

**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, 11 MARCH 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 28 FEBRUARY 2003)	2
5 DRAFT WASTE MANAGEMENT PLAN	7
6 DOG REGISTRATION FEES - 2003/2004	8
7 UPDATE ON DOG CONTROL	14
<u>PART II - DISTRICT PLAN / STRUCTURE PLANS</u>	19
8 DISTRICT PLAN - OPERATIVE DATE	19
<u>PART III - ENVIRONMENTAL MANAGEMENT</u>	20
9 PAINTED APPLE MOTH UPDATE REPORT FROM THE MINISTRY OF AGRICULTURE AND FORESTRY	20
10 PROPOSED BIRDWOOD URBAN CONCEPT PLAN	24
11 ENERGY-WISE COUNCILS FORUM	34
12 SHOPPING TROLLEYS IN STREAMS	35
13 CONFERENCE - DEVELOPING AND IMPLEMENTING EFFECTIVE WASTE MANAGEMENT STRATEGIES AND PRACTICES	38
14 DISTRICT PLAN - PENIHANA APPEAL	39
PROCEDURAL MOTION TO EXCLUDE THE PUBLIC	39

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1 APOLOGIES



2 URGENT BUSINESS

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

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

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

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



3 CONFIRMATION OF MINUTES

Ordinary - Tuesday, 11 February 2003

RECOMMENDATION

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



PART I - REGULATORY / ENFORCEMENT

4 LEGAL UPDATE (AS AT 28 FEBRUARY 2003)

INTRODUCTION

The following is a list of legal actions in respect of matters within the scope of the Environmental Management Committee, which are currently before the Courts and which are ongoing or have been commenced since the date of the preceding report. The list does not include minor matters such as dog, swimming pools, health and litter prosecutions 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

APPEALS

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

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

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

Selak v Waitakere City Council (7 March 2002) Collett & Nye v Waitakere City Council (8 March 2002)

Appeals have recently filed by the applicant Messrs Selak and their neighbours, Messrs Collett & Nye. Both appeals relate to the operation of the Selaks' Go-kart track on their property at Kennedy's Road, Whenuapai. The Selaks have appealed a condition disallowing use of the track on Sundays and public holidays. The Colletts & Nyes have appealed Council's decision to allow the Go-Kart activity. The matter is set down for a back-up fixture for hearing of 2 days if Court time becomes available, most likely to be early March.

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. There are on-going negotiations with the applicant/developer and valuations are currently under consideration. The parties reported to the Environment Court on 10 September 2002 that negotiations were continuing and requested that the appeals be set down for the next call-over.

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.

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

This is an application for subdivision consent lodged by Coastal Environments Limited, which was declined by the Council. The Waitakere Ranges Protection Society and several residents groups are parties to the appeal. Coastal Environments Limited are presently considering whether to revise their proposal and an adjournment of this matter is being sought.

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

This is an appeal by Mr Spencer against a decision of the Council to refuse consent to allow a subdivision of his property located at Lone Kauri Road, Karekare. Both Waitakere Ranges Protection Society and several residents groups are parties to the appeal. An on-site meeting between all parties will take place and a proposal has been put forward and negotiations are continuing. A mediation meeting has been set down for March/April 2003.

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

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

Poll v Waitakere City Council (January 2003)

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

Cornerstone Limited v Waitakere City Council (February 2003)

Cornerstone Limited has appealed the decision by the Council to refuse an application for a land use consent to develop 6 office units at 120 Titirangi Road, Titirangi.

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.

HIGH COURT APPEALS

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

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

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

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

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

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

The appeals were reviewed in the High Court on 9 September 2002 and the Court has directed Kitewaho to file an amended appeal. An interlocutory hearing as to the extent of the evidence took place on 6 November 2002 and at the conclusion of this the Court directed that further documents be lodged to limit the scope of the evidence to be produced. On 14 January 2003, outside the time allowed, Kitewaho filed its further amended points on appeal. Again this was too voluminous. Council made an application to strike out the appeal. The matter was called before the Court on 29 January. The Court decided to give Kitewaho further time to narrow the scope of its appeal on the basis that a hearing of the strike out application would occupy a number of days hearing. Council has applied to strike out Kitewaho's appeal, to be scheduled hearing time shortly.

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

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

ENFORCEMENT ORDERS

Waitakere City Council v Borrett - Sunnyvale Road, Red Hills

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

PROSECUTIONS

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

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

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

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

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

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

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

Informations have been laid against Mr Lorenzen in relation to the clearance of bush in the Riparian Margin and General Natural Area. The matter was set down for a first call on 29 November 2002 but has been adjourned to enable Mr Lorenzen to seek legal advice with a further date of 28 March 2003.

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

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

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

Informations have been laid against Mr Luff in relation to breaches of the Building Act. The Council alleges that unauthorised building work occurred in the form of a stand alone carport and timber retaining wall over Council stormwater drains and the closing in of the original carport to form a laundry. The matter is to be called on 28 March 2003.

HIGH COURT/APPEAL COURT - APPEALS FROM PROSECUTIONS

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

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

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

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

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

The applications were heard in the High Court in December 2002. Justice Harrison ordered that memorandums be filed as to means and an amended application for leave to appeal against costs. The matter went before the High Court on 20 February 2003 and Justice Harrison reserved his decision.

RECOMMENDATION

That the information be received.

Report prepared by: Catherine Knight, Contract Solicitor.



5 DRAFT WASTE MANAGEMENT PLAN

PURPOSE OF THE REPORT

The purpose of this report is to present the draft Waste Management Plan for endorsement to go out for public consultation.

BACKGROUND

The Solid Waste Management Plan 1999 was to be reviewed by June 2002 but was delayed until the direction from the strategic review was clarified. Meanwhile, the New Zealand Waste Strategy, released in March 2002, required waste plans prepared by local authorities to address liquid and gaseous waste as well as solid waste and to work towards zero waste to landfill.

After consideration of the New Zealand Waste Strategy and how Waitakere was doing in meeting the proposed targets, Council resolved to adopt a goal of “zero waste by 2020” and adopt the strategy as a framework for review of the Solid Waste Plan (3278/2002).

A1-A36

The draft Waste Management Plan is attached at pages A1 to A36. This plan is a prepared as a public statement of how Waitakere City Council intends to manage the waste it generates in-house, collects within the City and receives at the Refuse and Recycling Transfer Station. It is intended as an interim operational guideline until a fully comprehensive review of waste management, pricing and funding policy is undertaken in the 2003/4 financial year. The full review will guide the City towards Zero Waste by 2020.

STRATEGIC CONTEXT

The New Zealand Waste Strategy 2002 is one of the foundation policies which, when fully implemented, will position New Zealand well for meeting its first commitment period targets under the Kyoto Protocol for reducing greenhouse gas emissions.

Council expressed support for the direction taken by the New Zealand Waste Strategy (122/2001) and followed this through the strategic review process to identify Zero Waste by 2020 as one the ten strategic platforms (adopted November 2002).

This draft Waste Management Plan, prepared within the framework of the New Zealand Waste Strategy, is intended to replace the Solid Waste Strategy 1999 but also addresses liquid and gaseous wastes generated or collected by Council.

ISSUES

The draft Waste Management Plan contains the vision and goals for waste, “Zero Waste by 2020”, adopted in November 2002 as part of Council’s strategic review. The draft plan addresses and adopts relevant targets set in the New Zealand Waste Strategy 2002 (those that are the responsibility of local government) and identifies a series of actions to be taken over the next three to five years. Actions cover the operation of the Refuse and Recycling Transfer Station, Cleaner Production, Wastewater, Aftercare for closed landfill sites, and Council’s in-house waste management.

The targets set in the draft Waste Management Plan reflect those already in the 2002/3 Annual Plan and for the following two years. How well the targets are met will be reported through the Annual Reports from 2002/3 onwards.

RESOURCES

As the targets are already anticipated in the current Annual Plan there are no additional resource implications for implementation for the current year.

CONCLUSION

The draft Waste Management Plan, if approved, could be circulated for public consultation as part of the draft Annual Plan/Long-Term Council Community Plan 2003/4.

RECOMMENDATIONS

1. That the information be received.
2. That the Committee approves the draft Waste Management Plan as attached at pages A1 to A36 for circulation to the community for comment.
3. That the Committee recommends to Council that the draft Waste Management Plan be consulted through the Long-Term Council Community Plan process.

A1-A36

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



6 DOG REGISTRATION FEES - 2003/2004

PURPOSE OF THE REPORT

This report seeks to set the Dog Registration and other associated animal welfare fees for the 2003-2004 registration year, which runs from 1 July to 30 June. It is necessary that a decision on dog fees is made as early as possible in the calendar year to allow sufficient time to implement the registration process and meet statutory timelines.

BACKGROUND

A significant increase in the dog registration fee was implemented in the 1999-2000 financial year (30%). The impact of the increase was that many dog owners were deterred from registering their dogs and an increased labour-intensive process to attempt fee recovery ensued. Despite increased effort and planning, the number of registered dogs decreased from 13,700 to approximately 12,000 in 2000/01. Numbers have been gradually increasing since then but are still not up to former levels.

The dog registration fee revenue target of \$810,000 is in doubt for the current year. It is possible there may be a revenue shortfall of approximately \$75,000 for the current year. Intensive door to door checks and a systematic fee recovery program have been and are being implemented but may possibly not be effective in achieving the current years target which was a \$20,000 increase on the previous year in line with the gradual trend of increased dog numbers as a result of similar fee recovery actions since 1999/2000. As approximately 95% of known dogs are now registered it suggests that the average budgeted fee of \$65 is not being met due to more people taking advantage of the many avenues to pay reduces registration fees such as early payment, dog owners certificate and neutering the animal.

Consideration was given to lowering the set fee in the last three registration years, as Waitakere City dog fees are relatively high, but it was decided to maintain the 1999-2000 year rate until other territorial local authorities' fees reach parity.

Fee setting has previously been subject to the annual budget planning and consultation round, however, due to the impediment that this placed upon timing and financial success, a detailed legal opinion was sought to determine if that was necessary.

A legal opinion concluded that "... the Dog Control Act requires fees for the relevant year to have been set before the Annual Plan process is finalised for that year a local authority's only obligation would be to take into account submissions received on the Annual Plan in setting the dog registration fees for the following year".

Therefore, the setting of dog registration fees has been forwarded to the Environmental Management Committee for consideration and recommendation to Council.

STRATEGIC CONTEXT

Council's objectives are to achieve responsible dog ownership, recognising the rights of the community at large and also those of dog owners and their families. Key elements to this are:

- (a) To ensure registration of all known dogs in the City.
- (b) To ensure the detection and registration of as many unregistered dogs as possible within the City.
- (c) To continue issuing infringement notices and pursuing legal action against owners of unregistered dogs.
- (d) To keep fees to an acceptable level by ensuring that as many people as is practical register their dogs, so that the fee is shared over the majority of dog owners and not just by those who register.
- (e) To strike a fee which is of an acceptable level to dog owners generally, yet which allows Council to provide an efficient and cost effective service to the public.
- (f) To set fees in line with Council's Draft Annual Budget and Council's Animal Control and Welfare Funding Policy.

Council's Animal Control and Welfare Funding Policy states that:

- Dog owners will fund the dog registration system and associated needs.
- Costs of impounding will be recovered from the animal owner through impounding fees and fines. When those costs cannot be fully recovered from the exacerbating animal owner, they will be funded by rates.
- The costs of complaints will be funded from dog registration fees and rates. The proportion of complaints costs met from dog registration fees will be approximately equal to the proportion of complaints related to registered dogs.

LEGISLATIVE REQUIREMENTS AND FEE SETTING

Council is required, under Section 37 of the Dog Control Act 1996, to set fees for the registration and control of dogs. Under the Act, Council may fix lower fees for:

- (a) Neutered dogs;
- (b) Working dogs and various classes of working dogs;
- (c) Dogs under the age of 12 months;
- (d) Dogs where the owner demonstrates to the satisfaction of Council's Dog Control Officer, that he or she has a specified level of competency in terms of responsible dog ownership.

Council may also fix a penalty fee for late registration (beginning not earlier than 2 August 2002) and a fee for replacement tags. Pursuant to Section 39 of the Act, Council may also remit, reduce or refund the fee where it is satisfied that there are special circumstances for doing so.

Any submissions requesting amendments to the dog fees and services would be referred to the next year's Annual Plan process.

CURRENT SITUATION

There is an awareness throughout the Auckland region that fees are close to the upper threshold level of sustainability. Following the 30% fee increase in the 1999-2000 dog registration year there was significant resistance to pay by some dog owners within Waitakere City, being either unwilling or unable to finance their statutory obligation.

This indicates that any increase in fees could be detrimental to the dog registration revenue stream, and also to dog control activities, which are reliant upon registration records to impose good dog control. In contrast, reducing the fee would be unlikely to suddenly attract the recidivists of the previous registration years.

Current fees are as follows:

DOG REGISTRATION & ASSOCIATED FEES 2002-2003			
REGISTRATION FEES		Fee for Late Registration after 1/8/02 (GST incl)	Fee if Paid On or Before 1/8/02 (GST incl)
1.	Entire Dog (not castrated) & Entire Bitch (not spayed)	\$141	\$94
2.	Neutered Dog (castrated male & spayed female)	\$102	\$68
3.	Dog Owner Licence Holder with un-neutered dog	\$82.50	\$55
4.	Dog Owner Licence Holder with neutered dog Superannuitants	\$72	\$48
5.	Seeing Eye & Hearing Ear Dogs	\$4.50	\$3
OTHER FEES			FEE
Replacement Registration Tags			\$3
<u>Impoundings:</u>			
First			\$65
Second			\$130
Third			\$195
Subsequent			\$260
Sustenance Fee (day or part thereof)			\$15
<u>Adoptions:</u>			
Adoption Fee			\$45
Adoption Registration Fee (for SPCA adoptions into Waitakere City & Waitakere Animal Welfare Services adoptions)			\$20

Table 1: Schedule of Dog Registration Fees

Dog owners have the option to sit and pass the “Standard New Zealand Dog Owner Licence Test” which significantly reduces the fee. This information is circulated to all dog owners when the fees are due. If the Dog Owner Licence test is passed and the registration fee paid on time, the cost is \$48; failure to achieve both will incur the maximum fee of \$141 per dog.

PROPOSED FUNDING

Council is also required under Section 37(6) of the Dog Control Act 1996 to publicly notify during the month preceding the start of every registration year the dog registration fees to be fixed for the forthcoming registration year (ie. June 2003).

The dog registration fees are to cover the statutory functions of dog control as required by the Act, and not for general animal welfare.

The forecast cost of Animal Welfare Services for the 2003/2004 annual budget year is \$1,807,700. It is anticipated that the recovery through fees will be 78% of this total (or \$1409,800). The ratepayer contribution to fund the public good elements of the service is \$397,900.

CITY	PERCENT RATES FUNDED
Waitakere	35% (excluding the North Shore City contract)
Auckland	50% (contracted service)
Manukau	49% (contracted service)
Hamilton	40% (in-house operation)
Rotorua	50% (in-house operation)

Table 2: Comparison of Rates Funding Percentages

It is proposed to retain the current registration and associated fees structure which rewards responsible ownership.

CATEGORY RATIONALE

A range of discounts on the dog registration fee currently exist for neutering, dog owner responsibility, superannuitants, and seeing eye/hearing ear dogs, and it is recommended that these continue. The rationale for these discounts are:

- a. Neutering
Encouraging people to neuter their dogs is an important function of Animal Welfare Services, as an un-neutered dog is a potential breeder and contributor to the excessive unwanted dog population. In addition, neutered dogs are generally more manageable and, therefore, contribute less to dog control problems. Discounts for neutered dogs are a proven incentive for people to neuter their dogs. To this end, it appears worthwhile to continue discounts for neutered animals.
- b. Responsibility
Recognition of responsible dog ownership serves as an acknowledgement of responsible behaviour and encourages continued registration of the dog. Discounts for Dog Owner Licence Education are currently offered. It is proposed that the discount for sitting and passing the Dog Owner Education Licence Test be maintained and so serve the purposes of promoting dog owners to learn more about their responsibilities. It is also proposed that superannuitants be generally classified in the responsible dog owner category and remain in a reduced fee category because of this groups insignificant incident rate in dog control problems.

c. Special Use Dogs

The owners of special use dogs (Seeing Eye and Hearing Ear Dogs) might be considered deserving of a reduced fee because their dogs are used through necessity rather than luxury. Seeing Eye and Hearing Ear dogs are instrumental in assisting a small minority of people who suffer from disabilities and it is proposed that the reduction for these dogs be maintained.

WORKING DOGS

Self employed working dog owners, such as security guards, are able to obtain a tax rebate on the costs associated with the dog, so it is proposed to not offer a discount for security dogs, pest destruction dogs or herding dogs. Additionally, it is considered that there need be no special discount category for Government Department owned dogs.

COMMUNITY CARD HOLDERS

The idea of Community Card Holders receiving a reduced fee has been investigated. Statistics provided by the "National Community Services Card Centre" do not isolate the Waitakere community card holders separately which means an accurate budgeting of projected revenue (loss) from having a reduced fee for community card holders is not possible. In addition, even an estimate of community card holder numbers in Waitakere City would be fraught as there would still be no way of identifying how many in the estimate owned dogs. Holders of community cards are still able to gain a reduced fee by sitting the dog owner license test and de-sexing their dogs. It therefore appears more practical to retain the status quo in relation to community card holders and offer no special discount other than reductions applicable to responsibility levels which are available to all dog owners.

DOG OBEDIENCE TRAINING INCENTIVES

Investigation into the practicality of providing discounted fees for dog owners who have passed various dog obedience courses such as puppy training, basic dog obedience, etcetera has occurred. In principle this consideration appears to have considerable merit. However, currently the inclusion of such an incentive would be problematical in that the computerised fee structure would become unwieldy and difficult to administer. The computerised system containing the fee permutations would become impractical and negatively impact on efficiency of the system. In addition the matter of which courses would be recognised as valid or not valid would undoubtedly raise further issues as criteria would need to be consistent. Currently for example there is only one organisation with New Zealand Qualifications Authority dog obedience training and other dog obedience schools may provide effective learning but not have the NZQA approval. The administration of accepting various certificates from a variety of different dog obedience schools would also impact on administrative efficiency and potentially on public relations. Currently the incentives for responsibility - dog desexing and dog owner education test - cover the responsibility incentive aspect to some extent.

ADOPTIONS

It is recommended that Council's adoption fee policy continue as it enables unclaimed dogs to be moved out alive, thus providing:

- (a) good customer service;
- (b) a dollar return;
- (c) more adoptions;
- (d) de-sexing;
- (e) owner accountability.

IMPOUNDINGS

It is recommended that Council's impounding fee policy continue, with the conditions that in every case of impounding:

- A sustenance fee of \$15.00 per day or part day thereof shall apply (each day is defined as being from midnight to the following midnight).
- If the dog is unregistered it must be registered prior to its release in addition to any impounding or sustenance fees.
- For release of dogs on the first impounding, the owner will be issued with a dog owner manual and encouraged to sit the Dog Owner Education Licence test.

CONCLUSION

The fees are generally structured towards rewarding responsible dog ownership. Maintaining the fees at the current level for 2002/2003 follows through on the thirty per cent increase for the three previous registration years. Dog owners always have the option of lowering the fee payable by sitting the Dog Owner Licence test.

RECOMMENDATIONS

1. That the information be received.
2. That the current Funding Policy for Animal Welfare Services be confirmed as the basis for the setting of the 2003/2004 dog registration and associated fees, as follows:

DOG REGISTRATION & ASSOCIATED FEES 2003-2004			
REGISTRATION FEES		Fee for Late Registration after 1/8/03 (GST incl)	Fee if Paid On or Before 1/8/03 (GST incl)
1.	Entire Dog (not castrated) & Entire Bitch (not spayed)	\$141	\$94
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<u>Adoptions:</u>			
Adoption Fee			\$45
Adoption Registration Fee (for SPCA adoptions into Waitakere City & Waitakere Animal Welfare Services adoptions)			\$20

3. That it be recommended to Council that all dog owners who book to sit the Dog Owner Licence test prior to the penalty date of 1st August 2003 pay the reduced fee within a week of passing the test; or pay the fee which they would have otherwise paid within a week of failing the test, otherwise the late fee applies to whatever category each dog falls into.
4. That it be recommended to Council that for all newly acquired dogs (providing the owners have not been served an infringement notice), a reduced pro-rata fee based on the months of the year be applicable.
5. That it be recommended to Council that where an adult dog is impounded and unregistered, or for which the owner is served an infringement notice, the full registration fee including the penalty be applied.
6. That the dog registration fees adopted for the 2003/04 financial year be publicly notified in accordance with Section 37(6) of the Dog Control Act 1996.

Report prepared by: Tom Didovich, Manager: Animal Welfare Services.



7 UPDATE ON DOG CONTROL

PURPOSE OF THE REPORT

To follow up on the February 2003 verbal report by the Manager: Animal Welfare presented to the Environmental Management Committee in relation to dangerous dogs and consolidate current direction.

INTRODUCTION

There are increased concerns and sensitivity about dog control nationwide due to serious attacks and the media attention they have received. Waitakere City Council has consistently been proactive about dog issues including:

- Presenting submissions to Central Government for the formation of the current Dog Control Act 1996, and then for an in depth response to matters relating to proposed breed specific legislation in 1999;
- Formation of a detailed Policy on Dogs along with detailed Bylaws for the control of dogs;
- Education in schools and clubs and for individual dog owners;
- Firm enforcement of the legislation including a firm line on prosecution of owners of aggressive dogs and introduction of victim support for victims of dog attacks. The current direction of taking a holistic approach to animal related issues appears to be succeeding yet it is by no means perfect. This report intends to touch on matters considered relevant at the present and to confirm direction.

RELEVANT INFORMATION

Recent media attention to the issues surrounding dog aggression have fuelled a public response which indicates greatly increased fear and a much heightened sensitivity to any dog not on a lead. The Waitakere City Council Call Centre has been inundated with calls from citizens who have no details of an attack or a breach of the law occurring but who are simply worried about "what if scenarios." This situation has necessitated that extra staff be employed to cope with the increased telephone calls. There is no denying that dog control problems are present as they keep Council Staff very busy, however the focussed media attention has both assisted and hindered the problem.

Media raised awareness and may have increased public fear of being attacked by a dog. Fear greatly increases the chance of being attacked, as a dog may instinctively respond to the subtle, or not so subtle body language being communicated. For example the fearful person is more likely to react in a nervous or startled manner or even run away from the dog thereby stimulating predatory aggression which may result in an attack.

A dog off a lead in a park and being exercised in a dog exercise area in accordance with the Waitakere City Council dog control bylaws is in all likelihood a lot less likely to attack a person than a dog which is tethered on a lead in public and which is approached by an unfamiliar person who attempts to pat it. The chances of a bite are greatly increased if the person pats the dog on the top of the head, stares the dog in the eyes or communicates other such behaviours which a dog generally interprets as threatening.

Community safety is a big issue. It is not enough reassurance for people to be walking along the footpath have a dog behind a fence if it is gnashing it's teeth and apparently rearing to get out as it shows all the signs of territorial aggression. Fear coupled with the possibility that the dog could escape means that people in the community do not feel safe in such situations. Where such situations exist and in fact with any concerns regarding dog control, then a report to the Waitakere City Council Call Centre will result in an Animal Welfare Officer investigating the situation. Where the dog is deemed to be causing a nuisance to people in public through it's fear inducing behaviour, or where other non compliances are evident, then the Officer will take appropriate action under the Dog Control Bylaws or Statute to address the matter.

The Local Government and Internal Affairs Departments of Central Government have circulated a questionnaire to all Territorial Authorities seeking commentary and statistical information on dog related matters within each Territorial Authority in order assess the effectiveness of the Dog Control Act 1996. There is therefore the possibility that proposed changes to the legislation will emerge for which Territorial Authorities may have the opportunity to comment upon. To date the efforts of Council in the area of dog control have been considerable however the "dog problem" although improved still remains.

There is no doubt that one attack a year is one too many and although the consistent efforts of Council; have resulted in relatively low levels of dog attacks on people over the last few years there is room for improvement. So what can we do?

1. Maintain education programs in schools and clubs of which at least 50 per annum are undertaken. Education includes coverage of animal care, legal responsibilities, dog bite prevention and general information regarding keeping of animals and how to treat animals. When the Central Government Internal Affairs and Local Government Committee investigated dog breed specific legislation in 1999 and when the issue of "dangerous dogs" was similarly topical, Council's Animal Welfare Services advertised a series of Dog Bite Prevention lectures for the general public. There was no response. However, both then and now, advice for dog bite prevention is readily available and provided to community groups and school groups regularly visit the animal Welfare Centre to find out more about animals.
2. Maintain a high response rate to requests for service relating to animals. Council staff will continue to be highly responsive to requests for service in relation to animals. Over the last few years the requests have increased due to the improved customer focus and perception by citizens that needs are being responded to. The September 2002 annual survey of direct customers of Animal Welfare Services which measures customer perceptions of the service shows an 81% effectiveness rating; an 86% satisfaction rating; and an 89% "overall good to deal with rating". In contrast to the increased requests for service which are due to high level responding, over the last six years the impounding levels of dogs have reduced from around 1800 per annum to the 1200s and dog attacks on people have reduced from 135 to the 30s.

3. Maintain a holistic approach to animal related problems in which there is firm and fair enforcement and in which the motto is promoted: *“the key to animal control is to take an active and daily interest in the welfare of your animal”*.
4. Maintain a firm approach in dealing with cases of dog aggression. This approach involves a high level response in which given that all evidence is available then the matter is placed before the Court for a judgment. This approach also includes encouraging owners to relinquish their dogs where they clearly have insufficient means to control the dog and ensure community safety. This approach also includes due regard for community safety through service of “muzzle orders” in relation to dogs where an attack has occurred and the court case is pending
5. Maintain optimum resource levels. Currently six Field staff respond to requests for service. With around 7,000 requests for service per annum the staff are kept very busy. However it is not realistic to have an Officer on every street corner. Coverage will fluctuate in response to the demands which are often difficult to predict. However, for the most part, responding is at adequate to high levels.
6. In terms of any changes at Central Government level affecting the legislation Council could choose to maintain it’s previous stance on the following issues:
 - 6.1 Being supportive of the concept of compulsory dog owner education as a prerequisite of owning a dog;
 - 6.2 Being Supportive of the concept of a National Animal Urban Animal Management Council Maintain to spearhead TA activities on a national basis and undertake research and provide recommendations to Central and Local Government;
 - 6.3 Support any move by the Courts to increase the level of penalties imposed on errant dog owners;
 - 6.4 Support the requirement of a breeding permit to breed any dog;
 - 6.5 Support the 1999 Waitakere City Council established approach against any proposed dog breed specific legislation;

for the following reasons:

- (i) Dog behaviour is primarily determined by the behaviour of the dog’s owner/handler, irrespective of the breed.
- (ii) The social responsibility level of the dog owner is a major determinant of the behaviour of the dog. Breed is largely immaterial when considering the social problems involved in dog control work.
- (iii) The type of person who might encourage a dog to demonstrate anti-social behaviour is likely to behave in such a manner irrespective of whether a particular breed of dog is available, since a large variety of breeds can be conditioned to a handler’s desire.
- (iv) The potential for a dog to inflict injury ranges across breeds, within breeds, and across the entire spectrum of the dog population. It is not logical to single out a specific breed as dangerous.
- (v) If a breed of dog is banned, there still remains the potential within the existing pool of breeds to recreate the banned breed, or something so similar that it is, in effect, the same breed.
- (vi) The current dog control legislation contains provisions for dealing with dog and dog owner behaviour. Current provisions relate to “exhibited behaviours”, which are the true measure of whether a dog is dangerous or whether an owner has acted irresponsibly.

- (vii) An attempt to eliminate a particular breed of dog from New Zealand may lead to black market breeding and the sale of illegal dogs, which would be unregistered and largely untraceable in terms of matching to their owners if problems occur. This would compound problems for Territorial Local Authorities in the enforcement of the Dog Control Act.
- (viii) Idiopathic aggression (where the cause of aggression is unknown) previously attributed to American Pit Bull Terriers by the 1999 Working Party is a phenomenon found across the range of breeds (with Cocker Spaniels near the top of the list). The 1999 Central Government Working Party reasoned that the strength of the jaw and the persistence once in attack mode are reasons to ban the American Pit Bull Terrier. Other breeds of dogs and individual dogs also possess such characteristics, which can be dealt with on the basis of exhibited behaviour as opposed to a breed specific focus.
- (ix) Pit Bull Terrier identification is fraught with difficulties. There is no well-defined standard for the breed and, as a result, enormous variation exists in the physical characteristics of this breed. The New Zealand Veterinary Association's position on this issue is that veterinarians would find identification "extremely difficult". So, also, would Dog Control Officers. The general public often report problems with Pit Bull Terriers when, in fact, the dogs concerned are not even of a Bull Terrier type.
- (x) Enforcers may not be effective in enforcing what would be perceived to be legislation which is based upon a faulty premise, ie. removing the right from a dog owner to have what he or she considers as a family member.
- (xi) It would be an impractical, unreasonable, unacceptable, onerous and a non-enforceable burden for a Dog Control Officer to be expected to identify and then enforce the proposed legislation regarding an American Pit Bull Terrier.
- (xii) The proposed legislation has the potential to seriously undermine much of the sound work carried out by many Territorial Local Authorities.
- (xiii) Statistically, the numbers of attacks by American Pit Bull Terriers compared to other breeds have so far not been found to be significant within Waitakere City or the Auckland region.
- (xiv) The most severe attacks by dogs on people come from a variety of breeds and mixed breeds. They result from a combination of many factors including:
 - undesirable hereditary characteristics (which may be found across the range of breeds);
 - poor socialisation of young pups;
 - the environment in which the dog is placed;
 - poor management by the dog owner;
 - the nature of the interaction at the time of the attack.
- (xv) The recently implemented Dog Control Act 1996 took five years to prepare and is only just progressing through it's first "teething" process and it's looking good. Its true impact and effectiveness is only beginning to be realised, with parameters starting to be tested. In the substantial research undertaken to arrive at the new legislation, the issue of dog breed specific legislation was considered and rejected.
- (xvi) A negative perception of American Pit Bull Terrier behaviour may have been stimulated by media reports attributing relevance to dog attacks not even involving Pit Bull Terriers. The most severe dog attack in Waitakere City to date involved a German Shepherd and a child, which resulted in a neck injury where the canine tooth narrowly missed puncturing one of the child's jugular veins.

- (xvii) International experience has shown that dog breed specific legislation is unworkable and extremely costly to attempt to implement.
- (xviii) It is unlikely that taxpayers and dog owners would wish to fund legislation of this nature once having a grasp of the issue as opposed to a face value glance.

CONCLUSION

Waitakere City Council has consistently been proactive in relation to dog related issues. There are certain things that can be maintained, supported and/or developed further in order to further improve the track record of dealing with dog control problems and these include: education of dog owners, children, parents and the general public; maintaining high level responding by Animal Welfare staff to dog problems; taking firm action in relation to incidences of dog attacks; promoting an holistic and community based approach in which citizens are encouraged to actively care for their animals, children and each other - a focus on respect; working with optimum resource levels; ensuring Waitakere City Council's approach is promoted to Central Government for consideration in relation to any legislative changes.

RECOMMENDATIONS

1. That the information be received
2. That the current dog management program be maintained and include the following components:
 - (a) Maintenance of education programs in schools and clubs and for interested parties.
 - (b) Maintaining a high level response rate to requests for service relating to animals.
 - (c) Maintenance of a holistic approach to animal related problems in which there is firm and fair enforcement and in which the motto is promoted: *"the key to animal control is to take an active and daily interest in the welfare of your animal"*.
 - (d) Continuation of a firm approach in dealing with cases of dog aggression.
 - (e) Maintenance of optimum resource levels.
 - (f) Support for the concept of compulsory dog owner education as a prerequisite of owning a dog.
 - (g) Support for the concept of a National Animal Urban Animal Management Council to spearhead TA activities on a national basis and undertake research and provide recommendations to Central and Local Government.
 - (h) Support for any move by the Courts to increase the level of penalties imposed on errant dog owners.
 - (i) Support for the requirement of a breeding permit to breed any dog.
 - (j) Support for the 1999 Waitakere City Council established approach against any proposed dog breed specific legislation.

Report prepared by: Tom Didovich, Animal Welfare Services Manager.



PART II - DISTRICT PLAN / STRUCTURE PLANS

8 DISTRICT PLAN - OPERATIVE DATE

PURPOSE OF THE REPORT

The purpose of this report is to recommend a date for the district plan to be made operative.

BACKGROUND

There are now 28 appeals remaining on the district plan. While some of the outstanding concerns are significant, they relate to only small parts of the plan.

An opportunity is available under the Resource Management Act to make a district plan operative, other than those parts still subject to appeal.

A37

Council made an application to the Environment Court in late 2002 to allow the bulk of the plan to be made operative. The Court gave an opportunity for submissions to be made on the application. No opposition was received. The Court has therefore issued a consent order allowing Council to approve the whole plan, not affected by references (appeals) or outstanding variations, as attached at page A37.

OPERATIVE DATE

Council must set and publicly notify a date on which the district plan will be made operative. The suggested date is 27 March 2003. All of the necessary arrangements to make the plan operative can be put in place by that date.

CONCLUSION

Council is now at the stage that the bulk of the district plan can be made operative. This will have several advantages, not the least of which will be much simpler district plan administration. For most processes there will now be the need to refer to one plan only, rather than the several plans which have had status over the last 7 years.

RECOMMENDATIONS

1. That the information be received.
2. That, pursuant to Clause 17, 1st Schedule to the Resource Management Act 1991, the Waitakere City Proposed District Plan be approved, other than those parts of it that are affected by the references and variations as referred to in the consent order issued by the Environment Court on 17 February 2002 (RMA No. 871/02).
3. That, pursuant to Clause 20, 1st Schedule to the Resource Management Act 1991, the operative date be set at 27 March 2003.

Report prepared by: Peter Reaburn, District Plan Co-ordinator (Acting).



PART III - ENVIRONMENTAL MANAGEMENT

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

PURPOSE OF THE REPORT

A38-A39

The purpose of this report is to present the fourteenth of the monthly Painted Apple Moth update reports from the Ministry of Agriculture and Forestry, as requested by the Council at its meeting of 17 August 2001. The Ministry of Agriculture and Forestry report is attached at pages A38 to A39. Additional information on the Painted Apple Moth eradication programme is also presented here.

BACKGROUND

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

Seven expanded aerial spray rounds have been completed from 23 October, 13-15 November, 2-3 December, 20-21 December 2002, 7 and 15 January 2003, 30-31 January and 16-17 February 2003. Three aircraft - a Fokker Friendship, a small, fixed wing aircraft and a helicopter - have been used to spray up to 10,300 hectares. Aircraft have suspended spraying at 8.00 am - 9.00 am, 12.15 pm - 1.00 pm and 3.00 - 4.00 pm when children are walking to and from school and eating lunch.

STRATEGIC CONTEXT

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

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

ISSUES

Current Aerial Spray Programme

Several areas have been identified as hotspots (areas where there are repeated finds of caterpillars and moth trap catches) and are to receive aerial spraying every 7-10 days, weather permitting. There is no direct spraying of residents in these areas. Five hotspot sprays have been conducted to date; Meola Creek on the 21 November 2002, Meola Creek plus Hobsonville on 17 December 2002, Hobsonville on 28 December 2002, all hotspots 15-16 January 2003 and all hotspots except Henderson Creek islands on 7-8 February 2003. Weather conditions are still delaying the hotspot spraying scheduled for 25 February 2003 at the time of writing this report.

The last expanded aerial spray round commenced on a Sunday. Following widespread public concern at aerial spraying on Sundays the Ministry of Agriculture and Forestry have announced there will be no more Sunday start dates for aerial operations.

Expanded aerial spray rounds eight to ten are scheduled for 10 March, 31 March and 22 April 2003.

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

Regulatory Investigations Under the Health Act 1956

Council has certain statutory duties under the Health Act 1956 to protect the public health of the people in its district. Council is continuing its investigation, including receiving information from the public and interested parties, to determine whether there are sufficient grounds to take regulatory action under the Health Act. The Manager Field Services will provide an update at the time of the March Environmental Management Committee meeting.

Health Issues

The Ministry of Agriculture and Forestry continues to work on a health programme that would allow painted apple moth health services to be delivered via the people's own chosen health professional (GP, naturopath, practice nurse, etc). No details are available as to the progress of this programme or what is contributing to delays in implementation.

The Ministry of Agriculture and Forestry has recently created a health liaison position to directly brief GPs and practice nurses about painted apple moth health issues. A formal appointment to the liaison position is to be announced shortly.

Approximately 80 people are moved out of the area for each spray round and 150 people are moved away for the day. These are all people who have been clinically assessed as needing to be away from the spray area. In addition the Ministry of Agriculture and Forestry also moves the 205 accompanying family members.

The most commonly reported health symptoms among those assessed by the Ministry of Agriculture and Forestry's Painted Apple Moth Health Service doctors include:

- Asthma type symptoms;
- Skin irritation or rashes;
- Eye irritation and hay fever like symptoms, including nosebleeds;
- General concern regarding allergies;
- Specific history of previous food allergy;
- Chemical sensitivities;
- Medical problems and spray concerns;
- Head aches.

Current Health Service data from the Ministry of Agriculture and Forestry states that they believe about 0.24 percent of the community (480 people out of 200,000) in the aerial spray zone are affected by the spray in some way. The Painted Apple Moth Health Service has received some 2,500 calls since commencing operation in January 2002. Of these callers 980 people have been medically assessed by the Health Service at no charge to them. Since the commencement of health services 260 people have been referred back to their own GP's for care. To date 49 people have been referred on for specialist consultation by the Painted Apple Moth Health Service, at no charge to the client.

Moth Trap Catches

Moth trap catches are 98% less than they were a year ago. In January 2002 approximately 900 moths were caught each week. This compares to 7-20 moths caught each week for January 2003 exactly one year after the targeted aerial spraying commenced. The final figures for February 2003 were not available at the time this report was prepared. Persistent populations are located in hotspot areas that are characterised by dense vegetation, tall canopies and physical impediments that make spray treatment of foliage difficult.

Sterile Insect Technique

The Ministry of Agriculture and Forestry has commenced the sterile insect technique trials. The first release of approximately 500 male moths took place on 19 February 2003 at Waikumete Cemetery and Hobsonville, two known hotspots with persistent larvae finds and moth trap catches. The male moths are marked with fluorescent powder so they can be identified from wild male moths in the trap catches. Results from this first release are still being collated at the time this report was written, however, one moth was found to have flown 5 kilometres just 24 hours after it was released.

Vegetation Control Zone

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

Caterpillar Finds

Since December 2002 only two sites have had live larval finds - Hobsonville and Waikumete Cemetery.

Host Removal Work at Waikumete Cemetery

Waikumete Cemetery is historically a known hotspot and has been a difficult site to eradicate painted apple moth. The dense vegetation, tall individual trees and topography of the Cemetery have hampered the effectiveness of ground based searches for caterpillars and both ground and aerial spraying operations. In addition there is a large quantity of host material available for caterpillars to feed on in the wilderness parts of the cemetery, mainly wattle species (brush wattle and *Acacia* sp.) but also Spanish heath.

In December 2002 and January 2003 the Ministry of Agriculture and Forestry completed the first stage of host removal work at Waikumete Cemetery. Brush wattle, *Acacia* and lone pine trees were felled in the scrubland area in the northern part of the Cemetery from Sunhill and Awaroa Roads down to the North Lawn.

Stage two of the host removal work began on the 17 February 2003. The target areas and host removal work include:

- Removal of wattle and young pine from the southwestern regenerating native bush area, from the Waitakere View Drive to the railway line;
- Removal of wattle and young pine from the bush in a gully adjacent to Narcissus Crescent;
- Removal of wattle, young pine and Spanish heath from the old grave area in the southeastern part of the Cemetery, parallel to Glen View Drive, as attached at page A40.

Felling of host species is to be completed by 25 March with chipping and clean up of the sites to be completed by 13 June 2003. These works are intended to reduce the amount of food available to the painted apple moth, allow better penetration of the aerial spray into the foliage and create better access for ground survey teams to inspect the area.

The removal of the Spanish heath, acacia and young pines from the old grave area of the Cemetery is of benefit to Council both in terms of environmental weed control and long term protection of the graves. The Waikumete Cemetery Weed Control Contract was awarded in February 2003. A major part of this contract will be to remove all other environmental weeds in the old grave area, following on from the Ministry of Agriculture and Forestry's host removal works.

Reinstatement Issues for Council

Estimated costs and areas for reinstatement were outlined in the September 2002 report to the Environmental Management Committee. Discussions have been delayed between Council and the Ministry of Agriculture and Forestry as other issues have taken priority, however a meeting is expected in March to resume progress on this issue.

Community Liaison Group

The Community Liaison Group is to replace the disbanded Community Advisory Group. The Community Liaison Group comprises 12 members including Meredith Youngson and Peter Maddison. At the time of writing this report the group was scheduled to meet Robert Isbister, Operations Manager Painted Apple Moth, on 26 February 2003. The Ministry of Agriculture and Forestry plans to make the group membership and contact details available sometime after this initial meeting. A report will be presented to this Committee when this information is available.

RESOURCES

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

However, as stated in a previous report, funding may be required for revegetation of Council land where host removal work has been undertaken by the Ministry of Agriculture and Forestry. The current Annual Plan expenditure does not allow for plantings and maintenance that Council may be required to undertake as a result of host removal by the Ministry of Agriculture and Forestry.

CONCLUSION

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

Council continues to investigate regulatory actions under the Health Act 1956.

Moth trap catches are significantly reduced with 900 caught per week in January 2002 compared to 7-20 per week in January 2003.

Stage two of the host removal work has commenced at Waikumete Cemetery. The Ministry of Agriculture and Forestry has also begun weekly releases of sterile male moths as another eradication tool.

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

RECOMMENDATIONS

1. That the information be received.
2. That the information be forwarded to the Special Projects Committee to accompany the update report on Waikumete Cemetery.

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



10 PROPOSED BIRDWOOD URBAN CONCEPT PLAN

PURPOSE OF THE REPORT

The purpose of this report is to:

- Present to the Committee the draft Birdwood Urban Concept Plan;
- Identify the changes necessary to the Waitakere City District Plan (“the Plan”) to enable subdivision and development in accordance with the draft Birdwood Urban Concept Plan; and
- Recommend that the Birdwood Urban Concept Plan be publicly notified as a “change” to the Plan.

This report is comprehensive out of necessity in order to satisfy Resource Management Act 1991 requirements to carry out a Section 32 analysis. It is intended to provide sufficient information to enable the Committee to reach a decision in relation to the above matters. A copy of the draft Section 32 analysis has been circulated to Committee members as a separate document as a memo form.

This report coincides with an agenda item that recommends that the Waitakere City Proposed Plan be made operative on 20 March 2003. It is intended that notification of this proposed “change” to the Plan will be after the date upon which the Waitakere City Proposed District Plan is made operative. For the purposes of this report, any reference to “the Plan” is intended to mean the operative Waitakere City District Plan as at the 20 March 2003.

BACKGROUND

Concept Plans

Urban Concept Plans are a planning tool the Council can use to manage the effects arising from subdivision and development of new Greenfield urban areas. Concept Plans are distinct from ‘structure plans’ as structure plans apply to rural non-urban areas. The Plan makes provision for Urban Concept Plans in the Living Environment.

Urban Concept Plans enable the Council to achieve a number of its strategic objectives including intensification of existing urban areas. Concept Plans also enable participation by local communities in the planning process that relates to their area.

The Birdwood Urban Concept Plan is the first urban concept plan to be introduced to the Plan.

Birdwood Urban Concept Plan

The Birdwood Urban Concept Plan area is located in Massey and is bounded by Don Buck Road in the east and the Birdwood Structure Plan area to the west. The concept plan area forms the Chamberlain Stream catchment area and falls within the Auckland Metropolitan Urban Limits.

The Birdwood Urban Concept Plan area forms part of the 'Birdwood Special Area', which until recently included the Birdwood Structure Plan area. The Birdwood Special Area has long been viewed as a possible location for future urban expansion. In 1994 a review indicated that the area might be suitable for residential development as a peripheral growth area but that further work would be required. This culminated in the identification of the Birdwood Special Area in the Plan (notified 1995) and an indication that urban development may be appropriate following a concept planning exercise. The Concept Plan would identify the appropriate level and nature of development in view of any environmental constraints that may exist.

As a result of submissions to the Plan, Council commissioned further preliminary studies including a Landscape and Archaeological Assessment. On the basis of these studies, the Birdwood Special Area was divided into three parts, Areas 1, 2 and 3. Area 1 is the subject of the Birdwood Urban Concept Plan, and Areas 2 and 3 comprise the Birdwood Structure Plan.

Preparation of the Birdwood Urban Concept Plan was initiated in early 1999 utilising previous technical studies and some preliminary geotechnical information (Note: geotechnical information did not highlight any significant issues at that time). A community workshop involving Waitakere City Council and ARC officers, landowners, local schools, Councillors and Community board members was then held in Massey in March 1999.

The workshop process involved the identification of issues relevant to the potential subdivision of the concept plan area, such as stormwater runoff, vegetation, land stability, traffic and safety. With the identified development constraints in mind, and a conceptual idea of how the area could be developed, the final part of the workshop involved getting the information onto maps. A draft concept plan was established, however, it was acknowledged by all participants that further work was required before the draft plan could be confirmed.

Over the past three years further land stability, stormwater investigations have been undertaken to progress the development the Concept Plan consistent with the approach set out in the Plan. In addition, Council officers have undertaken further consultation with landowners within and surrounding the Concept Plan area.

STRATEGIC CONTEXT

The Birdwood Urban Concept Plan area is located at the northern end of the Foothills of the Waitakere Ranges. It is separated from the urban residential area of Massey by a ridgeline that follows Don Buck Road. The Birdwood Urban Concept Plan area is of strategic importance to the City as it has been identified as a possible peripheral urban growth area. The Concept Plan area represents one of the few areas of greenfield land in Waitakere City that is already within the Auckland Metropolitan Urban Limits.

Auckland Regional Growth Strategy

The Auckland Regional Growth Strategy provides a vision for what Auckland could be like in 50 years' time with a population of two million. The Auckland Regional Growth Strategy is a non-statutory policy guideline that provides a framework to ensure growth is accommodated in a way that meets the best interests of the inhabitants of the Auckland region. Key principles of the strategy are:

- Compact urban form.
- Limited managed expansion into greenfield areas outside of the Metropolitan Urban Limits.
- Protection of the coast and surrounding natural environment.

The Birdwood Urban Concept Plan area is currently identified in the Auckland Regional Growth Strategy as "Future Urban".

Northern and Western Sector Agreement - Auckland Regional Growth Strategy

The Auckland Regional Council, Waitakere City Council, Rodney District Council and North Shore City Council signed the Northern and Western Sector Agreement in October 2001. This sector agreement was prepared in accordance with the Memorandum of Understanding that commits all of the Regional Growth Forum partners (including Waitakere City Council) to prepare 'sector agreements'. Sector agreements assess how local growth issues are to be addressed and how development in each of the sectors is aligned with the Auckland Regional Growth Strategy.

The Northern and Western Sector Agreement anticipates that for Waitakere City additional population growth up to 2020 will be accommodated as follows:

Growth Location	
Existing Urban Area (1999 MUL)	55,000 (74%)
Future Growth Outside (1999 MUL)	13,000 (17%)
Rural	6,500 (9%)
Total Additional Capacity	74,500 (100%)

The Birdwood Urban Concept Plan area is included in the 74% anticipated growth inside the existing urban area already within the Metropolitan Urban Limits.

ISSUES

Description of the Birdwood Urban Concept Plan Area

The Birdwood Urban Concept Plan Area is located in the northern part of the existing Waitakere City urban area adjacent to the suburb of Massey. It is approximately 65.2 hectares (excluding Don Buck Primary School). A row of urban residential lots fronting Don Buck Road, (all of which are identified as 'Living Environment' in the Plan) form the eastern boundary. Chamberlain Road, which runs between Don Buck Road and Birdwood Road divides the concept plan area into two parts. The majority of the concept plan area is located south of Chamberlain Road. The balance is comprised in three lots situated between Chamberlain Road and Massey High School. The western boundary for the lower part of the concept plan area is the Chamberlain Stream, which abuts Te Rangi Hiroa Reserve. Further north, existing property boundaries east and north of Chamberlain Road form the western boundary.

To the east of the Birdwood Urban Concept Plan area is the residential suburb of Massey. To the west lies the "Birdwood Structure Plan Area" and Te Rangi Hiroa Reserve. Don Buck Primary School is situated within the concept plan area and has access from Don Buck Road. Birdwood Primary School is located less than 1 km to the west on Glen Road, with the Massey High School adjacent to the northern boundary.

The topography of the Birdwood Urban Concept Plan Area is generally steep, where land slopes to the south and west. Land with a more gentle topography is located immediately west of existing dwellings fronting Don Buck Road in the lower part of the concept plan area and in the northwest above Chamberlain Road. All land within the concept plan area drains into the Chamberlain Stream catchment. The headwaters of the Chamberlain Stream are located above Chamberlain Road. These discharge via an existing culvert under Chamberlain Road to form the main Chamberlain Stream channel. Five minor tributaries discharge to the main stream channel from within the concept plan area.

Existing native vegetation is generally concentrated along the margins of the main Chamberlain Stream channel. These bush areas are interspersed with a variety of exotic trees and weed species. The balance of the concept plan area is generally in pasture with some viticulture located in the central part of the Concept Plan Area.

The Birdwood Urban Concept Plan area is currently serviced with reticulated water supply. There are no reticulated stormwater or wastewater services. The capacity of existing wastewater services along Don Buck Road is limited, however provision has been made for future servicing despite the concept plan area being situated outside the Inner Drainage Area. In November 2002, the Environmental Management Committee resolved that an application be made to Watercare Services to include the Birdwood Urban Concept Plan area within the Inner Drainage Area.

District and Regional Policy Framework

Auckland Regional Policy Statement

The Auckland Regional Policy Statement provides a resource management framework for managing environmental effects within the region associated with land and resource use and development.

The Concept Plan Area is within the Metropolitan Urban Limits, which lies 2-3 km to the west. The concept plan area is not identified in the Regional Policy Statement as an outstanding landscape or natural area.

The strategic direction of the Auckland Regional Policy Statement is to consolidate urban development within a defined area identified by the Metropolitan Urban Limits. For land within the Metropolitan Urban Limits there is an expectation that urbanisation will occur subject to natural and physical constraints.

The Auckland Regional Policy Statement gives explicit recognition to issues such as water quality and quantity, and natural hazards.

Chapter 8 of the Auckland Regional Policy Statement contains policies about water quality. The Auckland Regional Policy Statement seeks to maintain water in water bodies, which have good water quality, and to enhance water quality, which is, degraded (Auckland Regional Policy Statement Objective 8.3). Within urban areas, policy 8.4.4.1 states that land use intensification shall only occur where adequate provision is made for control of sediment discharges, stormwater discharges, collection, transport, treatment, purification and disposal of sewerage, protection of the quality of groundwater and protection of water quality and riparian margins. Where land disturbance activities are required, Auckland Regional Policy Statement Policy 8.4.7 (3) seeks to ensure that adverse effects of sediment discharges are avoided, remedied or mitigated.

Chapter 11 of the Auckland Regional Policy Statement contains policies about natural hazards. Natural hazards are defined in the Resource Management Act as “any atmospheric or earth or water related occurrence (including earthquake, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire or flooding) the action of which adversely affects or may adversely affect human life, property or other aspects of the environment.” In respect of natural hazards, Auckland Regional Policy Statement Objective 11.3 seeks to avoid, remedy or mitigate the adverse effects of natural hazards on human life, property and the environment. Accompanying policies require that before any provision is made enabling significant development of land any flood hazards and measures to avoid or mitigate their adverse effects is identified (Auckland Regional Policy Statement Policy 11.4.1.3). Also, that development is not permitted in areas subject to erosion/land instability unless it can be demonstrated that the adverse effects can be avoided, remedied or mitigated (Auckland Regional Policy Statement Policy 11.4.1.9).

Waitakere City District Plan

The Concept Plan Area is identified as ‘Birdwood Special Area’ in the Plan. This identification reflects its historical zoning as ‘deferred residential’ that has been in place for the last 30 years. The Plan provides for a concept plan process for this area to determine an appropriate settlement pattern. The interim Plan provisions are those for the Foothills Environment, however it is expected that some form of urban development will occur on this land subject to natural and physical constraints. This is reflected in the Plan’s explanation of the strategic direction: policies and methods, which states:

“Don Buck Road

This area, with access from Don Buck Road, lends itself to urban type activities. Wastewater could be provided from Don Buck Road or from an extension of the sewerage network up Chamberlain Road. The key issues are the need to retain native bush, extend the reserve network in the area and integrate the area into the surrounding urban environment. Changes to the landform need to be minimised, and it will be necessary to retain stormwater runoff on-site or within the area as much as possible before it reaches the Swanson stream. Downstream stormwater treatment and detention will also be necessary. It will be necessary to ensure that development relates well to the Don Buck Road area.” (Part 6 - 6.1.1)

In addition, the Plan identifies existing ‘Natural Areas’ and an area designated as ‘proposed reserve’. The majority of the concept plan area is identified as ‘General Natural Area’. The existing bush areas bordering the main Chamberlain Stream channel are identified as either ‘Managed Natural Area’ or Restoration Natural Area’. The area designated as ‘proposed reserve’ (WCCOS2) generally follows the bush line along the stream margin.

Assessment of Environmental Constraints

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

- A Landscape Assessment - LA4 Landscape Architects;
- A Vegetation and Wildlife Study - Michelle Tyrell;
- A Freshwater Habitat Study - Clinton McCollough;
- A Geotechnical Study - Beca Carter Hollings & Ferner;
- A Stormwater Catchment Management and Ecological Study - Riley Consultants/Kingett Mitchell;
- An Archaeological Study - Rod Clough & Associates;
- A Phase I Contamination Study - Environmental & Earth Sciences Limited.

In addition, Council's Transport Assets Section, Landscape Development Section and EcoWater have provided technical input.

Landscape Study

The Landscape Assessment was commissioned in 1997 to address issues raised in submissions specific to the Birdwood Area. The study covered land identified in the Plan as Birdwood Special Area, which also includes the entire Birdwood Structure Plan Area. The study divided the area into landscape units. The upper part of the Birdwood Urban Concept Plan Area was identified as Unit 2d. Landscape Unit 2 is described generally as:

“the main characteristic of this landscape is that whilst being basically rural in character, this is being eroded or changed by a number of new activities or visually intrusive uses. Part of this landscape character area is backed by a significant and highly visible ridgeline, with views out across the character area and beyond

One unit which could absorb change without compromising the rest of the character area is the small landscape unit - Unit 2d - which is visually contained by the subsidiary ridge to the east.

*Overall this landscape character area is in a ‘transition phase’ between completely rural uses, and rural residential and horticultural and other uses. As a result parts of the landscape lack coherence and structure. It has **limited** sensitivity.”*

The lower part of the Concept Plan Area is identified as Unit 4 and 7. Landscape Unit 4 is described as follows:

“This landscape character area has as a basis fairly steep sloping land, west of Don Buck Road and south of Chamberlain Road. Part of the adjacent landscape unit 2d also has this landform characteristic. The area comprises a mix of land uses including glasshouses, vineyards, houses, stud farm and schools. Though fairly disturbed in terms of mixed land uses, the existing trees (shelter belts, groups of trees, bush in the stream valley and the edge of the steep tree covered escarpment to the south) form a strong vegetative framework, which compensates and balances this mix of uses.

This Unit has a moderately high visual absorption capability because of the mixed land uses, proximity of residential development and the tree framework, though the higher parts of the character area near Don Buck Road are visible from areas to the south. The lower parts of the area are visually well concealed.”

Landscape Unit 7 comprises the western side of the steep escarpment that is almost completely covered in a mix of Acacia, regenerating bush, and pines in some places. Unit 7 forms a backdrop to the Te Rangi Hiroa Park to the south and also for residential areas of Ranui. The majority of this area is designated as ‘proposed reserve’.

The landscape differential across the Birdwood Special Area was reflected in the explanations to the objectives in policies in the Plan that relate to peripheral urban development described in Part 6.1.1.

Vegetation and Wildlife Study

A Vegetation and Wildlife Study was also commissioned in 1997 to investigate the ecological values of the Birdwood Special Area in response to submissions on the Plan. This study identified a mix of vegetation, for the Birdwood Urban Concept Plan Area in close proximity to the Chamberlain Stream. This vegetation type is reflected in the Natural Area identification in the Plan. The vegetation identification has been further defined recently in response to a reference to the Plan specific to the Kostanich property at 104 Don Buck Road.

Freshwater Habitat Study

The Freshwater Habitat Study was completed in 1997. This study included all streams within the northeast Swanson stream catchment. Within the Birdwood Urban Concept Plan Area, fish sample sites included just below the Chamberlain Road culvert (Site 5) and just west of the confluence of the Swanson Stream and the Chamberlain Stream (Site 2). At Site 2, evidence of Common Bully, Long Finned Eel, Whitebait and Shrimp was found. Site 5 was virtually devoid of fish species. It was noted that at Site 5, a drop-culvert prevents upstream migration of fishes such as banded kokupu to the habitat above, whilst a general lack of riparian vegetation greatly reduces the quality of instream habitat.

Management recommendations to improve habitat values include minimising sediment runoff by the establishment of well maintained riparian vegetation and the use of sediment ponds.

Geotechnical Study

The geotechnical study was commissioned in 1999 after the completion of the community workshop in March. A copy of the draft concept plan along with a range of possible lot sizes was provided to Beca Carter.

The geotechnical study identified a range of 'geotechnical zones', Zone A being the most suitable for residential development and Zone C being the most difficult. A large part of the Birdwood Urban Concept Plan Area was identified as Zone C. Areas identified as Zone A were limited to land with a flatter topography adjacent to the rear of existing residential lots fronting Don Buck Road and in the north-west corner of the Concept Plan Area. In addition to describing the geology and identifying geotechnical zones, Beca Carter also recommended that the size of possible lot sizes be increased to reflect the geotechnical constraints that had been identified. The report also recommended that there be no direct stormwater or wastewater discharges to ground that could destabilize land.

The identification of these 'geotechnical zones' was further confirmed by a study undertaken by Tonkin & Taylor for the Swanson and Birdwood catchments. However a more detailed study commissioned from Soil & Rock Consultants owners of land above Chamberlain Road indicated that the degree of instability is not as severe for this part of the concept plan area as reported by Beca Carter.

Stormwater Catchment Management and Instream Ecological Study

A stormwater catchment management and instream ecological study has been completed by Riley Consultants and Kingett Mitchell. The key stormwater issue identified for the Chamberlain catchment is the potential for stream erosion generated during a two-year storm event. The Chamberlain Stream and its headwaters is characterised by steep incised stream banks that contain soft sediment and is therefore vulnerable to erosion. For this reason, the study recommends that any development scenario be required to maintain two-year stormwater discharge rates to pre-development levels. This objective will be achieved by limiting creation of impermeable surfaces and through the establishment of riparian margins described in Section 8.

The stormwater study has modelled a development scenario (as shown on the draft Birdwood Urban Concept Plan map) and established a maximum impermeable surface area for the catchment. This is the maximum area of impermeable surface that can be established to ensure that the rate of stormwater discharge to streams is maintained at pre-development levels and assumes 60% impermeable surface for the area identified as standard residential and 20% for the area identified as Large Lot Residential. The catchment management plan also assumes that the area of standard residential shown on the concept plan map will have reticulated stormwater and wastewater. The area of Large Lot Residential will have reticulated wastewater only.

Based on this development scenario, in terms of stormwater volume, the study concludes that while there will be a small increase in stormwater volumes discharged from the Chamberlain catchment, this discharge will not coincide with peak flows in the Swanson Stream. For this reason it is considered that there will be no adverse flooding effect on the Swanson Stream.

The catchment management plan sets out a number of recommendations for managing stormwater within the Concept Plan Area. These recommendations will form the basis of requirements for subdivision and impermeable surfaces in the Concept Plan area.

Archaeological Study

An archaeological study has been undertaken by Rod Clough for the entire Birdwood Special Area. This study concludes that while there is a strong European and Maori history associated with this area, there are no archaeological sites evident. Consultation with Te Kawerau a Maki and Ngati Whatua has not revealed any waahi tapu sites or sites of special significance to iwi.

Phase I Contamination Study

Due to the nature of historical land uses that include horticulture and agriculture within the Birdwood Urban Concept Plan area, a Phase I Contamination Study has been completed. The study included a review of Council property files and historical photographs dating back to 1940. The purpose of the study was to identify areas of land that have historically been used for horticultural or agricultural purposes and which may be contaminated due to the use of chemicals. Of the 16 properties investigated, only 3 were identified as having been used for any kind of intensive horticultural or agricultural purpose. These included an ex-poultry farm, a vineyard and glasshouses.

The study simply identifies land uses that have been or can be associated with activities that lead to soil contamination. This study does not provide evidence that contamination currently exists. This report will form part of Council records for the area. Those sites that have been identified with potential for contamination should be investigated in more detail at the time of subdivision.

CONSULTATION

Consultation with key stakeholders has been undertaken during the development of the Birdwood Urban Concept Plan including a workshop with landowners in March 1999 and further consultation on the draft concept plan in 2002. A summary of consultation is set out in the Section 32 report that has been circulated separately

DRAFT BIRDWOOD URBAN CONCEPT PLAN

A54

The draft Birdwood Urban Concept Plan is attached at A54 Key features of the concept plan include:

- Provision for standard (minimum 450m²) and Large Lot (minimum average 2000m², minimum 1250m²) residential areas;
- Indicative Road Layout; and
- Streamside Enhancement Areas;

The division between the 'Standard Residential' and 'Large Lot Residential' Areas reflects the constraints that apply to the Concept Plan area including stormwater and land stability. The Standard Residential area is located on the more stable land. The Large Lot Residential area is on the steeper, less stable land that is subject to greater stormwater constraints as it is not intended that it be provided with reticulated stormwater.

Proposed "Plan" Changes

A41-A53

The detailed proposed changes to the Plan to enable subdivision and development in accordance with the Birdwood Urban Concept Plan, as attached at pages A41 to A53. It is proposed that the following changes be made to the Plan:

1. Changes to the 'Explanation of the Strategic Direction: Policies and Methods' (6.2.1 Managing Population Pressures Outside the Urban Area);
2. Addition of policies to reflect the environmental constraints that apply to the Birdwood Urban Concept Plan area;
3. Changes to the existing subdivision rules to provided for development in the standard residential area;
4. Introduction of a new 'Living 4 Environment' to provide for development in the Large Lot Residential Area;
5. Additions to the existing assessment criteria for subdivision;
6. Changes to the existing Natural Area Rules - Impermeable Surface to provide for development in the Large Lot Residential Area.
7. Changes to the Plan maps to incorporate the Birdwood Urban Concept Plan and recommended changes to riparian margins.

An explanation of the rationale for the proposed changes is set out in the Section 32 report that has been circulated to the Committee separately in memo form.

Regulatory Planning Process

The necessary background and technical information has been completed that would enable the Council to notify the Birdwood Urban Concept Plan as a change to the Plan. The process of completing a plan change involves public notification, submissions and further submissions. The Council will then make a decision on the plan change having regard to any submissions that have been made. This process takes approximately six months. Any decision the Council makes can be appealed to the Environment Court.

RESOURCES

No additional resources are required. All technical studies relating to this urban concept plan have been completed. It is envisaged that any additional costs will only be administrative, associated with notification and processing of the variation.

CONCLUSION

The purpose of this report is to present to the Committee the draft Birdwood Urban Concept Plan and to outline the statutory processes that will enable its inclusion in the Plan. Now the technical work that forms the basis of the draft concept plan is complete, a change to the Plan can be publicly notified. The Birdwood Urban Concept Plan will enable urbanization of this land subject to natural and physical constraints. This approach is consistent with the Auckland Regional Policy Statement and enables a comprehensive assessment of the environmental effects arising from subdivision and development. The concept plan will also ensure the future protection and enhancement of stream margins in this area.

RECOMMENDATIONS

1. That the information be received.
2. That pursuant to Part I of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to change the Waitakere City District Plan to include the Birdwood Urban Concept Plan and proposed policy and rule changes as attached at pages A41 to A54.

A41-A54

Report prepared by: Deanne Rogers, Locality Planner.



11 ENERGY-WISE COUNCILS FORUM

PURPOSE OF THE REPORT

The purpose of this report is to seek approval for a Councillor to attend the Energy-Wise Councils Forum on 27 and 28 March 2003 in Kaikoura.

BACKGROUND

Council is a founding member of the Energy Efficiency and Conservation Authority's Energy-Wise Councils Programme. The purpose of the programme is to have improved energy efficiency, energy conservation and enhanced renewable energy supply and use acknowledged as core goals and activities of local government.

STRATEGIC CONTEXT

Energy efficiency and climate change are key parts of the Council's strategic direction of sustainable development. Council is committed to supporting the community to reduce its energy consumption and associated CO₂, as well as its own, in line with this policy. The Energy-wise Councils' programme is a key tool in helping the Council achieve this objective.

ISSUES

The Energy-Wise Councils Forum provides an opportunity for the 14 member councils to be informed about, and exchange information on, energy efficiency projects for communities, and for councils as energy users. The March Forum is particularly important as it will include presentations and discussions on the role of the local government in the broader CO₂ and Climate Change Programmes, as well as focussing on renewable energy, Green Globe 21, and personal travel plan programmes for work and school.

The Environmental Management Committee is requested to nominate a Councillor to represent Waitakere City Council at this forum and to approve the travel to Kaikoura. The attendance is in line with Council's travel policy.

RESOURCES

Funding is provided within existing budget for attendance.

RECOMMENDATIONS

1. That the information be received.
2. That it be recommended to Council that a Councillor attend the March Energy-Wise Councils Forum in Kaikoura during 27 and 28 March 2003.

Report prepared by: Michelle Dawson, Project Manager: Cleaner Production.



12 SHOPPING TROLLEYS IN STREAMS

PURPOSE OF THE REPORT

The purpose of this report is to provide the Committee with the result of public consultation on the proposed Bylaw to control the dumping of shopping trolleys in public places, to receive submissions and to recommend a course of action on this issue.

BACKGROUND

As a result of feedback from the community and the Henderson Community Board, the Committee has investigated a number of methods to control the dumping of shopping trolleys in streams and public places.

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

- *That the Director: City Services is delegated authority to apply the process available under the Resource Management Act, through the issue of abatement notices or enforcement orders where shopping trolleys are causing adverse effects on the environment.*
- *That the desirability and feasibility of promoting a Variation to the District Plan requiring any new premises that provide shopping trolleys to demonstrate how the adverse effects are to be avoided, mitigated or remedied be reported back to the Environmental Management Committee by 13 February 2003.*
- *That a consultation process on proposed Bylaw No. 33, 2003 to include in clause 6.2 the words "Such identification to be non removable" be initiated and that the results of consultation be referred to the meeting of the Environmental Management Committee scheduled for 13 March 2003, with the objective of recommending that the proposed Bylaw No. 33, 2003 be considered by the ordinary meeting of Council to be held on 28 March 2003."*

3273/2002

STRATEGIC CONTEXT

The avoidance of dumping shopping trolleys in streams contributes to the Council's strategies for the Green Network which aim to ensure that streams will be full of life. The dumping of trolleys causes a number of adverse environmental effects and is harmful to ecosystems which are essential for the well being of our streams.

ISSUES

The proposal to erect Bylaw No. 33 2003 - Shopping Trolleys and Receptacles was publicly notified and letters were sent to interested parties. A meeting was held with representatives of supermarkets and other retailers on 10 February 2003 to hear their views on an informal basis, provide information on the issues from Council's point of view and identify alternative solutions.

The following submitters included a request to present their submissions:

- M E Savill
- Footstuffs (Auckland) Limited

However, it is proposed to also invite retailers who have made submissions to attend the meeting of the Committee.

A55-A82

Thirteen submissions were received and are attached at pages A55 to A82 and a summary of submissions is set out in the table below:

Submitter		Key Reasons	Suggestions
WN Patterson	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	Instant fines for customers.
ME Savill	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	
Murray Stevenson	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	
Elain Talbot	Support	Will make shop owners more accountable for their trolleys.	
Noel Vanderwee	Support		Coin deposit systems.
Robert Chisholm	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	Develop a combined alternative solution.
Kmart NZ Limited	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	Develop a combined alternative solution.
Phillips Fox - for Foodstuffs Limited	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	Develop a combined alternative solution.
Russell McVeagh for Progressive Enterprises Limited	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	Develop a combined alternative solution.
The Warehouse	Oppose	Unreasonable hold retailer liable for trolley theft by customers.	Develop a combined alternative solution.
Wellington City Council		Advised they will not make a submission.	
Kaipara District Council		Advised they will not make a submission.	
Waipa District Council		Advised they will not make a submission.	

The majority of submitters do not support the proposed Bylaw for a variety of reasons, including the following:

- it does not punish the offenders, as the supermarkets and retailers are not the people that abandon the shopping trolleys;
- there are other legal remedies available, such as instant fines under the Resource Management Act;
- the Council would be acting unreasonably;
- it will result in increased costs for customers;
- the proposed fines are excessive;
- the Council does not have the power to approve such a Bylaw;
- it is impracticable;
- the Council should investigate non-regulatory methods; and
- it is uncertain.

Submitters agree that there is an issue to be addressed and include a number of suggestions to address the issue, including the following:

- introduce trolley control devices;
- erect barriers to avoid dumping; and
- work with supermarkets and retailers to develop an acceptable solution.

OPTIONS

The options available to Council are as follows:

- Proceed with the Bylaw process; that is Council publicly notifies the Bylaw, receives and considers submissions and amends the Bylaw accordingly. Subsequently the Bylaw becomes effective. Given that submissions do not support this approach, it is recommended that the Bylaw not be pursued at this stage; or
- Develop a Memorandum of Understanding with shopping trolley owners to provide a public commitment to address this issue through a number of initiatives such as:
 - trialling shopping trolley control systems;
 - improving marking of trolleys and signage to promote public awareness;
 - provide a system for the prompt recovery of shopping trolleys; and
 - providing a process for the discussion of ideas and monitoring effectiveness of this approach.

This option is favoured as it is better aligned with the Council's vision, mission and strategic direction, but with the provision that if there is insufficient progress within twelve months the Council will reconsider its position on the Draft Bylaw. The Memorandum of Understanding will be developed by Council officers and reported back to the Committee for its approval by 13 May 2003.

RESOURCES

The development of the proposed Memorandum of Understanding can be implemented using existing resources, at an estimated cost of \$1,500 in staff time.

CONCLUSION

Public consultation on the Draft Bylaw for the control of shopping trolleys indicates that there is significant opposition to the proposal.

Given that the Council's objective is to avoid the dumping of shopping trolleys in streams and public places, non-regulatory methods are considered to be more effective at this stage. The Bylaw approach is still available to be considered at a later date if these prove ineffective.

Accordingly, it is recommended that a Memorandum of Understanding be developed with supermarkets and retailers to implement a work programme to address this issue. The Memorandum of Understanding will be reported back to the Committee for its approval on 13 May 2003.

RECOMMENDATIONS

1. That the information and submissions be received.
2. That the proposed Bylaw No 33 2003 not be progressed at this stage.
3. That the Group Manager, Asset Management be authorised to develop a Memorandum of Understanding with supermarkets and key retailers for consideration by the Environmental Management Committee at its meeting of 13 May 2003.

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



13 CONFERENCE - DEVELOPING AND IMPLEMENTING EFFECTIVE WASTE MANAGEMENT STRATEGIES AND PRACTICES

PURPOSE OF THE REPORT

The purpose of the report is to nominate a Councillor interested in attending the conference entitled 'Developing and Implementing Effective Waste Management Strategies and Practices' to be held in the Crowne Plaza Hotel, Auckland on 25 and 26 March.

STRATEGIC CONTEXT

The Council in November 2002 adopted a 'Zero Waste by 2020' target. To achieve this target, the Council will need to identify the obstacles and consider and prioritise the many methods of minimising waste, including getting the community onside, economic incentives, new initiatives and ways of funding these.

ISSUES

A83-A84

The programme for this conference is attached at pages A83 to A84, and includes papers by many people prominent in the area of waste minimisation, on issues that are pertinent to furthering the strategic direction of this Council.

CONCLUSION

The conference will provide information relevant to Council's strategic objective of 'a clean and attractive city that turns all its waste into resources', and it is appropriate that a Councillor attends.

RECOMMENDATIONS

1. That the information be received.
2. That one Councillor be nominated to attend the conference entitled 'Developing and Implementing Effective Waste Management Strategies and Practices' in Auckland on 25 and 26 March 2003.

Report prepared: by Jenny Macdonald, Acting Manager: Strategic Planning and Monitoring.



14 **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.*

