioner conducted a hearing and provided a recommendation back to the Council. The Commissioner's recommendation is attached at page Axx.

The Commissioner's recommendation includes comments on the proposed plan change, the site, reasons for the change, the written submission and the additional comments and concerns the submitter raised at the Hearing and the provisions of the Resource Management Act. The Commissioner concludes that the Section 32 analysis which is summarised in the report for the hearing "correctly and properly deals with the Council's obligations under that section." The Commissioner recommends that Proposed Plan Change 1 be approved, that the submission be rejected on the basis that adverse effects on their property will not be significant and indeed may be less than the potential adverse effects of retaining the site as an open area of land, given the submitter's reported experience with late night behaviour problems with the site in its present condition.

Decision

Approval is now sought from the Committee to approve Plan Change 1 in accordance with the Commissioner's recommendation.

A4-A5

If the Committee approves Plan Change 1, a decision notice requiring that the District Plan maps be amended as in the officer's report, as attached at pages A4 to A5, will be advertised in the New Zealand Herald on 18th September 2003 and sent to the submitter.

Notification of Operative Date

In accordance with Clause 20 of the First Schedule of the Resource Management Act 1991, a plan change shall become operative on a date that has been publicly notified. This date must be advertised at least 5 working days before the operative date.

If no references (appeals) are received in relation to Plan Change 1, arrangements will be made for the plan change to be publicly notified on 21 October 2003 to become operative on 30 October 2003.

CONCLUSION

An officer's report, which supported proposed Plan Change 1, was prepared and presented at a public hearing by a Commissioner on 24 July 2003. The Commissioner's recommendation, taking into account the views of the one submitter to the plan change, supported the officer's report and recommended that the Committee approve Plan Change 1.

Approval is now sought from the Committee to approve and adopt Plan Change 1 in accordance with the Commissioner's recommendation.

Should the Committee approve Plan Change 1, approval is also sought to advertise a decision notice. Subsequently, if no references (appeals) are received to Plan Change 1, approval to notify Plan Change 1 as operative in accordance with the Resource Management Act 1991 is also sought.

RECOMMENDATIONS

1. That the Proposed Plan Change 1 report be received.
2. That Plan Change 1 be approved in accordance with the Commissioner's recommendation.
3. That a decision notice, stating approval of Plan Change 1, be publicly advertised on, or about 18 September 2003.
4. That, if no references are received in relation to Plan Change 1, the Plan Change be publicly notified on, or about 21 October 2003 to become operative on, or about 30 October 2003.

Report prepared by: Pamela Wells, Planner: Policy Implementation.



9 **PROPOSED PLAN CHANGE 8 - TO IDENTIFY NEW ROADS OR RESERVES THAT HAVE BEEN VESTED IN COUNCIL AS TRANSPORT ENVIRONMENT AND OPEN SPACE ENVIRONMENT**

PURPOSE OF THE REPORT

The purpose of this report is to provide the Environmental Management Committee with information on the zoning issues associated with land that has been vested in Council as a result of subdivision and seeks the Committee's approval to publicly notify a proposed plan change to the District Plan that will provide for the appropriate zoning to be effective immediately a road or reserve is vested.

A9

A copy of the Proposed Plan Change is attached at page A9, and alters the definitions of the Open Space Environment and Transport Environment to include land that has been vested with the Council as a result of subdivision as road or reserve and a new City-wide rule that enables vested land to be re-identified with an appropriate Human Environment.

BACKGROUND

Land is generally vested in Council as road or reserve as part of the subdivision process. Subdivision of land is defined in Section 218 of the Resource Management Act 1991 and involves the division of an existing allotment into new allotments. As part of a subdivision legal access to service the new lots must be provided. A subdivision application plan and the survey plan are submitted to Council as part of a subdivision consent and show the proposed arrangement of lots and any new roads or reserves to be provided. Once consent is granted and the survey plan conforms with the subdivision consent, the Council approves the survey plans. The approved plans are then lodged with Land Information New Zealand and (after the Section 224 certificate is issued by Council) titles are issued by Land Information New Zealand. As part of the process of depositing a survey plan with Land Information New Zealand, the land shown on the survey plan as road or reserve is vested in Council. The zoning or Human Environments identification of the new roads or reserves however does not change on vesting but retains the pre-subdivision Human Environments identification.

There are no specific provisions in the District Plan to change the zoning of land from one Human Environment to another as a result of subdivision. Prior to the District Plan becoming operative, changes in zoning due to subdivision were made pursuant to Clause 16 of the First Schedule of the Resource Management Act 1991. That provision allows Councils to correct minor errors to Proposed Plans where such an alteration is of minor effect. However, Clause 16 does not apply to operative plans.

Prior to notification of the Plan and under the Town and Country Planning Act, the Transitional Plan did not give roads a zoning and did not have specific rules or policies relating to them apart from a roading hierarchy. In terms of giving new reserves an appropriate zoning, individual Plan Changes were required to be undertaken.

The Proposed Plan Change is presented to the Committee as a method for allowing land newly vested in Council as road or reserve to be identified as being within the Transport Environment or Open Space Environment. The Proposed Plan Change proposes that the Human Environments identification will only change to either Transport Environment or Open Space Environment without further formality when land is vested in Council as road or reserve as a result of subdivision.

STRATEGIC CONTEXT

The purpose and principles of the Resource Management Act 1991 include managing natural and physical resources sustainably by using a range of regulatory and non-regulatory methods to achieve certain environmental outcomes as efficiently as possible. The Proposed Plan Change would enable the Council to correctly and efficiently identify its resources through the District Plan and undertake its role as an asset manager more effectively.

Council's documents such as the Greenprint, Long Term Council Community Plan recognise the role and importance of parks and transport to the community. The Long Term Council Community Plan identifies nine pathways that demonstrate how the Council intends to manage and influence the environmental, economic and social wellbeing of the community. The long term goals for the Green Network that are relevant to the Proposed Plan Change include protecting and enhancing the city's landforms and landscapes and providing people friendly green spaces in urban and rural areas. The District Plan provides rules to manage the design and location of buildings, street trading, signs and infrastructure.

STATUTORY CONSIDERATIONS

District Plan Changes

Section 73 of the Resource Management Act 1991 provides for changes to the District Plan. The First Schedule of the Act sets out the process, which must be followed for plan changes. The Council must have regard to Section 74. Matters to be considered by territorial authority -

- (1) *A territorial authority shall prepare and change its district plan in accordance with its functions under Section 31, the provisions of Part II, its duty under Section 32, and any regulations.*
- (2) *In addition to the requirements of Section 75(2), when preparing or changing a district plan, a territorial authority shall have regard to-*
 - [(a) Any-*
 - (i) Proposed regional policy statement; or*
 - (ii) Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part IV; and]*
 - (b) Any-*
 - (i) Management plans and strategies prepared under other Acts; and*
 - (ii) Relevant planning document recognised by an iwi authority affected by the district plan; and*
 - [(iia) Relevant entry in the Historic Places Register; and]*
 - [(iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing)],-*
to the extent that their content has a bearing on resource management issues of the district; and
 - (c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*
- [(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition.]*

Section 5 of the Act sets out its purpose as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-*
 - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*

- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

Section 75 requires consistency with the Regional Policy Statement. The proposed Plan Change is considered to be consistent as it is simply providing for land that is vested either as reserve or roading to be given the appropriate Human Environments identification that matches the land use. This does not present any inconsistency with the Auckland Regional Policy Statement.

DISTRICT PLAN OBJECTIVES AND POLICIES

There are several District Plan objectives and policies that are relevant to the proposed Plan Change. Policy 10.8 links land use patterns with City's transport strategy and supports the safe and efficient movement of people, cyclists, pedestrians and vehicles around the City. There is an emphasis on designing subdivision layouts to maximise use of the transport corridor and encourage connectivity.

Policy 11.4 provides direction on the treatment of structures in the Transport Environment and states:

Structures (including infrastructure) within the Transport Environment should be of a scale (height, form and bulk), and designed, located and managed in a way that the adverse effects on the amenity values and neighbourhood character of any surrounding Environments and which enhances the amenity of the transport Environment itself. In particular, structures should:

- *Be compatible with the existing streetscape, including the links between streetscape and the neighbourhood character and amenity of the surrounding Environments;*
- *Minimise the removal or damage to existing native and exotic vegetation;*
- *Minimise physical domination and intrusion into the privacy of adjoining sites;*
- *Located so that planting of road berms can be provided for.*

The Transport Environment in the District Plan gives the community more certainty about the range of activities that can take place in the road reserve by limiting the bulk and location of infrastructure, providing rules that are supportive of public transport and connectivity.

Overall, the District Plan encourages and promotes a movement network that emphasises well designed connected roads where cyclists, pedestrians and children can share the street with motor vehicles safely. A more interconnected system of roads will alleviate traffic congestion and reduce vehicle trip lengths. Because roads are the primary public space found within any subdivision, considerable the District Plan has put an emphasis on their design and integration with the surrounding environment. Safety, amenity, efficient traffic movement and integration with the surrounding sites are primary concerns. Along with open spaces, they must be designed to provide a focal point for an area. Identification of new roads as being within the transport Environment would ensure that any development on these roads is in accordance with the District Plan objectives and policies.

Policy 10.7 refers to new public spaces and sets out key factors that are relevant to achieving safe spaces and states:

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

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

Policy 11.5 re-enforces the fact that public open space influences the amenity values of the urban area and can be adversely affected by the bulk and location of buildings around it. In particular, the isolation of public open spaces, can mean that their full potential is not realised, or that people are discouraged from using them:

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

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

The District Plan defines Open Space as areas of publicly owned open space ranging from the large park areas in the Waitakere Ranges to the small local parks in the urban area. The bulk and location rules relating to the Open Space Environment have been developed to ensure that buildings relating to recreational activities should be generally consistent with reserve management plans.

The assessment criteria for subdivision are intended to provide for a comprehensive integrated approach to public reserves across the City, that takes into account in varying features and characteristics. This approach is not new, but the range of concerns highlight not only the need for protection under the Act but also the need to develop settlement patterns which are sustainable

In this particular case, the re-identification of the land would enable their District Plan Human Environments identification to match the intended purpose as either road or reserve when roads and reserves are vested in Council. Although this would usually occur as a result of subdivision it may also take place where the Council stops road through a public process and gazettes land for the reserve purposes. However, it is considered that this Plan Change should only apply to subdivision.

SECTION 32 ANALYSIS

Section 32 of the Act States that:

- “(1) In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under Section 48, or a regulation is made, an evaluation must be carried out by -
- (a) *The Minister, for a national policy statement or regulations made under Section 43; or*
 - (b) *The Minister of Conservation, for the New Zealand coastal policy statement; or*
 - (c) *The local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part II of the First Schedule): or*
 - (d) *The person who made the request, for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part II of the First Schedule.*
- (2) *A further evaluation must also be made by -*
- (a) *A local authority before making a decision under clause 10 or clause 29(4) of the First Schedule; and*
 - (b) *The relevant Minister before issuing a national policy statement or New Zealand coastal policy statement.*
- (3) *An evaluation must examine-*
- (a) *The extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) *Whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
- (4) *For the purposes of this examination, an evaluation must take into account -*
- (a) *The benefits and costs of policies, rules, or other methods; and*
 - (b) *The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- (5) *The person required to carry out an evaluation under sub-section (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
- (6) *The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.”*

Section 32 of the Resource Management Act 1991 requires a rigorous test to ensure that before any objective, policy, rule or other method is adopted, a local authority has had regard to:

- i. The appropriateness of the objective, policy or rule or other method;
- ii. Other means of achieving the purpose of the Resource Management Act 1991;
- iii. Reasons for and against adopting the proposed objective, policy or rule or other method;
- iv. Evaluation of the likely costs and benefits of the principal alternative means and risks;
- v. Consideration of effectiveness and efficiency.

The Extent to Which the Proposed Plan Change is Appropriate

In broad terms, one of the main purposes of the Resource Management Act 1991 has been to manage natural resources sustainably by utilising the most effective and efficient regulatory and non-regulatory methods to achieve sound environmental outcomes. The proposed Plan Change would provide a mechanism to enable the Human Environments identification of land to change to either Transport or Open Space Environment, depending on whether it had been vested as road or reserve through the subdivision process by which land is vested in Council. The Proposed Plan Change would ensure that land vested in Council could be re-identified in a timely and cost-effective manner with the resulting benefits to the general public of creating roads and reserves. The appropriate re-identification of land would not only ensure that the management of potential adverse effects arising from activities on the land would be in accordance with District Plan objectives, policies and rules for roads and reserves, but also simplify planning and management matters. The correct identification of land is important not only for Council as landowner and asset manager but also for third parties such as purchasers of adjoining land or network utility providers who use the road reserve.

Whether, Having Regard to Efficiency and Effectiveness, the Policies, Rules or Other Methods are the Most Appropriate for Achieving the Objectives

Council is required to have regard to means other than regulation, which may be used in achieving the purpose of the Act. This includes non-statutory means such as education, provision of services, incentives and levying of charges. Other means could be having no rules at all (ie. removing all rules) or retaining the existing rules (the status quo).

The following alternative means to re-identifying the subject land Open Space/Transport Environment have been identified as being the main alternative means and are considered below:

- Introduce provisions to automatically re-identify land vested as road or reserve as Transport Environment or Open Space Environment (the Proposed Plan Change) at the time it is vested.
- Retain the existing identification (the status quo option).
- Promote specific Plan Changes to re-identify land on each occasion that land is vested or acquired for road or reserves.
- Designate all new roads and reserves.

Changing the Human Environment identification of newly vested roads or reserves at the time that they are vested either as a result of the subdivision consents process or through some other mechanism, is consistent with the policies and objectives of the District Plan. The proposed Plan Change would ensure that the appropriate identification is in place and would clarify the position for the community or anyone selling or purchasing land adjacent to the subject sites. The proposed Plan Change is consistent with the policies of the District Plan, Auckland Regional Policy Statement and other regional planning documents. The proposed Plan Change would also assist in the streamlining the district plan mapping process and ensure that the District Plan accurately reflects the intended use of that land. The proposed Plan Change is considered to be the most efficient and effective means of re-identifying land vested in Council as road or reserve as an outcome of subdivision.

Notifying specific Plan Changes for each particular reserve or road created through subdivision or in batches once there are sufficient changes to warrant an individual Plan Change is relatively inefficient. This is because it would require regular on-going Plan Changes to ensure that the Maps are accurate with inherent risks of appeals and court costs. However, the proposed Plan Change would be efficient and effective to the extent that it would enable the zoning to change automatically once the land has been vested as road or reserve as a result of subdivision.

It is unlikely that education or provision of services could alleviate an issue relating to an incorrect Human Environments identification. Those education/service methods are more effective in terms of making people aware of new rules or encouraging compliance. Similarly, incentives or levying of charges would be inappropriate, as the Council exercises direct control over the content of its District Plan.

If the Council took no action, land would be left with an inappropriate Human Environments identification. This could lead to adverse environmental outcomes as land could be developed in accordance with a zoning that is inconsistent and cause problems in terms of non-complying activities occurring on land that has been vested as road or reserve. For example, land may be identified as Living Environment. Once subdivided the roads and reserves would be vested in Council but would still have an incorrect zoning. There would be significant costs incurred not only to Council as asset manager but also to third parties such as network utility operators as consent may be required for any development on the land even though it is consistent with its vesting as either road or reserve. This is likely to be more costly to third parties and create uncertainty in the development community.

Designating roads and reserves following subdivision would be a public process but would fail to change the underlying zoning of the land. Therefore it would not achieve the intent of the proposed Plan Change.

Benefits and Costs of Policies, Rules or Other Methods

- Proposed Plan Change - introduce provisions to allow land newly vested or purchased for the purpose of roads or reserves as Transport Environment or Open Space Environment.

The costs and benefits of introducing the proposed Plan Change are staff time (between \$10-40,000) that is already part of the annual budget and added are the costs of any appeals arising through public participation in the process. The costs of appeals could range from \$10,000-100,000 depending on how many appeals and the complexity of the issues involved. Sustainable management of the city's resources cannot be achieved through regulation based on inaccurate zonings and it would be inappropriate to do so. The Human Environment identification of land should reflect its use and ownership. Re-identification of land that is vested in Council as road or reserve would ensure the appropriate policies and objectives would apply to any management and development of that land. The Proposed Plan Change would provide certainty to the broader community by enabling the correct zoning to apply to newly vested roads and reserves.

- Retain the Existing Human Environments Identification.

Retaining the existing Human Environments identification on land even though it is vested in Council as road or reserve would not be an effective or efficient use of resources. Although this method would not initially incur any costs to Council, it may create some uncertainty amongst people who are selling or purchasing land adjacent to the land vested as road but with an inconsistent Human Environments identification. It would also cause Council as asset manager and third parties such as network utility operators some difficulties in terms of the use and development of the land as resource consent may be required for establishment of activities and maintenance or installation of infrastructure. The costs of inaccuracies are difficult to quantify in dollar terms but may result in additional costs for telecommunications and infrastructure companies, judicial review proceedings against Council of Section 94 assessments, if a planner did not identify an affected party due to the incorrect zoning of a site. The benefits of retaining the existing Human Environments Identification following subdivision is negligible.

- Promote a Plan Change for each site-specific re-identification.

An alternative to promoting a City-wide Plan Change that would automatically apply to all future land vested as road or reserve would be to promote discrete site-specific Plan Changes. There are approximately 25 subdivisions processed each year that involve the creation of new roads and reserves. It is considered that there would be a significant cost to Council of processing 25 Plan Changes per year at a cost of between \$10,000-40,000 per plan change depending on the level of public interest, submissions and possibly appeals received.

It is also considered that this would be inefficient and costly as each subdivision may in essence be re-litigated through a public plan change process with possible appeals and the costs and time delays involved in the appeal process. It is considered that this approach would be inconsistent with the purpose and principles of the Resource Management Act and would lead to uncertain outcomes for Council, developers and the community at large.

- Designating all roads and reserves.

In theory it is possible to designate all roads and reserves but this process is similar to a Plan Change, in terms of the length of time taken to become effective and potential appeals to the process. The inappropriate underlying Human Environments identification would still remain. It is therefore considered to be inefficient for the same reasons as promoting individual Plan Changes as outlined above.

RESOURCES

No specialist reports are required for the proposed plan change. Processing the plan change through the statutory process can be adequately resourced from existing budgets. No additional staff funding or resources are required. The Proposed Plan Change has also been reviewed by councils' solicitor, to ensure that it is legally correct.

CONCLUSION

The proposed Plan Change would provide a mechanism so that the Human Environment identification of land newly vested in Council as road or reserve through the subdivision process could change to the appropriate Human Environment identification. An appropriate Human Environments identification would reflect the use of the land and ensure that it can be sustainably managed in an integrated manner and in accordance with the relevant District Plan policies, objectives and rules.

RECOMMENDATIONS

1. That the information be received.
2. That pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to publicly notify Proposed Plan Change 8 to the Operative Waitakere City District Plan to as attached at page A9.

A9

Report prepared by: Alina Hughes, Service Planner, Resource Management.



10 **PROPOSED PLAN CHANGE 9 - RE-IDENTIFICATION OF LAND AT 1 RANGIWAI ROAD FROM OPEN SPACE ENVIRONMENT TO BUSH LIVING ENVIRONMENT**

PURPOSE OF THE REPORT

The purpose of this report is to seek the approval of the Environmental Management Committee to publicly notify a proposed plan change to re-identify the property at 1 Rangiwai Road Titirangi (Lot 4 DP191856), from Open Space Environment to Bush Living Environment and to identify the House on the site as a Category II heritage item under the District Plan. The Natural Area identification would remain the same.

BACKGROUND

Current District Plan Provisions

The site is currently identified as Open Space in the Human Environment and Managed Natural Area with sensitive ridgeline. The property was identified as Open Space in the Proposed Plan as it is located next to a public reserve. The building was formerly used as an office by the Council (Waitemata City Council) and later as a Community House. The building is presently being used as the "Titirangi Centre for Wellbeing" with classes for yoga, meditation and life drawing, mainly taking place in the evenings.

Other Issues

The Titirangi Community House moved to a new building on Titirangi War Memorial Park last year. Although not currently listed in the District Plan the building located at 1 Rangiwai Road does have heritage value as it was formerly owned by the Atkinson family and the building is one of the few houses left in existence designed by Tibor Doner, a Hungarian from the modernist school of architecture.

Relocation of the Titirangi Community House services was recommended by the Community Houses Review, which was adopted by the Community Facilities and Recreation Committee in February 1999. As part of the 1999-2000 Annual Plan process, Council passed the following resolution:

"Council will proceed with the sale and relocation of the Titirangi Community House. Funding for relocation will come from sale proceeds."

1585/1999

This building is now surplus to the Council's requirements and the Finance and Operational Performance Committee resolved on 13 June 2002:

"That pending the sale of the old Titirangi Community House, the Chief Executive be authorised to negotiate and conclude a short term lease of the property under the Local Government Act 1974.

That it be recommended to Council that the sale of the old Titirangi Community House (Lot 4, DP 191856) be approved, and that the Chief Executive be given authority to negotiate and conclude a sale of the property at an appropriate time."

2068/2002

The Titirangi Business Association has raised the idea of 1 Rangiwai Road being used to alleviate parking pressure in the town centre. Under this proposal 47 car parking spaces would be provided in Rangiwai Road with 26 car parking spaces on the ground level and 21 car parking spaces on a parking deck. The Business Association claims that it would be possible to lease 21 car parks on the Rangiwai Road site as permanent spaces at an estimated lease of \$1,000 each, returning \$21,000 pa, and that all spaces could be restricted to long term parking to limit traffic flows in and out of Rangiwai Road. Council staff from Traffic and Roading and EcoWater have reviewed a range of options to provide additional parking spaces in the village and an item was presented to the August meeting of the New Lynn Community Board. The report prepared by the Manager: Transport Assets, concludes that 1 Rangiwai Road should be eliminated from immediate consideration due to cost, a requirement for traffic signals at the Titirangi Road/Rangiwai Road intersection, with associated road widening, loss of on-street parking, loss of heritage and likely opposition by residents of Rangiwai Road.

The Community Board resolved:

1. *That the information be received and referred to the City Development Committee for its consideration.*
2. *That approval be given to apply for resource consents required to establish 6 additional car parks in the Titirangi War Memorial car park subject to the City Development Committee's approval of this proposal.*
3. *That the recommendations a) to e) below be endorsed for consideration and resolution by the City Development Committee...*
 - e) *That before the implementation of Council Resolution 1585/1999, the Chief Executive report back to the City Development Committee on whether 1 Rangiwai Road should be land-banked for future resale or for future development of public car parking including park-and-ride commuter parking and, if 1 Rangiwai Road is to be land-banked, whether the zoning of the site should be now changed from "Open Space" to "Bush Living"*

1576/2003

STRATEGIC CONTEXT

The Long Term Community Plan seeks to protect and celebrate the City's cultural diversity and heritage by working in partnership with the many cultures of the City. The District Plan aims to protect and celebrate all kinds of heritage in the City. Buildings and other structures are vulnerable to complete removal as landowners seek to release sites for other uses. Within Waitakere City there is some impact from expansion of commercial and retail activities around the town centres, as older, mainly residential buildings are replaced by new commercial ventures. Further pressure is placed on buildings where property owners either change the existing features such as ornamentation, cladding or joinery, or add to the buildings in a way that is at odds with their existing form, scale and detailing. Policy 12.3 of the District Plan states:

"Alterations and additions to the exterior of any heritage item listed in the City Wide Rules Heritage Appendix of the District Plan and the interior of any heritage item where that protection is provided for in the Heritage Appendix of the Plan, should be carried out in a way that is consistent with the heritage values for which it has been listed and any Conservation Plan required for a Category I item, and is sympathetic to and protects the following features -

- *Street elevation and streetscape;*
- *Style and character of the building;*
- *Interior quality of the building;*
- *Scale, form and detailing, including roof form, roof angles and eaves;*

- *The heritage significance of the building;*
- *Historic fabric, significant materials and original craftsmanship;*
- *Original setting, including protection and maintenance of surrounding trees and gardens.”*

DISTRICT PLAN POLICY FRAMEWORK AND RULES

The site is a corner parcel of land of 2,530m² and has a small area of lawn but is largely native bush. The site was zoned Recreation 4 Zone (Community Purpose) under the Waitemata District Plan and that zoning was characterised by typically small sites with community facilities. A wide range of social, service and welfare uses were permitted in Recreation 4 zones, including marae and certain educational type institutions. It appears that the site was later identified as Open Space Environment under the Proposed District Plan as this was the nearest equivalent. However, the subject land does not meet the requirements of the Policies of the District Plan relating to Open Space.

Policy 10.7 relating to the Open Space Environment states:

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

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

The District Plan describes the Open Space Environment as “areas of publicly owned open space ranging from the large park areas in the Waitakere Ranges to the small local parks in the urban area.” The site has a house located on it up a steep driveway and does not function effectively as an area of public open space. The site layout does not fulfil many of the design criteria outlined in policy 10.7 particularly with regard to direct and efficient movement routes through such spaces, overlooking, and integration of pedestrian systems with vehicle routes. The rules in the Open Space Environment have been designed to reflect the City’s recreation strategies and Reserve Management Plans. Where there is no Reserve Management Plan for a reserve or public open space, as in this case, all buildings are deemed to be a non-complying activity under the rules of the Open Space Environment.

The Bush Living Environment includes those intensively settled areas within the Waitakere Ranges, where natural features dominate, but settlement has substantially fragmented the bush. A partly residential but, nonetheless, “non-urban” character predominates as a result. The development controls limit a range of effects such as building coverage, yards, building height, residential density. The site could not be subdivided easily as the rules require at least 4,000m² over the entire parent site with a minimum net site area of 2,000m² for each proposed site provided that the building platform is an existing cleared area.

STATUTORY CONSIDERATIONS

District Plan Changes

Section 73 of the Resource Management Act 1991 provides for changes to the District Plans. The first Schedule of the Act sets out the process, which must be followed for plan changes. The Council must have regard to Section 74, matters to be considered by territorial authority:

- “(1) A territorial authority shall prepare and change its district plan in accordance with its functions under Section 31, the provisions of Part II, its duty under section 32 and any regulations.*
- (2) In addition to the requirements of section 75(2), when preparing or changing a district plan, a territorial authority shall have regard to –*
 - [(a) Any-*
 - (i) Proposed regional policy statement; or*
 - (ii) Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part IV; and]*
 - (b) Any-*
 - (i) Management plans and strategies prepared under other Acts; and*
 - (ii) Relevant planning document recognised by an iwi authority affected by the district plan; and*
 - [(iia) Relevant entry in the Historic Places Register; and]*
sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing)],-
to the extent that their context has a bearing on resource management issues of the district; and
 - (c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*
- [(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition.]*

Section 5 of the Act sets out its purpose as follows:

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -*
 - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Environment is defined in Section 2 of the Act as follows:

“Environment” includes -

- (a) Ecosystems and their constituent parts, including people and communities; and*
- (b) All natural and physical resources; and*
- (c) Amenity values; and*
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters”.*

Section 31 of the Act sets out Council's functions and in summary this function is the control of actual or potential effects of the use, development or protection of land and associated natural and physical resources in order to achieve the purpose of the Act. Council is to establish, implement and review objectives, policies and methods to achieve this and can also include rules which prohibit, regulate or allow activities. The District Plan is a tool to assist the Council in achieving its function.

Before adopting an objective, policy or rule or other method in the District Plan an assessment under Section 32 of the Resource Management Act must be carried out.

Section 76(3) requires that in making a rule, a territorial authority is to have regard to the actual or potential effect of activities on the environment, particularly adverse effects.

Section 32 Analysis

Section 32 (3-6) of the Act states that:

- “(3) An evaluation must examine -*
 - (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
- (4) For the purposes of this examination, an evaluation must take into account -*
 - (a) the benefits and costs of policies, rules, or other methods; and*
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- (5) The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
- (6) The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.”*

In summary, Section 32 of the Resource Management Act 1991 requires a rigorous test to ensure that before any objective, policy, rule or other method is adopted, a local authority has had regard to:

- examining the extent to which each objective is the most appropriate way to achieve the purpose of the Act;
- examining whether, having regard to efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives;
- taking into account the benefits and costs of the policies, rules or other methods;
- taking into account the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods; and
- summarising the evaluation and reasons for evaluation.

The extent to which the Proposed Plan Change is the most appropriate way to achieving the purpose of the Act.

The purpose of the Act as outlined in Part II is to promote the sustainable management of natural and physical resources as defined in the Act. The Resource Management Amendment Act has elevated heritage to a matter of national importance. Section 6(f) states:

“(f) the protection of historic heritage from inappropriate subdivision, use and development.”

Section 7 requires Council to have particular regard to the efficient use and development of natural and physical resources, maintenance and enhancement of amenity values and any finite characteristics of natural and physical resources. If the property were to be sold it would require a change in identification to be in accordance with the Bush Living Environment identification of surrounding land and protection of particular heritage aspects of the existing dwelling. This would ensure that any residential use of the land would be in character with its surroundings and consistent with the purpose of the Act. The proposed change would protect and enhance the existing amenity values by enabling the site to be used efficiently for a low-scale residential purpose that is appropriate in the neighbourhood context.

The Council has commissioned a heritage assessment of the site by Dinah Holman. Henry Atkinson purchased the property in August 1945. It is one of the few houses left in existence designed by Tibor Doner, a Hungarian from the modernist school of architecture. Tibor Doner is well-known as a modernist architect whose main works include the Parnell Baths and Auckland City Council's, Civic Centre in Greys Avenue Auckland.

The house was originally built for the Atkinson family, who lived in it from 1946-7 until 1967. Harry Atkinson commissioned Tibor Doner to design the house. The dwelling was designed for the sun and views to the south over the Manukau Harbour and to the east and north over Titirangi. The open plan design worked well for the family and the living room could accommodate up to 100 people. The house at 1 Rangiwai Road, featured in the New Zealand Arts Yearbook 1946.

After the house was sold by the family to the Waitemata County Council in 1967, it was used as an office administration centre by the Council. However, in 1978, the County Council moved its district office to Henderson and the old Atkinson house became the Titirangi Community House, a function that ceased when the new Community Centre was built in 2002.

A10-A21

An extract of the heritage assessment of the dwelling, as attached at pages A10 to A21. The dwelling has considerable integrity and is assessed as being in reasonable condition. The heritage consultant recommends listing it on the following grounds:

- *It is a good example of domestic Modernist architecture in Auckland, there are few such buildings in Waitakere City and only a limited number in the Auckland region.*
- *It was designed by a noted Auckland architect, Tibor Doner, who left a very considerable architectural legacy in the Auckland area.*
- *The innovative design and construction methods are of considerable interest.*
- *The building was used by the community for many years and is valued by the community.*

The heritage consultant has recommended listing the dwelling as a category II item as it is an important example of domestic architecture by Tibor Doner, although it is not his best example. The dwelling has significance in terms of its association with the Atkinson family who were early settlers in Titirangi and the building has architectural significance. There are three heritage management categories in the District Plan: Category I, II and III. Category I structures are of high value which should not be modified or only minimally, for example Lopdell House and the Glen Eden Playhouse. Category II buildings are structures of value, but where change could be considered if it is in keeping with the character. Category III items are structures of value, but where change could be considered if it is in keeping with the character. These items are good examples of their kind but there is a recognised need for flexibility in terms of management of the items.

Whether having regard to efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

- Council is required to have regard to means other than regulation, which may be used in achieving the purpose of the Act. This includes non-statutory means such as education, provision of services, incentives and levying of charges. Other means could be taking no action at all or retaining the existing rules. If the existing rules were to be retained then the purpose of the Act would not be met as it would require a non-complying resource consent for the property to be utilised for residential purposes. It is likely that such an application would need to be publicly notified thereby introducing unreasonable compliance costs. Another alternative means of achieving protection of the heritage status of the dwelling would be to register a covenant on the Certificate of Title. However, that method would not ensure that any future alterations to the building would respect the integrity of the original design. It is considered that it would be more efficient and effective for Council to re-zone the property prior to its sale an appropriate zoning and heritage listing would ensure that any potential purchaser of the site was aware that the dwelling has heritage value.
- Leaving the site zoned Open Space would not be an efficient use of land as it would not enable any alternative use of a valuable resource without resource consent. Leaving the site as Open Space Environment with a view to developing a car park on the site would require the Council to disregard its functions under Part II of the Act of protecting historic heritage.
- If the site were to be re-zoned to Community Environment, this would effectively expand the range of commercial activities (goods and services) in the town centre. Given difficulties of access, parking, visibility and a change to neighbourhood character this option is undesirable.

Benefits and costs of the proposed Plan Change or other methods.

The following alternatives to the proposed plan change have been identified as being the main alternative means and are considered below:

- Proposed Plan Change.
- Register covenants to protect the heritage status of the dwelling and existing open space.
- Change the Human Environment from Open Space to Community Environment and list the dwelling as a heritage item.
- Leaving the Human Environment identification as Open Space.

Reasons for and against adopting the Proposed Plan Change and the principal alternative means, cost/benefit analysis.

- The Proposed Plan Change - change the existing Open Space Environment identification to Bush Living Environment and listing the dwelling as a heritage item.

Changing the identification of the subject site from Open Space Environment to Bush Living Environment can be supported by technical studies and would remove a constraint to residential use of the site. A residential land use would be sympathetic to the dominant natural and physical features of the site and surrounding village, which contribute to the amenity value and neighbourhood character of the area. The site is sufficiently close to the existing retail node in Titirangi to enable residents to walk to local shops without the need to take a car. Although it would require a plan change thereby incurring costs for Council, it would remove compliance and consent processing costs for any future purchaser and ensure that the Council as landowner achieved a fair sale price. Formal protection of the heritage aspects of the dwelling would ensure that any future modifications to the dwelling were sympathetic with the original design and should not deter prospective purchasers of the property as resource consents to alter heritage buildings are processed free of charge by Council. It is considered that the proposed plan change would enable the Council to manage its resources sustainably and efficiently. A residential use of this site would not have an adverse effect on traffic or other infrastructure as the effects would be of a lower scale to previous use of the site.

The proposed plan change is consistent with the provisions of the Regional Policy Statement to the extent that the land is already within the urban limits and the proposed re-zoning is consistent with other surrounding residential properties and will facilitate efficient provision of services through the utilisation of the existing water and wastewater services (policy 2.6.1 - Urban Growth Management).

- Register Covenants to protect the heritage status of the dwelling and open space around the dwelling.

This option would only partially achieve the desired outcome as a heritage covenant in itself would still require the Council to enforce it through civil litigation procedures if it was breached. The Open Space covenant would ensure that no further subdivision of the site could take place by protecting the un-built areas of the site. However, this method would still require any future landowner(s) to apply for resource consents to utilise the property for residential purposes. Residential housing is not compatible with the policies and objectives associated with the Open Space Environment and may potentially be refused. Therefore the diminished ease of residential use would lower the sale price accordingly. This option would not lead to sustainable and integrated planning for the City.

- Change the Human Environment from Open Space to Community Environment and list the dwelling as a heritage item.

This option involves changing the Human Environment from Open Space to Community Environment and listing the dwelling as a heritage item. It is considered that the cumulative effects of increased traffic generation and access and parking difficulties would not be desirable and the site has a difficult access and is unable to accommodate much on-site parking only space for one vehicle at the top of the driveway. The driveway is only sufficiently wide to take one vehicle and there is no available space for a passing bay. It is likely that any extension of the Community Environment in this locality would result in a reduction of amenity values for surrounding residents primarily through the additional traffic congestion. It is likely that the building would have to be modified extensively to suit consulting/professional offices or any other form of business and would have cumulative effects on traffic generation close to a busy intersection on Titirangi Road.

- Leaving it as Open Space.

This option would not fulfil the objectives and policies for the Open Space Environment as the Council intends selling the property and the value of the property to a third party would be diminished if it was required to obtain a resource consent to use the site for residential purposes.

The use of the subject land for residential purposes would be a non-complying activity in terms of the rules of the Open Space Environment. The Bush Living Environment of the District Plan would enable the natural and physical resources on 1 Rangiwai Road to be sustainably managed through the implementation of the Objectives, Policies and Rules of the Proposed District Plan. A heritage listing would also ensure that future owners are aware of the significance of the building and any modifications would have to be in keeping with the original design.

The risks of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

If the Council does not proceed with the proposed Plan Change there is a risk that the Council will be forced as landowner to continue renting the site for an indefinite period and fail to re-coupe the costs of re-locating the Titirangi Community Centre last year. The proposed Plan Change is likely to be supported by residents who may prefer that the site were owned by an individual who could generally improve the house and its environs. However, the proposed Plan Change may be opposed by the Titirangi Business Association who may subsequently appeal any decision that does not secure this site for car parking in the future.

It is considered that there is sufficient information about the site and car parking situation in Titirangi to proceed. The proposed Plan Change should proceed on the basis that the Human Environments identification is appropriate to maintain the character of Rangiwai Road, is consistent with existing constraints on-site and would ensure that the heritage aspects of the building are listed in the District Plan.

RESOURCES

Although this issue does not necessarily have a high strategic value, it does impact upon the Council's ability to dispose of the land in a timely manner. There are adequate resources to progress the Plan Change within existing budgets.

CONCLUSION

- A22* Overall, it is concluded that a plan change should be undertaken to re-identify the site at 1 Rangiwai Road from Open Space to Bush Living Environment, register the dwelling as a Category II Heritage Item in the District Plan. A plan change is required to give effect to this and the Map and other changes to the District Plan as attached at page A22.

RECOMMENDATIONS

1. That the information be received.
- A10-A21* 2. That pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to publicly notify proposed plan change 5 to the Waitakere City District Plan to change the Human Environment identification of a property at 1 Rangiwai Road, being Lot 4 DP 191856 from Open Space Environment to Bush Living Environment and to list the dwelling on the site as a category II building in the Heritage Appendix of the Operative District Plan, as attached at pages A10 to A21.

Report prepared by: Alina Hughes, Service Planner: Resource Management.



PART III - ENVIRONMENTAL MANAGEMENT

11 AIR, LAND AND WATER PLAN

PURPOSE OF THE REPORT

The purpose of this report is to update the Environmental Management Committee on the Auckland Regional Council's Air, Land and Water Plan, and to seek approval to delegate authority to the Chairperson and Deputy Chairperson of the Committee to approve final submissions on the Plan.

BACKGROUND

The Auckland Regional Council notified Variations to the Proposed Regional Plan: Coastal and Proposed Regional Plan: Air, Land and Water on 21 June 2002 and Council made submissions by the closing date of 16 August 2002.

The Variation has effect from the day it is notified and must be taken into account in subsequent resource consent processes.

Following the closing date for submissions, Council has been working collaborately with the Auckland Regional Council, Watercare Services Limited, and the Local Network Operators to achieve consensus and avoid a protracted legal process. If this is not successful, it is likely that an appeal may eventually be lodged with the Environment Court.

STRATEGIC CONTEXT

Council's strategy is to integrate the management of the water cycle including stormwater and the green network, with the following objectives:

- The City's native plants, animals and their ecosystems are cared for and protected. Stream and coastal areas are replanted and protected from erosion and natural links and wetlands are re-established.
- Council and private landowners work in partnership to ensure that our native and other ecosystems are protected from threats to their ongoing survival.
- People have better access to the City's parks, streams and green corridors, which are well managed to provide improved standards of amenity and ecological health.
- The management of stormwater keeps up with the growth of the City and remains in harmony with the natural water cycle. Land slippage and erosion is reduced and people's health and safety is protected.

The water which runs off the City's roads, roofs and car parks creates flooding and pollution problems if it is not well managed. As an area becomes more urbanised, there is more of this runoff and less opportunity for the water to soak naturally into the ground, or to find its own way along creeks and streams to the sea.

Auckland Regional Council sets standards for stormwater, which require local councils to show they are addressing the flooding and pollution problems in their areas. To meet these new requirements, Council will need to obtain and implement resource consents for 1400 to 1800 stormwater discharge points in the City. It will also need to demonstrate that it is making progress towards sustainably managing stormwater and wastewater overflows and reducing environmental effects.

Stormwater works do not need to be pipes in the ground. Natural creeks and streams are part of the beauty of the City and a habitat for native plants and animals, and many of the stormwater systems being developed in the City now mimic these natural areas and include plantings, walkways and wetland areas. These have the advantage of removing much of the pollution from the stormwater as well as reducing the potential for flooding.

Council has put in place a long-term plan to manage stormwater in the City, focussing first on the problems of the older urban areas and on catchments experiencing a lot of building and development, including parts of the Outer Area such as Huia and Piha. There will be further work and fine-tuning of this plan with the development of a computerised stormwater modelling system and to take into account the Auckland Regional Council's requirements.

ISSUES

The workshops held between the Local Network Operators, Watercare Services Limited and Auckland Regional Council officers have been very successful in gaining consensus on the major points of difference. There has been significant movement by the Auckland Regional Council officer's in this regard. The major issue relating to cost of stormwater quality compliance has been addressed by the working party, and more affordable requirements are now proposed.

The Hearings for Chapters 5 and 7 of the Air Land and Water Plan, the Chapters of most relevance to Council relating to stormwater networks and streams, are scheduled for October 2003, and the Council will need to be in a position to approve both a joint submission with the other Local Network Operators, and also a Council individual submission prior to the Hearings.

The key objectives of both Council's submission and the joint operators submission were:

- Greater recognition of Best Practical Option as a key driver.
- Removal of prescriptive network criteria, particularly within the policy framework.
- Recognition of the importance of stormwater and wastewater networks within the region.
- Recognition of funding limits, and affordability.
- Providing a clearer, workable and more certain statutory framework.

All of these issues have now been discussed in detail between Auckland Regional Council officers and the Local Network Operators and a series of wording changes to the ALW plan have been proposed at these meetings.

The Local Network Operators working group understand that these wording changes will be included in the Auckland Regional Council's officers report to the hearing (the final Auckland Regional Council officers report has not yet been released publicly).

Provided the Auckland Regional Council Officers Report contains these wording changes then both Council's submission and the Local Network Operators submission will in general be supporting the Auckland Regional Council officers report.

As the joint submission will only be finalised a short period before the hearings begin, and the Council submission can only be finalised after this is available, it is recommended that authority be delegated to the Chairperson of the Environmental Management Committee to approve the final submissions. As there are no major points of difference remaining at officer level, this is considered to be an efficient and timely means of achieving Council sign off for these submissions. It is also recommended that a representative of the Environmental Management Committee be appointed to present Council's submission to the Hearings.

It is recommended that the submissions be reported to the November 2003 meeting of the Environmental Management Committee.

RESOURCES

There are no timelines given as to the timing and sequencing of works programmes and expenditure required to achieve the environmental criteria in the Variations.

An amount of \$66,000 is included in the 2003/2004 Annual Plan to ensure that Council's interests are protected in submissions to the Auckland Regional Council on the Air, Land and Water Plan. In order to minimise costs of responding to the Auckland Regional Council, costs are being shared with Watercare Services Limited and the Local Network Operators.

CONCLUSION

Workshops held between the Local Network Operators, Watercare Services Limited and Auckland Regional Council officers have been very successful in gaining consensus on the major points of difference associated with the Air, Land and Water Plan. Council will need to be in a position to approve both a joint Local Network Operator submission and a Council submission prior to the hearings scheduled for October 2003, and in order to achieve this in a timely manner, it is recommended that authority be delegated to the Chairperson and Deputy Chairperson of the Environmental Management Committee to approve the final submissions.

RECOMMENDATIONS

1. That the information be received.
2. That authority be delegated to the Chairperson and Deputy Chairperson of the Environmental Management Committee to approve both the joint Council submission and the Waitakere City Council submission on the Air, Land and Water Plan on behalf of Council, for the Auckland Regional Council Hearings due in October 2003 on the basis of the issues set out in the agenda report.
3. That delegation be given to the Chairperson of the Environmental Management Committee, or in her absence the Deputy Chairperson, in conjunction with Council representatives, to present the submission to the Auckland Regional Council.
4. That the submissions be circulated to Members when completed and that the results of the Hearings processed be report to the Committee in due course.

Report prepared by: Richard Taylor, Assets and Network Manager: EcoWater Solutions.



12 WAITAKERE RANGES PROTECTION - CONSULTATION UPDATE

PURPOSE OF THE REPORT

The purpose of this report is to provide the Environmental Management Committee with an update on the Waitakere Ranges Protection project.

BACKGROUND

The Council is currently undertaking a project to determine the long-term protection of the Ranges.

There are three key components to this project:

- **Research and Information Gathering**

This stage involves pulling together research and information around the Ranges, coastal villages and foothills. This includes information from the Auckland Regional Council, Watercare, Department of Conservation, and community groups. This information is being gathered together into two documents - a detailed report and a summary report that will form the basis of the community consultation. Much of our information on the environment is in fact fragmented and unconnected. Historically, research and monitoring has not been undertaken in the context of the Auckland Regional Council parklands, coastal villages, foothills and Watercare catchments as a whole. Gaining a holistic, complete picture of the state of the Ranges is difficult. This state of environmental information is not unusual and supports the use of the precautionary principle.

The detailed report will pull together the information that has been able to be collected within the timeframe but should not be seen as a definitive record of all that is being undertaken. Its key purpose will be to act as a discussion document to assist the engagement of the community.

- **Community Consultation**

A 3-phase community consultation process was signed off at the Environmental Management Committee's July 2003 meeting.

Phase One:

Purpose: To share information gathered with community and commence the preliminary discussion around possible responses. The messages to the community include the acknowledgement of the pressures of pests, weeds, human impact on Ranges, the considerable work undertaken to produce the West Coast Plan and the good work happening without rules and legislation. The pressures of development would require discussion. The vehicle will be a series of workshops throughout the city.

Phase Two:

Purpose: To discuss potential responses in more detail. A series of small focus groups will be organised. The groups will become more focussed in their discussions, as preferred responses are refined. This phase will be supported by Council policy work aimed at researching and refining responses.

Phase Three:

A wide community consultation programme will be developed to take the preferred response(s) to the community for comment.

- **Response Development**

This is the policy work to support phase two of the community consultation process and the decision making of the Council and its partners on the final responses.

A number of reports on the Waitakere Ranges Protection project have been brought to this Committee. These include a background report in September 2002, a report on issues and status of the Ranges and on the process in April 2003, an update report in May, which discussed the study and the landscape Conference in July and a consultation update in August. At the August meeting the Committee resolved:

- “1. That the Environmental Management Committee endorses a partnership model for the Waitakere Ranges Protection Project with the Auckland Regional Council, iwi and Central Government.
2. That the Environmental Management Committee indicated its preference that in phase one consultation for the Waitakere Ranges Protection Project, the responses discussed with the community will be at a more detailed level.”

1714/2003

It was noted that a partnership model would see the Auckland Regional Council take resolutions to its Strategic Policy Committee on 9 September. This would allow consultation to start in late September.

STRATEGIC CONTEXT

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

Council has indicated a strong commitment to working on protection of the Ranges, whilst recognising that there are many different values relating to the Ranges that need to be protected, much is already being done to achieve protection, the tools for protection are many and varied, and the community views diverse. A robust process is crucial for achieving community understanding of, and long-term commitment to, solutions arising from the process.

RESOURCES

Budget for the Waitakere Ranges project is allowed for in the 2003/2004 Annual Plan.

ISSUES

At the time of writing this report a number of key issues in the project are being developed. These include:

- Further development of the consultation framework and materials.
- Legal advice is being developed on the potential legislative and district plan changes responses.
- A phone survey on the perception of change in the Ranges and foothills is being undertaken.

CONCLUSION

The Waitakere Ranges protection project is at the important stage of drawing together into the detailed and summary reports the information and research gathered to date, as well as finalising the consultation framework. A number of actions are underway to support the project. Given the timeframes and level of community engagement to be undertaken in late September a verbal update of these issues will be presented at the Committee's September meeting.

RECOMMENDATION

That the Waitakere Ranges Protection - Consultation update be received.

Report prepared by: Kim Morreseey, Partnerships and Advocacy: Environment.



13 DISTRICT PLAN - PENIHANA APPEAL

This item will be considered in the Confidential Supplement of the agenda, this report was not available at time of printing and will be circulated to members separately.

PROCEDURAL MOTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following part of the proceedings of this meeting, namely District Plan - Penihana Appeal.

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.
<ul style="list-style-type: none">District Plan - Penihana Appeal	The withholding of information is necessary in order to: <ul style="list-style-type: none">Maintain legal professional privilege.	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 matters concern legal issues currently before the Environment Court; and a mediation process, part of which contains an agreement between reference (appeal) parties that discussions and material will not be disclosed to other than the parties to that mediation.*

