

## NOTICE OF MEETING

# ENVIRONMENTAL MANAGEMENT COMMITTEE

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

**DATE:**        **Tuesday,        7 September 2004**        **TIME:**        **9.30 am**

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

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



1 September 2004

Owena Schuster  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8864

### MEMBERSHIP:

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

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

(Quorum 5 members)

★★★★★★★★★★

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

**AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT  
COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE,  
LINCOLN, WAITAKERE CITY, ON TUESDAY, 7 SEPTEMBER 2004,  
COMMENCING AT 9.30 AM.**

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**AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON TUESDAY, 7 SEPTEMBER 2004, COMMENCING AT 9.30 AM.**

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**1 APOLOGIES**



**2 URGENT BUSINESS**

Section 46A(7) of the Local Government Official Information 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 Committee by resolution so decides; 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 and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Committee may make a decision on a matter determined to be urgent.

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



**3 CONFIRMATION OF MINUTES**

Ordinary - Tuesday, 10 August 2004

**RECOMMENDATION**

That the minutes of the Ordinary Meeting of the Environmental Management Committee held on Tuesday, 10 August 2004, including the Public Excluded minutes, as circulated, be taken as read and now be confirmed.



#### 4 **PRESENTATIONS**

##### A **GE FREE WAITAKERE**

Brendan Hoare, Landscape and Plant Science Lecturer from Unitec will be attending the meeting to make a presentation to the Environmental Management Committee on concerns from Waitakere citizens with representation of Maori, business, culture, arts, organics, science, and conservation, wishing to ensure the City remains GE Free. The presentation will also offer a practical model as to what makes a GE Free City.

##### B **WAITAKERE WATER SUPPLY DAMS RESOURCE CONSENT RENEWALS**

Watercare Services Limited is preparing to seek renewal of the Resource Consents from the Auckland Regional Council for the five water supply dams in the Waitakere Ranges. This presentation by Watercare will update progress and provide information on a proposal to effect and monitor compensatory flows to the streams below the dams whilst respecting the need to satisfy consumer demand.



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

#### 5 **LEGAL UPDATE (AS AT 31 AUGUST 2004)**

##### **INTRODUCTION**

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

##### **ENVIRONMENT COURT**

##### **Kitewaho Bush Reserve, Peter Mawhinney and Others v Waitakere City Council**

Following the Council's success in the High Court (where it won its appeal, and successfully defended the cross-appeal - see later agenda item below, for more information), the Council has reignited its costs application against Mr Mawhinney et al in the Environment Court. Council is seeking approximately \$140,000. A hearing date was set down for 30 August 2004 but this was adjourned in light of the delay in receiving the Court of Appeal's decision on Mr Mawhinneys' application for special leave to appeal.

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

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

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

An appeal by Abacus, Kitewaho and related entities (associated with Mr Mawhinney) against subdivision consent conditions imposed for a subdivision at Bethells/Waitakere. The appeal was to be heard in February 2003 but has been adjourned pending the outcome of the High Court appeal referred to below in this report. A judicial conference has been set down at our request for 26 August 2004 to progress this matter to hearing. In light of Mr Mawhinney's failure to pay Council's costs in other proceedings it is recommended that an application for security for costs be made on this appeal. The Court indicated that this matter should be adjourned in light of the delay in receiving the Court of Appeal's decision on Mr Mawhinneys' application for special leave to appeal as that appeal deals with similar issues.

### **Prema Trust v Waitakere City Council & Auckland Regional Council (July 2003)**

An appeal against a joint Waitakere City Council/Auckland Regional Council decision refusing consent for an alternative healing centre at 34-36 Grassmere Road. A hearing has taken place between 24 and 31 August 2004. It is expected the Court will reserve its decision.

### **Juderon Family Trusts v Waitakere City Council (December 2003)**

An appeal against the Council's decision confirming the consent conditions regarding financial contributions payable in respect of a proposed subdivision. Both parties have agreed to attend a Court-assisted mediation scheduled for 7 September 2004.

### **Te Atatu Residents' & Ratepayers Association Inc v Waitakere City Council (January 2004)**

A reference against the Council's decision approving Plan Change 2, which re-identifies the Harbourview land on the Te Atatu Peninsula from Living Environment and Harbourview South Special Area to Open Space Environment and Marae Special Area. A Court assisted mediation occurred on 16 July 2004 and progress made in regard to some issues. A further mediation date is to be advised by the Environment Court.

### **I & Z Farac v Waitakere City Council**

A site-specific reference has been filed by Mr and Mrs Farac, relating to their property at 172A Don Buck Road, Massey. It seeks to rezone all (or part) of the property as Living 2 Environment. Discussions are to take place on the relief being sought. A meeting was scheduled for Friday, 30 July 2004.

### **Save Hobsonville Against the Mismanagement of its Environment Society Inc v Waitakere City Council (February 2004)**

An appeal against the Council's decision granting consent to Vodafone to construct a telecommunications facility including a tower at 11 Scott Road, Hobsonville. An Environment Court-assisted mediation occurred on 18 March 2004, during which the appellant and applicant agreed to investigate the feasibility of reducing the height of the tower. Discussions between the appellant and Vodafone continue as to possible resolution.

## HIGH COURT

### **Waitakere City Council v Hickman & Spargo & Auckland City Council & Rodney District Council**

This is an application by Council for declarations in the High Court relating to the meaning of "immediate pool area" under the Fencing of Swimming Pools Act. There are four other parties, namely Auckland City Council, Rodney District Council, and two defendants against whom the Council has already initiated minor prosecutions for alleged failure to comply with the FSP Act. Council's application is supported by Auckland City Council & Rodney District Council. The matter was heard on 2 August 2004 before Justice Randerson. A decision has been reserved.

### **Waitakere City Council v Kitewaho Bush Reserve Company Limited, Peter Mawhinney & Ors (Appeal filed 22 January 2002)**

As previously reported to the Committee His Honour Justice Randerson released a decision in relation to this matter on 3 March 2004 which upheld Council's decision in relation to the appeal (in respect of Section 91 RMA) and confirmed the dismissal of Kitewaho's substantial cross-appeal.

Mr Mawhinney's application for leave to appeal was heard before Randerson J on 14 May 2004 and dismissed with costs to the Council. Mr Mawhinney now filed an application for special leave with the Court of Appeal (which includes an application for extension of time for filing) which was heard in Wellington on 16 August 2004. The Court of Appeal has reserved its decision on Mr Mawhinney's applications.

In relation to costs, Randerson J has awarded above scale costs of \$48,502.52 in favour of Council. This costs order has been made against Mr Mawhinney and the current trustees of the Waitakere Forest Land Trust. Kensington Swan has written to Mr Mawhinney to make demand for immediate payment. This demand was not satisfied and a bankruptcy notice has been served. In turn Mr Mawhinney has filed an application to have the notice set aside on. Council will be resisting this application.

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

This is a claim for damages by Kitewaho et al and is related to the matters addressed in the other High Court proceedings. Mr Mawhinney has now served further affidavit evidence in support of his application to have himself substituted in as plaintiff in these proceedings. That evidence makes it clear that he is the current sole trustee of the plaintiff trust. On that basis, it has been agreed to consent to his substitution application on the condition that Mr Mawhinney assumes responsibility up to the point of substitution. An application for security for costs has been filed and we have requested a judicial conference to make further directions and timetable orders in this case. In particular, we will be seeking to have the security for costs application set down as soon as possible and thereafter Council's application to strike out.

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

An appeal to the High Court (from an Environment Court decision) regarding a decision by Council relating to a requirement to construct and vest Marinich Drive, an arterial road that passes through Estate's subdivision in Ranui Station Road. The appeal was heard before Justice Venning on 29 June 2004. A decision was received from the Court on 30 July 2004. This decision was in Council's favour and reversed the decision of the Environment Court. Since the release of the decision Estate Homes filed an application for leave to appeal this decision. This was heard by the High Court (Justice Venning) on 27 August 2004. He reserved his decision. If the High Court grants leave it will be some months before the matter is heard by the Court of Appeal.

## **PROSECUTIONS - DISTRICT COURT**

### **I & A Covich - 40 Sunnyvale Road, Massey (May 2003)**

Charges were laid against Mr and Mrs Covich alleging that the Covich's operated a clean fill in contravention of an abatement notice requiring them to cease this activity. Mr & Mrs Covich pleaded not guilty and elected trial by jury. A depositions hearing took place on 11 November 2003, with counsel for the Covichs conceding that there was a case to answer. This matter has been set down for a trial during the week beginning 20 September 2004.

### **MT Yeo, KB Yeong, MTY Properties Limited - Various Properties (May 2003)**

Charges were laid against Messrs Yeo and Yeong, and Mr Yeo's company MTY Properties regarding alleged unauthorised building work, failure to comply with notices to rectify, and unsafe buildings, in respect of seven properties owned by the defendants. The matters will be adjourned to a further status hearing on 1 October 2004 on the basis of intimated guilty pleas by Mr Yeo to a number of the charges.

### **R Fowler - 7 Woontons Lane, Titirangi (August 2003)**

Charges were laid against Mr Fowler for alleged offences under the Building Act (unauthorised building work) and Resource Management Act (breach of various district plan rules, including doing building work on the road reserve and in a stability sensitive area). A defended hearing occurred on 8 July 2004 following which the defendant was found guilty on all charges of contravening District Plan Rules and undertaking building work without building consent. Partial sentencing occurred on 26 July, at which time his Honour Judge McElrea made the enforcement order sought by Council ordered the defendant to pay legal costs and the costs of Council's expert witnesses (in accordance with the specified maximum fees payable under the Costs in Criminal Cases Act). Sentencing on the four charges under the Resource Management Act has been adjourned to 8 November 2004 to allow time for consideration of issues arising under the Protection of Personal and Property Rights Act. The Judge has indicated that the offending will be taken very seriously by the Court given that the defendant has wilfully re-offended, and stated that a fine will be imposed in respect of the Resource Management Act offences.

### **Dovey Place Developments Ltd, Neslo Construction Limited & Foundation Engineering Limited - Dovey Place, Massey (February 2004)**

Charges were laid against the owner of a number of properties at Dovey Place (Dovey Place Developments Limited) and the contractors responsible for the foundation and building works for undertaking the construction of five houses without building consent. These matters have been adjourned to a preliminary hearing on a legal issue (regarding the date at which the offences became known to the Council) on 27 September 2004.

### **T, D & S Watford - 55 Derwent Cres, Titirangi (March 2004)**

Charges have been laid alleging failure to comply with a notice to rectify building work. The matter is listed for first call in court on 1 October 2004.

### **A & J Kumar - 23 Roberts Road, Te Atatu (March 2004)**

Charges have been laid alleging unauthorised building works and failure to comply with a notice to rectify building work. The matter is listed for first call in court on 1 October 2004.

### **Contract Sealing Limited, Action Plumbing Gas & Drainage Limited & Others - 547 West Coast Road, Oratia (March 2004)**

Charges have been laid alleging unauthorised building works. The matter is listed for first call in court on 1 October 2004.

**I R Stanic - 11 Orchid Place, Henderson (May 2004)**

Charges laid under the Resource Management Act alleging contravention of District Plan Rules, as the property being used to store vehicle wrecks and undertake vehicle repairs, without the requisite resource consent, and for contravention of an abatement notice in respect of such activities. First call scheduled for 1 October 2004.

**Future Developments Limited & P Slimo - 221 Scenic Drive, Titirangi (June 2004)**

Charges have been laid under the Resource Management Act alleging various District Plan breaches and under the Building Act alleging various instances of unauthorised building work and allowing the use of an unsafe building (in respect of fire safety concerns) for residential purposes. The matters are listed for first call in Court on 1 October 2004.

**Auckland Reblocking & Houselifting Limited, G F Harvey, M A Trebilco - 137 Titirangi Road, New Lynn (June 2004)**

Charges laid under Building Act alleging unauthorised building work. First call scheduled for 1 October 2004.

**J & G McGee - 884 West Coast Road, Oratia (June 2004)**

Charges laid under the Resource Management Act alleging contravention of an abatement notice issued in respect of unauthorised earthworks in the Managed Natural Area. First call scheduled for 1 October 2004.

**LA Green - 9 Herrings Cove Lane, Titirangi (July 2004)**

Charges laid under Resource Management Act alleging contravention of an abatement notice which required the installation of erosion/sediment control, removal of earth deposited at the site and revegetation works. First call scheduled for 29 October 2004.

**K & P Regeling - 3 Rayner Road, Piha (July 2004)**

Charges laid under Building Act for alleged unauthorised building work. First call scheduled for 29 October 2004.

**GS & VM Trichon - 70 Tirimoana Road, Glendene (July 2004)**

Charges laid under Resource Management Act alleging contravention of an abatement notice which required the stabilisation of the filled area or in the alternative the removal of the fill deposited at the site and revegetation works. First call scheduled for 29 October 2004.

**MJS & YC Seymour - 39 Onedin Place, Titirangi (July 2004)**

Charges laid under Building Act for alleged unauthorised building work. First call scheduled for 29 October 2004.

**RECOMMENDATION**

That the Legal Update (as at 31 August 2004) report be received.

Report prepared by: Brigid McDonald, Contract Solicitor.



## 6 INTERNET CAFES - PROPOSAL FOR STAFF TRAINING

### PURPOSE OF THE REPORT

To provide a report to the Environmental Management Committee on the proposal that Internet Café staff undergo appropriate training and the mechanisms for ensuring that the training is undertaken, in terms of Waitakere City Council Bylaw No.20 1990 - Amusement Galleries.

### BACKGROUND

An application for extension of the hours of operation by the Xnet Internet Café was considered by the April 2004 meeting of Environmental Management Committee. The issue of staff training was raised in the consideration of this application, as this Internet café was found on several occasions to operate outside the requirements of the Bylaw. A lack of staff training in the requirements and application of the Bylaw were seen as a primary underlying cause of these breaches.

Consequently the Environmental Management Committee at its meeting on 13 April 2004 resolved:

*That a report be provided to the June 2004 meeting of the Environmental Management Committee on requirements for Internet Café staff to undergo appropriate training and the mechanism for ensuring that such training is undertaken."*

608/2004

### STRATEGIC CONTEXT

Internet Cafes have a major role in providing easy and economical public access to the Internet.

However, these positives must be balanced against negative issues, which can be associated with some Internet Cafés, while at the same time, ensuring that public access to the Internet is facilitated.

### DISCUSSION

A similar situation to that proposed for internet café staff is the requirement for the training of staff in food premises. Bylaw No.26 - Food Safety, requires that food handlers working in a food premises possess credits towards one of the various unit standards that are available in food hygiene. Multiple education providers offer certificates in these unit standards, with classes in a wide range of languages. Council ensures such training is undertaken by requiring evidence from the staff member that they have attained such credits.

Internet Cafes are licensed and regulated under Council's Bylaw No.20 - Amusement Galleries. Bylaw No.20 stipulates standards relating to sanitary accommodation, cleanliness, hours of opening and details various operational prohibitions and responsibilities of the manager.

However Bylaw No.20 contains no stipulations with respect to any requirements in relation to staff training. Additionally, no other legislation mandates training for internet café staff.

Consequently, any proposal for staff training would need to be implemented on a voluntary basis by the internet café concerned.

Currently there are no unit standards that would be applicable to the internet café situation in question. Accordingly there are no education providers that Council could rely on to provide such training. The training curriculum would need to be developed by Council staff to specifically assess and impart an adequate quantum of knowledge and practical application of Bylaw No.20.

It is estimated that a significant proportion of staff in internet cafes are not fully conversant in English (both written and spoken). Therefore the ability of Council staff to impart knowledge and assess any understanding would be severely limited.

It is the responsibility of the internet café manager to ensure that all provisions of Bylaw No.20 are carried out and observed. It is therefore the responsibility of the manager to ensure that all their staff are suitably trained in the Bylaw No.20 and its practical application.

The principal breach of Bylaw 20, as identified by the Police, has been the operation of the premises past the stipulated hours of operation. This issue has been addressed through applications for the extension of the hours of operation. The other principal breach identified by Police, involves children being on the premises during school hours or late at night. These issues are addressed at the time by the Police with Council following up the breach with the owner/ operator of the premises to identify the cause and ensure that practises and procedures are put in place to prevent reoccurrences.

## **CONCLUSION**

The training of internet café staff is unable to be mandated by Council. Additionally the provision and assessment of any such training is currently not available from education providers. The development and assessment of any proposed training by Council staff would be severely limited by language difficulties that may be encountered.

Breaches of Bylaw No.20 are feedback to the internet café managers concerned, for them to take the necessary actions required (including the training of their staff) to prevent a reoccurrence.

Implementation of a training requirement for internet café staff is not considered practical and is not recommended.

## **RECOMMENDATION**

That the Internet Cafes - Proposal for Staff Training report be received.

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



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

### **7 SWANSON STRUCTURE PLAN - SUBDIVISION APPLICATION UPDATE**

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

The Group Manager: Planning and Community Services will provide a update to the Environmental Management Committee on the number of subdivision applications that the Council has received in the Swanson Structure Plan Area.

A regular report will be brought to each forthcoming meeting of the Environmental Management Committee outlining the number and status of the subdivision applications in the Swanson Structure Plan Area.

#### **BACKGROUND**

At its meeting on 10 August 2004, the Environmental Management Committee clarified its negotiating position on the Swanson Structure Plan appeals. In response to a concern that subdivision applications would be lodged with the Council before the resolution of the Environment Court appeals, the Committee resolved

*“That the Environmental Management Committee acknowledges receipt of the 5 August 2004 letter from the Structure Plan Advocates Network, indicating the Group’s support for a moratorium on Non-Complying Subdivision applications in the Swanson Structure Plan area. That Council Officers to report to the Environmental Management Committee outlining the number and status of any such application that may have been lodged.”*

1510/2004

#### **CONCLUSION**

The provision of an update at each forthcoming Committee meeting will provide the requisite information to the Committee.

#### **RECOMMENDATION**

That the Swanson Structure Plan - Subdivision Application Update report be received.

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



### **8 STRENGTHENING URBAN DESIGN IN TOWN CENTRES**

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

The purpose of this report is to seek the approval of the Environmental Management Committee to publicly notify a Plan Change requiring a site analysis and design response for new buildings in the Working and Community Environments in the New Lynn, Henderson and Westgate town centres in early 2005. This work is part of a package of measures that will fulfil this Council’s responsibilities under the Local Government Act 2002 to integrate sustainable land use patterns with passenger transport. The report also informs the Committee of progress on further development on a series of Plan Changes related to strengthening urban design in town centres.

## BACKGROUND

On 30 March 2004 the Government announced a new package of reforms to resolve Auckland's transport problems. The reforms have been enabled by government amending the Local Government Act. The main focus of the legislation has been to create a new governance structure for the Auckland Regional Transport Authority and its regional asset holding entity Auckland Regional Holdings. The Local Government (Auckland) Amendment Act 2004 outlines the duties and responsibilities of these organisations. Another important aspect of the legislation is that it will closely link the outcomes of the Auckland Regional Land Transport Strategy with the Regional Growth Strategy by incorporating the latter into the Regional Policy Statement. The legislation provides for all councils in the Auckland region to amend their District Plans and the Auckland Regional Council to amend the Auckland Regional Policy Statement to better align their plans and policies with the Regional Growth Strategy and the land transport strategy. This means, providing for greater intensification along key corridors and public transport nodes.

In order for Waitakere City to meet the intent of the legislation it must put together a package that demonstrates how it intends to contain growth and sustainably manage expansion of the Metropolitan Urban Limits.

## STRATEGIC CONTEXT

The Long Term Council Community Plan outlines the future direction of the Council, its intended actions, interactions with the community, government and private sector agencies and financial commitments. There are nine strategic platforms in the Long Term Council Community Plan and the two most relevant for the purposes of this report are the Urban and Rural Villages Platform and the Integrated Transport and Communication Platform. The Urban and Rural Villages platform has as its 2020 vision: "*Town centres are thriving places, providing exciting options for people to live, work and play. Public facilities, places and spaces teem with people, the streets are alive and busy.*" The Integrated Transport and Communication Platform has as its 2020 vision: "*Waitakere has public transport and communication systems that provide fast, effective services to the whole City. City travel demonstrates integrated, environmentally responsible and innovative design.*"

## The Resource Management Act 1991

The purpose of the Resource Management Act as outlined in Part II of the Act is the sustainable management of natural and physical resources. Part II also outlines the matters, including those of national importance, to which Council must have regard to and provide for in achieving that purpose. The purpose of a district plan as outlined in Section 72 of the Resource Management Act is to assist Council to carry out its functions. Councils' functions are outlined in Section 31 as the control of actual and potential effects of the use, development or protection of land and associated natural and physical resources in order to achieve the purpose of the Act. Council is to establish, implement and review the objectives, policies and methods to achieve this and can also include rules, which prohibit, regulate or allow activities.

Part II of the Act provides key principles for decision makers, and any future Plan Changes for site analysis, streetscape controls and mixed use development would primarily involve consideration of Sections 5 and 7. Section 5(2) states:

*"In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -*

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;*  
*and*

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

Section 7 outlines other matters that Council must have regard to and states:

*“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to -*

- (a) *Kaitiakitanga*
- [(aa) *The ethic of stewardship:]*
- (b) *The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (e) *Repealed*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon.”*

### **Auckland Regional Council**

Section 75 of the Resource Management Act requires that a District Plan must not be inconsistent with a regional policy statement or plan. The Auckland Regional Policy Statement is now operative although there are planned changes to that document to reflect the Regional Growth Strategy and create links to the Regional Land Transport Strategy, and further detail from all territorial authorities on future growth patterns. This process has staff input from both Auckland Regional Council and all the local councils.

### **ISSUES**

#### **Current District Plan Provisions**

The District Plan provisions for the Working and Community Environments have very limited controls on the overall design and external appearance of buildings and the document was written in the mid 1990s in a climate of minimising regulation. A review of resource consents granted over the last 12 months has shown that most applications only required consents for landscaping or parking requirements. In other words, the District Plan places few controls on the overall design, appearance, energy efficiency and functionality of buildings in our town centres. The quality of urban design is important to achieve sustainable growth and the projected levels of intensification provided for in the Regional Growth Strategy. The level of acceptance of intensification is also related to the quality and amenity that is provided.

The issue of urban form and urban design is increasingly being examined by a number of Councils across the region. The Ministry for the Environment has developed the Draft New Zealand Urban Design Protocol (see report to City Development Committee, 2 September 2004) and this Council has also been pursuing this issue through the sustainable cities programme. The policy implications of this have been considered by the City Development Committee on 2 September 2004. Most Councils have tried non-regulatory approaches in the first instance such as creating design guides although there is a trend to regulate through the District Plan. This approach does mean that there will be additional costs to applicants constructing new buildings, however this would be a minor cost in comparison to the value of the land and building as well as its usable commercial life. There is also a savings to both the developer and Council in the time that is taken amending development proposal designs that do not meet the vision and expectations for creating vibrant Town Centres. Arguably by creating a robust regulatory regime, the Council may stimulate more investment as businesses will have some confidence in the standard of buildings that may be constructed around them. The approach outlined above of having additional rules relating to building setback, landscaping, streetscape and site analysis will create better built form outcomes and ensure that applicants are required to articulate how their development will integrate into the surrounding neighbourhood and take advantage of passenger transport.

Draft rules for site analysis and street facades have already been developed and the site analysis rule has been peer reviewed by an external consultant. Further work is progressing on additional streetscape rules, building height and mixed use development. The development of these draft rules has involved key staff from Strategy & Development and City Services, and will also be reviewed by Consents Services Planners. Strategy & Development staff will also consult with stakeholders before publicly notifying these changes. It is considered that these rules will encourage better quality development in town centres and regulation, whilst having cost implications, will complement other non-statutory methods currently employed (education, Council investment in civic amenities in town centres, persuasion). The Proposed Plan Change will be part of an integrated package of measures aimed at achieving better quality urban design outcomes for the City's town centres. A copy of the proposed Plan Change for site analysis will be circulated at the meeting.

## **RESOURCES**

There is sufficient staff capacity within existing budgets to undertake this work.

## **CONCLUSION**

The District Plan as a strategic document must achieve sustainable management of the City's natural and physical resources. The site analysis rule will be one of number of supplementary rules to be developed that will improve the quality of design outcomes for town centres.

## **RECOMMENDATIONS**

1. That the Strengthening Urban Design in Town Centres report be received.
2. That pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to publicly notify a proposed plan Change to the Operative Waitakere City District Plan on a site analysis rule for the town centres in April/May 2005.

Report prepared by: Alina Hughes, Planner: Policy Implementation.



9 **WAITAKERE RANGES AND FOOTHILLS PROTECTION PROJECT - NON-REGULATORY COMPONENTS OF PROPOSED PACKAGE**

**PURPOSE OF THE REPORT**

The purpose of this report is to present an update the Environmental Management Committee on the non-regulatory components of the proposed package identified in phase two of the Waitakere Ranges and Foothills Protection Project and propose a way forward.

**BACKGROUND**

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

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

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

Work has been ongoing within the project through five key components which together are designed to provide for stakeholder involvement and integrated decision making. They include working with others through the Political Liaison Group, research and information gathering, community consultation, policy development and implementation.

Recognition that other groups and organisations have responsibilities and jurisdiction over parts of the Waitakere Ranges area led to the formation of two groups to achieve better integration of decision making the *Political Liaison Group* and the *Officer Advisory Group*. The first step in the project was to pull together the various pieces of research and information on the Ranges, held by different agencies, on the state of health of the Ranges area, pressures, current management and likely gaps. It was found through this exercise that research and monitoring is often site or project specific and fragmented, so that gaining a holistic picture of the health of the Ranges is difficult. Pressures signalled through this work included subdivision and development, animal pests, weeds, and visitor impacts. A discussion document (September 2003) was produced and widely distributed as part of the community consultation. A more detailed background paper (December 2003) is also available.

Two phases of the planned three phase community consultation process have been implemented. The purpose of phase one consultation was to share with the community the information gathered, discuss issues and commence the preliminary discussion around possible responses. This stage included presentations to a number of organisations and groups, a series of community workshop meetings, a telephone survey, community board displays, and an invitation to send in written responses.

The results of Phase One consultation (September - December 2003) showed most people believe that the Ranges and Foothills were not currently protected enough now and for the future, and that something ‘extra’ was needed. Following this phase, policy work was undertaken to identify or further develop already identified ways to provide that ‘something extra’. These were analysed and those considered most suitable as methods or responses to fill the gaps and weaknesses in the current management system were identified in a ‘proposed package’ in Phase Two.

The key focus for phase two consultation was:

- a) Discuss visions and values for the eastern foothills included in the Waitakere Ranges project boundary.
- b) Gain feedback on the proposed package, particularly the legislation component.

The final report on the phase two consultation was presented at the Environmental Management Committee's July 2004 meeting. The key findings showed that no clear direction on the different components within the proposed package was evident from Phase Two consultation. Most of the components showed a split of opinion on whether they should be forwarded. However, the majority of participants felt that the Ranges and foothills were important and needed to be protected. What was not clear was which way forward was supported and why. What was evident from the consultation was a desire for further detailed information to be provided, specifically around the implications of the various components. This work has been ongoing.

To date the Waitakere Ranges and Foothills Protection Project has investigated both regulatory and non-regulatory mechanisms for the further protection of the Waitakere Ranges and foothills. These can be grouped as follows:

### **Regulatory**

Introduce new legislation or amend the Local Government Act (Auckland Provisions).  
Amend Regional Policy Statement and District Plan as required.  
Amend Regional Growth Strategy.

### **Non-regulatory**

- Establish a Trust;
- Investigate World Biosphere Reserve status;
- Prioritise through Councils Long Term Council Community Plans (West Coast Plan, voluntary and non-regulatory methods);
- Establish core staff teams within the Councils;
- Develop an Implementation Plan.

The regulatory mechanisms provide the statutory framework for the management of the Waitakere Ranges and foothills. The non-regulatory mechanisms complement the interpretation and enactment of those rules. These mechanisms provide a voluntary means whereby landowners and other stakeholders can implement actions 'on the ground'. These can include community assistance programmes for replanting and pest and weed programmes. The non-regulatory mechanisms are equally important in the long term protection of the Waitakere Ranges and foothills for the active management and stewardship they encourage. This is particularly critical given the mix of both public and private land that is currently included within the Waitakere Ranges and Foothills Protection Project area.

Given the nature of hierarchy in regulation, legislation sets the overarching framework for the regulatory side. Decisions on the way forward for legislation will provide the direction for the other regulatory components. A separate agenda item discusses progress with the legislation to date. This agenda item will discuss the non-regulatory components below.

### **Prioritise through the Long Term Council Community Plan**

The current Long Term Council Community Plan was adopted in 2003 and is currently in its second year. This plan is reviewed every three years. This review period will provide an opportunity to analyse what is currently undertaken within the Long Term Council Community Plan in the light of the information generated from and outcomes of the Waitakere Ranges and Foothills Protection Project. A key component of this work will involve the strategic review of the Green Network to identify what Council is currently undertaking, what gaps exist and what are the priorities. Consideration will be given both to the strategic framework of the Green Network as well as how it is implemented on the ground. Work on this review will be undertaken through a joint Council Officers group which will engage with wider Council operations and will begin in early 2005.

Another key component of this work will be a review of the Council's role in implementation of the West Coast Plan. This plan was completed in 2001 and identified over 120 actions to be undertaken between the Auckland Regional Council, local communities and organisations and Waitakere City Council. This plan has not been formally adopted by Waitakere City Council. A review of what has been undertaken within the plan has been initiated by the West Coast Plan Liaison Group. Waitakere City Council Officers as part of this review will determine what actions are the responsibility of Waitakere City Council and progress to date. From there work can be undertaken determining what might be the next priorities and how that might inform the Long Term Council Community Plan 2006/2016 development process.

### **Core Team**

Three options have been considered for the development of the core team within Waitakere City Council:

1. Regulatory Team - establishment of a team within the regulatory arm of Council, focussing on processing of subdivision consents, building consents and resource consents within the Waitakere Ranges.
2. Multi-disciplinary Team - establishment of a multidisciplinary team – effectively a Waitakere Ranges Unit, which would deal with strategy and policy, plan changes, management of regulation and enforcement, park management, community assistance, infrastructure management and iwi liaison.
3. Virtual Team with Waitakere Ranges Leader - this would see key staff within the range of areas across Council having a component of their job and work programme focussed on the Waitakere Ranges with a Waitakere Ranges Leader co-ordinating and being the lynchpin - functioning much in the way as the Town Centre Project Managers do for the town centre redevelopment programme.

The costs and benefits - including resourcing implications of these three options are able to be further assessed through the 2006/2016 Long Term Council Community Plan development process, which will include community consultation.

### **Proposed Trust Mechanism**

The Trust was included within the proposed package primarily to address the strongly held view identified in phase one that a lack of resourcing is a key problem in the long term protection of the Waitakere Ranges and foothills. The lack of resourcing was seen to be preventing extensive involvement in such programmes as pest and weed control and community assistance and education programmes. This is illustrated within the Waitakere City Council's Green Network Community Assistance programme which is oversubscribed within the first 5 months of the financial year. A Trust was seen as a mechanism that could tap into funds currently unavailable to councils. Another key focus of the Trust could potentially be seen as a mechanism for further enhancing community stewardship and networking. The structure and function of a Trust would be influenced by the objectives sought and commitment identified. Depending on the structure, the trust could operate on a purely voluntary basis, or could require seeding and ongoing operational funding and support. The Trust currently does not have the unanimous support of the Project's Political Liaison Group.

### **Proposed Biosphere Reserve Mechanism**

The Biosphere Reserve mechanism was included within the proposed package as a mechanism to fill the strategic focus management gap identified in phase one of the project. These reserves are part of the UNESCO Man And Biosphere programme, an voluntary international concept where one or more protected areas and surrounding lands are managed to combine both conservation and sustainable use of natural resources. A biosphere reserve has: a core area with special values which must have some form of protection through law, a buffer zone and transition zones that focus on how people live within this special place.

Each biosphere reserve is intended to fulfil three basic functions, which are complementary and mutually reinforcing:

- A conservation function - to contribute to the conservation of landscapes, ecosystems, species and genetic variation;
- A development function - to foster economic and human development which is socio-culturally and ecologically sustainable;
- A logistic function - to provide support for research, monitoring, education and information exchange related to local, national and global issues of conservation and development.

People are an integral part of such reserves. They can and should be regional centres for monitoring, research, education and training on natural and managed ecosystems.

It is a method by which an area is protected by "best practice". It does not impose new rules and commitment by the community, Council and central government commitment would be essential. More information can be found on <http://www.unesco.org/mab/nutshell.htm>.

This is a component that is seen in the longer term, which might act as a basket that collects and pulls together all the other existing protection mechanisms under one umbrella concept.

Both the Trust and Biosphere Reserve components are unable to be dealt with through existing processes and are addressed in this agenda item. The development of an Implementation Plan is an operational action to detail how any mechanisms agreed to are put into operation.

## STRATEGIC CONTEXT

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

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

## ISSUES

Currently the Biosphere Reserve and Trust components are within the proposed package. To be successful both mechanisms should be driven largely by community vision and commitment. Councils should play important roles in facilitation and support but a key success factor would be for communities to provide their own solutions, including community buy in from the beginning and ongoing support. This commitment is already evident in the operation of many individual, community and environmental actions. However, to ensure any new mechanisms such as a Trust or Biosphere reserve are successfully achieved, it is important that community members are part of their development.

A common vision is also an important component in ongoing community support. In developing the West Coast Plan, a community visioning process was undertaken. This project was launched in 1996 and over a five-year period visioning workshops were held and the West Coast Plan Liaison Group established. First a common vision and then goals, targets and actions were developed.

It is important to note that the foothills, Waiatarua, Titirangi, Laingholm and Parau were not included within the West Coast Plan area. The significance of this gap is highlighted in the findings of the Structure Planning review (2003) which identified the lack of a strategic vision for the foothills area as a critical issue. One of the recommendations of the Structure Planning review (2003) was the need to develop a strategic vision for the Waitakere Ranges and Foothills which clearly established the context in which decisions on structure plans and other proposals for use and development of land in the foothills were made.

## Way Forward

Given the high level of community stewardship already evident in the Waitakere Ranges and Foothills, the development of a forum/networking group is one mechanism that could bring the community together to start building on the common vision and understandings, and identify the actions and priorities required.

The West Coast Plan should play a central role within this forum, but the process would need to allow for the fact that the foothills are not part of the area covered by the plan. It is likely that the development of a strategic vision for the foothills will play a critical part in filling this gap.

There are many examples of existing community forums throughout New Zealand. Nine Regional Biodiversity Forums, one of which includes Auckland, have been established through the Action Bio-Community New Zealand-wide biodiversity project run in partnership between central and local government. This project helps councils work with their communities and other agencies to address biodiversity issues on land outside the conservation estate.

In a recent report by Dave Hansform, Origin Natural History Media titled '*Regional Biodiversity Forums – An Overview*', it noted that "without exception, forum coordinators feel they are making a difference to the number of people networking about biodiversity management". Advantages noted in the report are:

- Cohension and unity of purpose;
- Learning about others' work allows strategies to be aligned;
- Pooling resources allows more work to be done;
- Relationships are markedly improved;
- People feel less isolated.

It is critical that the development of the forum/networking group is community driven but in close association with the councils. The councils' roles could be as facilitators and supporters as well as key players around the table. This will ensure the outcomes are owned by all key stakeholders. Informal talks with the community are required to gauge initial interest and provide advice on the makeup, purpose and timing of the development of the forum. Timing will be critical and will be dependent on the ongoing outcomes of the Waitakere Ranges and Foothills Protection Project and advice from the community.

As noted above the development and structure of the forum should be community driven however, possibilities for the forum might include:

#### **Focus**

- A wide focus encapsulating issues of sustainability. This would be a more complex undertaking, but should ensure that the key issues were considered holistically and from the beginning; or
- alternatively start with a narrow focus to engender initial interest and support within the community e.g. biodiversity and/or pests and weeds. Pests and weeds were strongly identified in phase one as major concerns to the majority of participants. These issues could be expected to draw the community together, connecting existing groups and interested individuals. They could explore commonly held objectives, share information and materials, and explore barriers to them achieving more.

#### **Purpose**

The opportunity to network groups and individuals interested in the Waitakere Ranges and foothills area might result in, for example, the:

- development of a common understanding of goals, actions and priorities for the area;
- development of shared education programmes;
- joint applications for resourcing;
- exploration of how they might tie into Project Twin Streams and other city-wide and regional environmental initiatives including the Auckland Biodiversity Forum.

It will be essential that this forum is outcome driven, demonstrating early the on the ground benefits of working together.

From this starting point, the Council/s might support the continued consideration of establishing a trust or seeking Biosphere Reserve status as or when it was appropriate.

The development of a community steering group to help define the scope, purpose and way forward for this mechanism would be necessary.

## RESOURCES

Funding of \$110,000 has been allocated in the 2004/2005 Annual Plan for further work on the Waitakere Ranges and Foothills Protection Project. Funds are also available within the Environmental Advocacy budget of \$10,000 to develop a Waitakere Ranges and foothills forum/network.

## CONCLUSION

The establishment of a Trust or seeking Biosphere Reserve status would both require considerable commitment and passion from the community, with shared community visions essential elements. Strong Council support would also be essential in facilitating these processes.

Considerable community stewardship already exists within the area. One mechanism to further enhance this might be to develop a community forum/network that could consider the potential benefits of community groups, individuals, councils and other agencies working together. Discussions with community groups, individuals and agencies would be necessary to determine initial interest in the proposal and what might be the best way forward. From there, the development of a community steering group to help define the scope, purpose and way forward for a community forum/networking group would be necessary to ensure it meets the needs of the community.

## RECOMMENDATIONS

1. That the Waitakere Ranges and Foothills Protection Project - Non-Regulatory Components Of Proposed Package report be received
2. That the Environmental Management Committee endorse that Council Officers start initial discussions with the community regarding the concept of a community forum/networking group.

Report prepared by: Kim Morresey, Partnerships and Advocacy Leader, Environment.



## 10 METROPOLITAN URBAN LIMIT SHIFT - PROPOSED CONSULTATION PROCESS

### PURPOSE OF THE REPORT

The purpose of this report is to outline the Environmental Management Committee the consultation method for the pre notification component of the Metropolitan Urban Limit shift and associated District Plan rules changes for the Northern Strategic Growth Area.

### BACKGROUND

Council received a report to the City Development Committee in August 2004 regarding the Metropolitan Urban Limit shift to accommodate growth along the Northern Strategic Growth Area. As set out in the Resource Management Act 1991 and the Local Government (Auckland) Amendment Act 2004 some pre-notification is required. At its August Committee meeting Council resolved:

*“That a further report be brought to the Environment Management Committee in September 2004 outlining consultation scenarios and seeking approval to consult in order to meet the March deadline.”*

## Previous Consultation

In the case of the Northern Strategic Growth Area, there has already been an extensive amount of consultation through the preparation of the Regional Growth Strategy which identifies the Northern Strategic Growth Area in its Growth Concept Plan. In addition Council's Long Term Council Community Plan recognises and provides for the future growth opportunities under the Strategic Platform of Urban and Rural Villages. Actions identified to occur over 2003/2004 included the completion of the Growth Management Plan for existing and new areas and the planning for the Northern Growth Area. The Growth Management Strategy for Waitakere is near completion.

## STRATEGIC CONTEXT

### Resource Management Act

The Resource Management Act 1991 requires Council to consult in the preparation of District Plan changes. In Clause 3 of the First Schedule of the Act there are specific requirements to consult with:

- the Minister for the Environment;
- other Ministers of the Crown that may be affected by the policy statement or plan change;
- local authorities who may be so affected; and
- Tangata Whenua.

Council is also able to decide what additional consultation may be taken beyond these initial requirements.

### Local Government (Auckland) Amendment Act 2004

In terms of the proposed District Plan changes that are to be considered in accordance with the Local Government (Auckland) Amendment Act 2004, Section 43 of the Act states that compliance with the Resource Management Act 1991 is to be treated with Part 6 of the principal Act "Local Government Act 2002".

## ISSUES

### Preferred Consultation Proposal

The following consultation proposal is based on previous processes, current Council policy and the requirement under the various legislation. There are also several external factors that have influenced the development of the proposed consultation process, those being:

- Local Government Elections;
- Limited ability to consult during Christmas period;
- Deadline of notification on 31 March 2005; and
- Potential land speculation due to zoning changes.
- **Iwi**

Council has an established protocol (fortnightly meetings) for consultation with Iwi. The Northern Strategic Growth Area proposal would be presented to this group as a first stop for feedback and also to Ngati Whatua and Te Kawerau A Maki which have been identified as having an interest in the area.

- **Government Agencies**

There are several Central Government agencies that have an interest in the development of the Northern Strategic Growth Area proposal. In particular the following groups would be consulted as both at an agency, landowner and potential developer level:

- Department of Education - there are several education institutions proposed to be located with the growth area;
- Housing New Zealand - in relation to the development of the Airbase land; and
- Transit New Zealand - the connection to State Highway 18 and 16.

A1 In addition to the above list and the detailed list included at page A1 there may be direct consultation with known/established:

- Interest groups;
- Other service providers, e.g. Bus Companies
- Local educational institutions (private sector); and
- Key business groups.

- **Affected Communities**

The Northern Strategic Growth Area is not currently populated with urban development and hence the main affected community is the current land owners. Prior to notification property owners will be consulted to gauge their views to provide feedback to be considered as part of the draft proposed plan changes. It is proposed that a letter be sent to those land owners whose property will experience a change in the District Plan zone as a result of this proposed Metropolitan Urban Limit shift. This letter will provide an overview of the process and proposal. Officers are also available to meet these property owners to receive any feedback on the proposal in its preliminary stage. A second letter will be sent to those property owners within the Hobsonville corridor that will not be directly affected by a zone change explaining the proposed staging of future shifts that will affect their property. Feedback received from this process will be considered and reported to the Council.

- **Project Sheets**

Officers are preparing some Project Sheets for the individual centres that will be sent out with the letters and be available for general enquiries. These will provide an overview of the vision for the future growth and form of the centre proposed and how the area might grow in the future.

- **Other Options**

Subject to the availability of resources and additional time there is the opportunity to add to the above process and conduct a comprehensive consultation programme including workshops, information days, etc. but this would not meet the required timelines for 31 March 2005 notification.

- **Publications**

The proposed Metropolitan Urban Limit shift and District Plan changes sit within an umbrella of three regionally driven processes:

1. Regional Policy Statement changes to be notified by 31 March 2004;
2. Regional Land Transport Strategy review revised strategy being prepared by December 2005; and
3. Regional Community Outcomes being developed for 2006 Long Term Council Community Plan.

As part of the Regional Policy Statement change process, a broad region-wide publication will be produced to explain to the community, that various regional planning documents are being changed as required by legislation and how they might be involved in the process. This publication has been prepared for distribution across the region in early September 2004. It will be distributed via letterbox drop across the region. The publication has a small section referring to the District Plan changes that will be undertaken as part of Waitakere's response to the Regional Policy Statement process. This publication will act as an introduction to these various Policy and Plan changes and provides the legislative context and timelines.

As a follow up to the regional publication it is proposed to include a more detailed article in either the Waitakere City News or North News to be circulated in late 2004.

## RESOURCES

The high priority for these District Plan changes and associated consultation has been previously noted by Council and sufficient staff resources and budget exist to undertake the necessary work.

The timelines that are driving this project are largely based in the legislation requirements. However, the Auckland Regional Council has since advised that they would need a full draft of the proposed Metropolitan Urban Limit shift and District Plan changes by early November.

## CONCLUSION

Council must undertake some consultation in order to meet the requirement of the Resource Management Act and Local Government Acts. In light of this, officers have included a broad as possible consultation process that will meet the requirements of the legislation and the established deadlines.

The suggested approach would meet these requirements and ensure that feedback is able to be considered prior to a draft plan change is presented to Council. This would also allow sufficient time to incorporate this information into the various justification documentation required as part of the Metropolitan Urban Limit shift and District Plan change process.

## RECOMMENDATIONS

1. That the Metropolitan Urban Limit - Proposed Consultation Process report be received.
2. That the Environmental Management Committee endorse the preferred consultation process as outlined in this report to be conducted prior to notification.
3. That a further report be presented to either the Environmental Management Committee or Council.

Report prepared by: Yvonne Rust, Principal Advisor, Urban Policy.



**PART III - ENVIRONMENTAL MANAGEMENT**

**11 GREEN NETWORK COMMUNITY ASSISTANCE PROGRAMME UPDATE REPORT**

**PURPOSE OF THE REPORT**

The purpose of this report is to update the Environmental Management Committee on the Green Network Community Assistance Programme for 2003/2004 financial year.

**BACKGROUND**

The Green Network Community Assistance Programme commenced in the 1998/1999 financial year. The purpose of the Green Network Community Assistance Programme is to support private landowners undertaking biodiversity protection and enhancement on their property. All participants qualify for some form of assistance, with those who have streams or significant bush remnants on their property qualifying for a higher level of assistance. The following table summarises the assistance offered as part of the Green Network Community Assistance Programme:

Type of Assistance	Explanation
Advice and Information	Telephone and site visit advice on management of natural areas as well as provision of leaflet information.
Ginger Disposal	Applicants are eligible for up to 12 bags to dispose of ginger roots free as part of the kerbside refuse collection. Free disposal at the Concourse is available for domestic trailer loads of ginger.
Provision of Free Herbicide	Escort is provided for the control of large infestations of ginger
Provision of Jumbo Bins for Weed Disposal	Applicants are eligible for 1 bin per property per year for the disposal of weeds when a large scale, comprehensive weed removal project is undertaken
Subsidy for Contractor Control of Weeds	In priority areas where weed control by the landowner is difficult due to their circumstances or the nature of the weed infestation, a 50% subsidy up to a value of \$300 is offered for contractor removal of weeds. The Weedfree Waitakere Trust has been the contractor undertaking this work.
Free Ecosourced Plants	This is assessed on a site-by-site basis with a maximum of 200 plants available for major revegetation projects
Preparation of Management Plans	Management plans are prepared for landowners to address environmental issues such as weeds, erosion control and revegetation.
Covenanted Assistance	Applicants are eligible for up to \$2000 towards the cost of covenanting their site.
Rates Relief	When a covenant is in place, applicants are eligible for rates relief according to the proportion of their site covenanted and its values. The average rates relief is \$720 per annum.
Subsidy for Fencing	For areas where stock is grazing bush or stream sides, applicants are eligible for a maximum of a

Type of Assistance	Explanation
	50% subsidy up to a maximum of \$1000 towards fencing costs.

Table 1: Assistance offered as part of the Green Network Community Assistance Programme

The above programme is a tool to address biodiversity issues on private land. It meets a strong demand from landowners and is well supported by the community, central government and the international community. The programme was initially developed in 1997. At the 1992 Earth Summit in Rio de Janeiro, one of the key agreements adopted was the United Nations Convention on Biological Diversity. In 2000 the NZ Government produced The New Zealand Biodiversity Strategy. Also in 2000 a report was produced for the New Zealand Government on addressing the effects of private land management on indigenous biodiversity. These developments all result from the realisation that loss of species and environmental health will continue unless private landowners and land managers are brought into the picture. All of the above initiatives support the approach of Waitakere City's Green Network Community Assistance Programme that includes a combination of technical, educational, practical and moral encouragement, with a range of measures from easy-to-implement to the more in-depth programmes such as covenanting.

### STRATEGIC CONTEXT

The 2020 Vision for the Green Network, as outlined in the Long Term Council Community Plan is that the Waitakere Ranges will be permanently protected. There will be a network of bush and trees (the Green Network) from the Ranges, through town centres and suburbs, to the coasts, bringing the natural world into people's everyday lives and filling the streams and forests with life. The Green Network - protecting and enhancing the flora and fauna of Waitakere City - is one of Council's strategic platforms and a key strategic objective.

Protection and enhancement is sought on both public and private land, community involvement is encouraged, as is the protection of landscapes, native plants, wildlife ecosystems, while providing friendly green areas throughout the City.

Council's tools for implementing the Green Network fall broadly into three categories:

- (1) Council's investment in stormwater management and parks weed control and revegetation.
- (2) Regulation of the activities of landowners, particularly development.
- (3) Partnerships and community programmes to encourage voluntary action by landowners.

The Green Network Community Assistance Programme is a partnership programme where Council provides advice and some assistance that supports and encourages private landowners who wish to improve the natural values on their land.

## ISSUES

### Participation

Participation in the Green Network Community Assistance Programme is outlined in the table below. The various forms of financial assistance available are listed in the table with budget and assistance received figures for the 2003/2004 financial year.

Type of Assistance and Budget	Assistance Received as at 30 June 2004	Comments
Ginger Disposal \$10,050.00	2,323 ginger bags went out to 294 properties, plus 80 trailer loads of ginger	Ginger bags continue to be a popular means of easy disposal. The budget for bags and trailers includes disposal costs at the Concourse.
Provision of Herbicide \$3,150.00	65 properties	Escort is an effective herbicide against ginger and useful where there are large infestations.
Provision of Jumbo Bins for Weed Disposal \$26,000.00	170 bins	The budget for bins includes disposal costs at the Concourse. Many people are happy to put in the labour to remove weeds if assisted with the disposal.
Subsidy for Contractor Control of Weeds \$9,000.00	38 properties	This is offered where a particularly difficult weed (e.g. giant reed) is being controlled or the initial control is beyond a land occupier's capabilities.
Free Ecosourced Plants \$15,000.00	8,166 plants to 250 properties plus 75 single plant vouchers	The plants provided range from PB3 (a small garden centre plant) down to root trainers (small revegetation grade plants) that are relatively inexpensive to purchase (average of \$2 per plant) but need to be looked after to survive.
Preparation of Management Plans \$5,000.00	53 properties covering 37 hectares	Management plans are prepared for landowners by The Weedfree Waitakere Trust to address site specific issues.
Covenancing Assistance Nil Spent	4 new enquiries 45 on hold 17 awaiting covenant finalisation	The covenancing document is being finalised by Council's Legal Department and Parks Planning. It is anticipated the covenant document will be ready by October 2004.
Rates Relief \$7,800.00	9 properties	A covenant needs to be in place before residents qualify for rates relief. Properties currently receiving rates relief have a Queen Elizabeth II Trust covenant in place. Properties that sign up to a Council covenant will immediately be able to lodge an application for rates relief.
Subsidy for Fencing \$1000.00	1 property	No fencing flyer is available, promotion is by word of mouth and through covenancing enquiries.  This budget was under spent. 2 property

Type of Assistance and Budget	Assistance Received as at 30 June 2004	Comments
		owners that council made fencing commitments remain committed but have postponed due to illness and site development.

Table 2: Financial assistance distributed under the Green Network Community Assistance Programme

The budgets for weed bins, contractor assistance, provision of herbicide and ecosourced plants have all been fully spent prior to the end of the financial year for the last three years.

Not all applications for assistance are automatically granted. This year a total of 25 applications were declined, although alternative help and advice was offered. The declined applications were:

- 13 for contractor assistance - low priority areas;
- 7 for weed bins - no safe location for the bin;
- 5 for free herbicide - size of infestation did not warrant it.

#### Wider Green Network Community Support

In addition to the non-regulatory Green Network Community Assistance Programme the Green Network provides wider community support through education, community liaison and liaison with native plant suppliers for the provision of ecosourced plants as outlined in the table below:

Type of Assistance and Budget	Explanation
Education and Public Relations \$26,000.00	Editing, updating and reprinting 'A Guide to Planting and Restoring the Nature of Waitakere City' is a major project for this year. This new edition should be available in October this year
Community Liaison \$15,000.00	Leadership courses, community group project management and production of a Carex identification book.
Ecosourcing Project \$4,900.00	This year an audit of nurseries that have signed up to the Ecosourcing Code of Practice is taking place.

Table 3: Wider Green Network community support offered by Council

#### Green Network Community Assistance Programme 5 Years On

In 1997/1998 informal assistance was given to private landowners during the inception of the Green Network Community Assistance Programme. In 1999 Council formally ratified the details of the programme delivery, such as maximum assistance levels, and staff produced flyers to promote the programme.

In 1999/2000 weed bins, ecosourced plants, covenants, rates relief and fencing were offered through the Green Network Community Assistance Programme. At that time ginger disposal was operated through the Keep Waitakere Beautiful Ginger Out campaign and the Solid Waste programme that accepted domestic trailer loads of ginger. These two options for ginger disposal have since been incorporated into the Green Network Community Assistance Programme.

Free herbicide, contractor subsidy and management plans are three new initiatives that have since expanded the assistance offered through the Green Network Community Assistance Programme.

Five years on the Green Network Community Assistance Programme has shown incredible growth as outlined in the table below:

	1999/2000	2003/2004	Change in 5 Years
Total budget	\$100, 000	\$122,900	23% increase
Total Number of Participants	428	2,289	435% increase
- advice only	97	1,200	1,137% increase
- ginger bags	584	2,323	March 2000 Ginger Out campaign only
- trailer loads of ginger	28	80	March 2000 Ginger Out campaign only
- free herbicide	7 properties	65 properties	829% increase
- contractor assistance	2 properties	38 properties	1,800% increase
- ecosourced plants	40 properties	250 properties	525% increase
- management plans	78	53	32% decrease
- covenanting	0	4 new enquiries, 17 to be finalised, 45 on hold	Under discussion with land owners in 1999
- rates relief	0	9 properties	Under discussion with land owners in 1999
- fencing	0	1 property	Under discussion with land owners in 1999
Assistance Declined	9	25	178% increase

Table 4: Green Network Community Assistance Programme comparison between 1999/2000 and 2003/2004 financial years.

The average increase in uptake of assistance offered from 1999/2000 to 2003/2004 is 700% with a corresponding budget increase of only 23%. Reasons for such a large increase are:

- In 1999 there were large set up costs, such as brochure design and production;
- Paid legal advice for covenants has ceased;
- In 1999 successful applicants received the full entitlement for each type of assistance. In 2004 each type of assistance has had to be rationalised to try and meet the substantially increased demand. Successful applicants regularly do not receive the maximum entitlement now.

The only decrease in assistance offered from 1999/2000 to 2003/2004 is seen in the number of management plans. In 1999/2000 all management plans were completed by staff, no financial resource was required only staff time. In 2003/2004 management plans have been outsourced to The Weedfree Waitakere Trust to complete, with a financial resource of \$5,000. This allows staff time to deal with the increased demand for assistance, including telephone advice, and to administer the various elements of the Green Network Community Assistance Programme.

### **Covenants and Rates Relief**

The covenanting and rates relief aspects of the programme have received a lower level of uptake than was anticipated at the start of the financial year, partly because the Waitakere City covenant document is being finalised by the Legal and Parks Planning Departments. A number of covenant applications will however, be processed once the covenant document is finalised in October 2004 and rates relief applications from these will subsequently be evaluated and awarded.

Undertaking a covenant is a substantial commitment that most people want to take their time to fully consider and consult. It is expected that as covenants become established and more 'normal' or familiar, that cautiousness to the idea will reduce. Significantly, many of the land parcels being considered border existing reserves or esplanades. This increases their value to the Green Network.

There are currently nine properties with QEII covenants in place that receive an average of \$720 rates relief per property per annum.

### **Provision of Information**

A series of fliers have been produced which outline the types of assistance offered and include an application form. Most of these fliers are available on the internet or are sent out through Council's Call Centre. Word of mouth continues to be a significant tool of promotion with much discussion and passing on of information happening in the community as a result of the programme.

### **Delivery and Advocacy**

The delivery of contractor assistance and management plans has largely been outsourced with The Weedfree Waitakere Trust the main supplier. The Trust also undertakes some community education and training on behalf of Council.

General advocacy of the Green Network Community Assistance Programme is promoted by several community groups, most notably The Weedfree Waitakere Trust, Titirangi Residents & Ratepayers Association through their new residents information pack, Friends of the Whau and Piha Coastcare.

### **Community Group Support**

The number of community groups within the city involved in environmental projects or activities has risen from 7 in 1999 to 75 in March 2004. Many of these new groups have been significantly assisted in their ability to work with their community members by the support available through the Community Assistance Programme. Indeed, many of them would not have succeeded in even forming without the support of the programme. Thus the ability of the community to respond, to make a positive contribution to the Green Network and to be a part of the solution to issues such as weeds, is growing substantially as a result of access to support.

### **Project Twin Streams**

Project Twin Streams has funding to address stormwater issues along the Oratia, Opanuku Swanson, Waikumete, Henderson Creek and Pixie streams. A major weed control and replanting programme will be carried out along a 15 metre wide strip either side of the streams. Residents and local community groups will be approached to participate in the Project Twin Streams programme and encouraged to continue the weed removal and replanting work on their land. This is expected to lead to an increase in demand for assistance offered through the Green Network Community Assistance Programme, particularly for weed bins, contractor assistance and plants. Applications will need to be prioritised and rationalised.

## RESOURCES

Council allocated an additional \$15,000.00 to the Green Network budget for Community Liaison in the 2003/2004 financial year, bringing the budget to a total of \$122, 900.00. The 2004/2005 Annual Plan continues to provide for this level of funding and assistance.

## CONCLUSION

Community participation in the Green Network Community Assistance Programme, in groups and as individuals is significantly increasing the ability to contribute to the development of the Green Network and to address management of natural areas. The programme also provides an important alternative to regulation as an "other method" for implementation of Waitakere City's District Plan.

The covenanting and rates relief aspects of the programme have received a lower level of uptake than was anticipated at the start of the financial year, partly because the Waitakere City covenant document is being finalised by the Legal and Parks Planning Departments. A number of covenant applications will however be processed once the covenant document is finalised and rates relief applications will subsequently be evaluated and awarded.

A dramatic increase in demand for assistance has happened since the inception of the programme with an average rise of 700%. A further increase in demand is expected once the physical works on Project Twin Streams projects begin. Applications will need to be further prioritised and rationalised as no additional budget has been allocated to accommodate the Project Twin Streams influx.

## RECOMMENDATION

That the Green Network Community Assistance Programme Update Report be received.

Report prepared by: Kerry Bodmin, Parks Ecology and Policy Co-ordinator.



## 12 AIR, LAND AND WATER PLAN - ENVIRONMENT COURT APPEAL

### PURPOSE OF THE REPORT

The purpose of this report is to update the Environmental Management Committee on the Auckland Regional Council's Air, Land and Water Plan, and to seek approval to delegate authority to the Chief Executive to lodge an Appeal with the Environment Court on the Auckland Regional Council's decision.

### BACKGROUND

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

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

A report was submitted on this issue to the Environmental Management Committee on 9 September 2003 and the Committee approved a submission to the Auckland Regional Council Hearings in October 2003. The Chair of the Environmental Management Committee presented Council's case to the Auckland Regional Council.

## STRATEGIC CONTEXT

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

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

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

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

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

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

## ISSUES

The key objectives of Council's submissions were as follows:

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

It is expected that the Auckland Regional Council will release its decision on the Air, Land and Water Plan Hearings during September 2004. Once a decision is released there will be a 15 working day period to lodge an Appeal with the Environment Court, although Council has written to the Auckland Regional Council to request that the Appeal period be extended to 30 working days.

Although the contents of the decision are not known at this stage, it is recommended that the ability to lodge an appeal be established in order to protect Council's position, if such action is necessary. As this timeframe will be during the local government elections, it will be necessary for authority to be delegated to the Chief Executive to lodge the Appeal with the Environment Court.

### **RESOURCES**

An amount of \$13,000 is included in the 2004/2004 Annual Plan to cover legal costs associated with the Appeal. In order to minimise expenditure, costs are being shared with Watercare Services Limited and the Local Network Operators.

### **CONCLUSION**

The Auckland Regional Council's Air, Land and Water Plan Hearing decision is expected during September 2004. It is recommended that an Appeal be lodged with the Environment Court to protect Council's position if such action is necessary. As the appeal period falls during the elections, it will be necessary for authority to be delegated to the Chief Executive.

### **RECOMMENDATIONS**

1. That the Air, Land and Water Plan - Environment Court Appeal report be received.
2. That the Chief Executive be delegated authority to lodge an Appeal with the Environment Court with regard to the Auckland Regional Council's decision on the Air, Land and Water Plan, if he considers it necessary.

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



## **13 PROPOSED PLAN CHANGE 11 - TO RE-IDENTIFY THE HUMAN ENVIRONMENT IDENTIFIED OF NINE SITES**

### **PURPOSE OF THE REPORT**

The purpose of this report is to seek the Environmental Management Committee's approval of Proposed Plan Change 11. Proposed Plan Change 11 seeks to rezone the Human Environment identification for nine properties.

A2-A21

A copy of the 'Background Report and Section 32 Analysis' for Proposed Plan Change 11, sets out the statutory requirements under the Resource Management Act 1991 and the policy framework. Furthermore, the supplementary report addresses Section 32 requirements, and includes a copy of the Certificates of Title and changes to the Planning Maps. This report is attached at pages A2 to A21.

No submissions were received to the Proposed Plan Change.

## BACKGROUND

Each of the nine properties shown in the table below are currently identified as Open Space in the District Plan but all are privately owned. The proposed Human Environment identifications for the sites reflect surrounding land identifications in all instances and essentially correct discrepancies in the District Plan that require rectification. This Proposed Plan Change has arisen as the subject land was mistakenly identified as Open Space Environment at the time the District Plan was first notified in 1995. The Open Space Environment should only apply to areas of publicly owned open space ranging from the large park areas in the Waitakere Ranges to the small local parks in the urban area.

Property	Legal Description	Proposed Human Environment
8 Aio Wira Road, Bethells	Pt Allot 9 DP 1752	Waitakere Ranges Environment
34 Don Buck Road, Massey	Lot 1 DP 49674 & Section 1 Survey Office Plan 61028	Living Environment
326 Royal Road, Massey	Lot 1 DP 113914	Living Environment
7 Standage Lane, Kelston	Lot 13 DP 205876	Living 1 Environment
9 Standage Lane, Kelston	Lot 14 DP 205876	Living 1 Environment
11 Standage Lane, Kelston	Lot 15 DP 205876	Living 1 Environment
13 Standage Lane, Kelston	Lot 16 DP 205876	Living 1 Environment
15 Standage Lane, Kelston	Lot 17 DP 205876	Living 1 Environment
17 Standage Lane, Kelston	Lot 18 DP 205876	Living 1 Environment

The Environmental Management Committee resolved at its 27 May 2004 meeting:

*“That pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to publicly notify the Proposed Plan Change to the Waitakere City District Plan to re-identify the nine sites from Open Space Environment to Living, Living 1 or Waitakere Ranges (where appropriate) Environment in the District Plan as attached at pages A186 to A206 to the Agenda report.”*

826/2004

Council notified Proposed Plan Change 11 in the New Zealand Herald on 19th June 2004 and received no submissions. As no submissions were received, further submissions were not called for.

## STRATEGIC CONTEXT

The Long Term Council Community Plan has nine pathways that set out the Council's goals and actions for managing the social, economic and environmental wellbeing of the City. The urban and rural villages pathway identifies that the Council will need to review its planning processes to support integrated planning. The Proposed Plan Change will ensure that the District Plan, as a statutory and strategic document, is accurate and based on the most up to date information available to Council.

The existing Human Environment identifications for the subject sites are at odds with the range of activities and effects that the community would expect of land that has already been developed for residential and short-term accommodation purposes. The subject sites are all currently owned, managed and maintained by private landowners and there is a community expectation that it should continue to function in this capacity. The Proposed Plan Change would re-identify the nine sites and enable them to be managed sustainably and consistently in relation to their current land use status.

## ISSUES

Changing the identification of the nine sites is consistent with the policies and objectives of the District Plan and would bring the District Plan maps into line with activities currently occurring on the privately owned sites. The Open Space Environment does not accurately reflect the existing land use activities occurring on the sites, which is residential and not recreational.

A2-A21

A full outline of statutory requirements and discussion is attached at pages A2 to A21.

## RESOURCES

No specialist reports are required for the proposed Plan Change. Processing the plan change through the statutory process can be adequately resourced from existing budgets. No additional staff funding or resources are required.

## CONCLUSION

The Proposed Plan Change would re-identify the Human Environment of 8 Aio Wira Road, Bethells; 34 Don Buck Road, Massey; 326 Royal Road, Massey; and 7, 9, 11, 13, 15 and 17 Standage Road, Kelston from Open Space Environment to Waitakere Ranges, Living, Living, and Living 1 Environments respectively, to enable sites to continue to be used and maintained in accordance with their existing land use status. This change is important to ensure that the integrity of the District Plan is maintained and that the Plan reflects the current status of the land as privately owned residential sites.

The current identification of the land does not meet the District Plan policies for Open Space Environment as it has for some time been established and maintained as a residential use. In this particular instance, the re-identification of the subject sites would enable it to continue to be used and maintained for residential use. Given that any development on the subject sites would currently require non-complying resource consent under the Open Space Environment the proposed change is necessary to reflect the ongoing residential character.

## RECOMMENDATIONS

1. That the Proposed Plan Change 11 - To Re-Identify the Human Environment Identified of Nine Sites report be received.
2. That pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee approves Proposed Plan Change 11 to the Waitakere City District Plan to re-identify nine private owned sites as detailed in the following table:

Property:	Lot & DP	Proposed Human Environment:
8 Aio Wira Road, Bethells	Pt Allot 9 DP 1752	Waitakere Ranges Environment
34 Don Buck Road, Massey	Lot 1 DP 49674 & Section 1 Survey Office Plan 61028	Living Environment

Property:	Lot & DP	Proposed Human Environment:
326 Royal Road, Massey	Lot 1 DP 113914	Living Environment
7 Standage Lane, Kelston	Lot 13 DP 205876	Living 1 Environment
9 Standage Lane, Kelston	Lot 14 DP 205876	Living 1 Environment
11 Standage Lane, Kelston	Lot 15 DP 205876	Living 1 Environment
13 Standage Lane, Kelston	Lot 16 DP 205876	Living 1 Environment
15 Standage Lane, Kelston	Lot 17 DP 205876	Living 1 Environment
17 Standage Lane, Kelston	Lot 18 DP 205876	Living 1 Environment

3. That a decision notice stating approval of Plan Change 11 be publicly advertised on or about 15 September 2004.
4. That, Plan Change 11 be publicly notified on, or about 1 October 2004 to become operative.

Report prepared by: Chloe Trenouth, Planner: Policy Implementation.



## 14 WAITAKERE RANGES AND FOOTHILLS PROTECTION PROJECT - REPORT ON DEVELOPMENT OF LEGISLATION

### PURPOSE OF REPORT

The purpose of this report is to advise the Environmental Management Committee on development of the legislative component of the Waitakere Ranges and Foothills Protection Project. The report summarises the work that has been done to date, looks at the possible implications of this and seeks approval from Council to continue the development of draft legislation for possible inclusion in the Local Government Act (Auckland Provisions), or as a separate Local Government Bill. An additional report on this agenda discusses work underway on some of the non-regulatory aspects of the proposed package.

### BACKGROUND

The goal of the Waitakere Ranges and Foothills Protection Project is:

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

One of the key options for achieving better long-term protection of the Ranges and Foothills has been legislation. This option has the potential advantage of offering greater certainty and permanence of protection in the formulation and administration of the District Plan, while addressing concerns over the adverse cumulative effects that subdivision and development may be having in the area.

At its meeting of 26 May 2004, Council considered a report on the timelines associated with this project. In the report staff recommended a modified timeline that would provide opportunities for further consultation in order to promote informed and robust debate, particularly around the issues associated with the legislative option. The timeline, which was adopted by Council, envisaged further work being done on the package of measures, and the implications of these, during the period June to August 2004. This included addition work by a landscape architect consultant to help determine the role of the Foothills and to inform decisions on the boundaries of the Heritage Area. The intention was to report back to Council in September 2004 on the package so that progress can be reviewed and an appropriate consultation programme can then be devised.

In order to progress this matter further, legislation workshops were conducted with Environmental Management Committee members on 1 July 2004 and with Political Liaison Group members on 2 July 2004. A workshop regarding options for legislation was held with Auckland Regional Council Councillors on 2 August 2004. In response to that workshop, the Auckland Regional Council formally resolved to support pursuing legislation as part of a package of options for achieving long term protection for the Waitakere Ranges area. A further workshop was held on 2 September 2004 for Environmental Management Committee Members to discuss the development of possible legislation in further detail.

Consultation has also occurred on the form that the legislation may take, in terms of exploring the possibility of using the current review of the Local Government Act (Auckland Provisions no 2). A Political Liaison Group delegation met with the Minister of Local Government, the Hon. Chris Carter, on 27 July 2004, and proposed that the Minister consider including the proposed Waitakere Ranges and Foothills legislative provisions in the next round of Local Government Auckland legislation. The Minister indicated a willingness to consider such an approach, if it was the best option available. Support from other Councils for inclusion of the Waitakere Ranges provisions in this Bill was seen as desirable. The Minister reiterated his support for the project.

The Minister agreed to meet further with Political Liaison Group representatives to explore the issues, and directed that his officials work with Council officers to consider the policy and legislative implications of the proposed Ranges and Foothills legislation. Initial discussions have been held with officials from the Department of Internal Affairs, and further discussions are proposed. At this stage the timeline for the Local Government Act (Auckland Provisions no. 2) Bill looks like it fits well with the proposed consultation timeline for the wider discussion with the community on the draft legislation.

## **STRATEGIC CONTEXT**

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

## ISSUES

### Advice from Political Liaison Group

The Political Liaison Group considered the relevant information available on possible legislative protection of the Waitakere Ranges and Foothills at their meeting of 23 August 2004 and then resolved as follows:

The Political Liaison Group:

1. Notes the good progress made by Auckland Regional Council and Waitakere City Council officials in preparing background information, clarifying issues and developing high level concepts for legislative protection.
2. Notes the mandate to address permanence and certainty of protection of the Waitakere Ranges and Foothills derived from Stage 1 consultation, and the issues that were raised through Stage 2 consultation.
3. *Recommends* that legislation be pursued as part of the Waitakere Ranges and Foothills protection project.
4. *Recommends* that a high level, values-based approach be taken with the proposed legislation that:
  - does not affect current permitted activities in the District Plan;
  - is not too prescriptive;
  - achieves permanence and certainty while having the minimum effect on existing actual property.
5. *notes* that the following actions need to be taken before detailed legislation can be reported back to Council:
  - clarification of Local Government Act (Auckland provisions) and Local Government Bill processes;
  - provision of further technical information;
  - provision of further detailed policy advice on proposed legislation;
  - preparation of appropriate public information material;
  - obligation for ongoing public consultation.

### Principles Established Through Workshops

The following principles were established through the workshop sessions referred to above in order to guide development of the draft legislation:

- The purpose of the legislation is to provide certainty and permanence to the protection of the Ranges and Foothills, while addressing the problem of cumulative adverse effects
- There is also a need to improve the level of protection provided by the current District Plan and the Council's administration of it.
- Future risks associated with privately initiated District Plan changes and the pressures of urban growth need to be addressed now.
- The intention is to clarify that sustainable management in this context provides for a particular level of protection for the Ranges and Foothills.
- The values to be protected are landscape/landforms (natural & rural character), flora and fauna, ecological, hydrological, water supply and possibly historical/cultural/spiritual values (recreational was seen as an activity rather than as a value).
- The level of protection sought should be aimed at preserving the values listed above, while restoring some of these to their previous state.

- The legislation should address the adverse effects of both subdivision and development.
- Existing property rights are quite limited in the current District Plan, but include the right to make a resource consent application.
- The preferred legislative option is a hybrid or combination of a high level concept modelled on the Hauraki Gulf Marine Park Act (HGMPA), and a 'values'- based model that clearly describes in words what things require additional protection and what this protection means.

#### Process for Analysing Proposed Legislation

Any legislation that the Council might propose and support must be assessed in terms of its effect and its effectiveness. The background work prepared prior to the two stages of consultation already undertaken identified that there were some concerns with the statutory provisions applying to the area, and in particular the District Plan, and also the implementation of these provisions. Any legislation proposed should clearly contribute to a more appropriate management of the Waitakere Ranges and Foothills Protection Project Area and result in better outcomes than are currently being achieved. It is also critical that the potential implications for landowners can also be identified in terms of the extent that legislation will affect the ability of landowners to use, develop or subdivide their land. Additionally, the certainty of outcome, and the permanence of any protection provided must also be demonstrable.

It is suggested that any analysis of the implications of proposed legislation should focus on the criteria (or similar) set out below:

- Provision of "protection" additional to the Resource Management Act 1991?

Does the proposed legislation embody a clear strategic focus of protection for the Heritage Area? Does it apply a test or requirement that is additional to the Resource Management Act? Does it steer management in a direction that is appropriate to the Heritage Area? Does the proposed legislation give better guidance than might already be contained in the Resource Management Act? The proposed legislation must clearly relate to the Resource Management Act, as that is the planning context in which decisions in relation to the management of land in the Waitakere Ranges and Foothills Protection Project Area are made. However, it is important that the legislation adds something to the process, in the way of guidance and direction. Moreover, there must also be a clear and appropriate strategic context within which the legislation lies, and which it is intended to give greater protection to the Waitakere Ranges and Foothills Protection Project Area.

- Statutory Plan Provisions (Regional and District)

How much amendment to statutory plans is likely to be required by the legislation? Will the proposed legislation result in the development of better Statutory Plan provisions? Can there be certainty that there will be a permanent "improvement" in stat plan provisions? Once legislation is in place, there will be implications for statutory plans applying to the Heritage Area. It is likely that there will be a requirement to review these within a specified time-frame to see how they comply with or give effect to the provisions of the new legislation, and to ensure that they do. It will be important to be able to demonstrate how much amendment of statutory documents might be required.

- Scope of Effect

Will the legislation result in better outcomes? To what degree will the legislation impact on district plan implementation in relation to subdivision and development? What effects will it have on existing development potential? Does it strike the right balance between stronger protection and enabling landowners to use their land? A critical component of any analysis will be the likely effect of the legislation "on the ground". To be effective, the legislation should result in some different outcomes than are currently being seen in the Waitakere Ranges and Foothills Protection Project Area. Landowners and others will naturally be very interested in what effect the legislation will have on the subdivision, use and development of land.

- Will it improve "certainty" of outcomes?

One of the key criticisms raised in relation to the management of land in the Waitakere Ranges and Foothills has been that there is a lack of certainty as to what outcome will result from any given resource consent proposal. In other words, there is a concern that there is a lack of clarity in District Plan provisions, and some inconsistency in their application. To some degree, this is an unavoidable situation, in that any provisions will be subject firstly to interpretation at the stage when provisions are developed, and then again when they are applied. There will always be scope for the opinion of politicians, Council staff, applicants and the Environment Court to affect outcomes. However, any proposed legislation, to achieve the purpose of its being established, should lead to greater consistency. This will principally be achieved by ensuring there is a clear direction and guidance given in the legislation to both the nature and implementation of statutory provisions.

- Will it achieve "permanent" protection?

One of the strongest drivers for the entire Waitakere Ranges and Foothills Protection Project has been a desire to establish a protection framework that there can be some certainty will be permanent - i.e. which cannot be "clawed back" in any way. The degree to which the proposed legislation can and does facilitate this will be particularly important assessment criteria.

- Does it set a framework for the varied yet related nature of Waitakere Ranges and Foothills Heritage Area

The Waitakere Ranges and Foothills Protection Project Area contains a variety of areas, including the eastern foothills, the 'core' forested area of the Waitakere Ranges and the Manukau and Tasman coastal villages. Moreover, there is considerable variation within these areas. Does the legislation adequately and appropriately reflect the different nature, quality and sensitivities of the different parts of the proposed Heritage area while recognising the inter-relationship of these areas?

## RESOURCES

The Waitakere Ranges and Foothills Protection Project budget has sufficient money and staff resources in the current financial year to undertake work associated with developing and consulting on the legislative component of the programme.

## CONCLUSION

Officials from Waitakere City Council and Auckland Regional Council have made substantial progress in developing the form and content of possible legislation to protect the Waitakere Ranges and Foothills. The Political Liaison Group has noted this progress and recommended that Council now formally endorse pursuing legislation as part of the Waitakere Ranges and Foothills Protection Project.

The Political Liaison Group has also recommended that a high level, values-based approach be taken in the proposed legislation, while having regard to the possible impacts that such an approach could have on affected ratepayers. This approach is entirely consistent with the principles that were established to guide development of the legislation through Council workshops. The same resolution acknowledges that there are still issues relating to analysis of the content of the legislation, the form that it will take, and the need for public information and consultation that must be resolved before Council can consider a detailed legislative proposal.

### **RECOMMENDATIONS**

1. That the Waitakere Ranges and Foothills Protection Project - Report on Development of Legislation be received.
2. That the Environmental Management Committee note the mandate to address permanence and certainty of protection of the Waitakere Ranges and Foothills derived from Stage 1 consultation, and the issues that were raised through Stage 2 consultation.
3. That the Environmental Management Committee support pursuing legislation as part of a package of options for achieving long term protection for the Waitakere Ranges area.
4. That the Environmental Management Committee endorse a high level, values-based approach to the legislation while having regard to the possible impacts that such an approach could have on affected ratepayers.
5. That Environmental Management Committee note that Council staff are briefing government officers on the draft legislative proposals.
6. That Council endorse the continuing discussions with the Minister of Local Government on the possible inclusion of Waitakere Ranges and Foothills protection provisions in the Local Government (Auckland) No 2 Bill.

Report prepared by: Bob Drey, Principal Advisor Environmental Projects.



## **15 HEARING REPORT FOR THE DRAFT POLICY ON DOGS AND DOG CONTROL BYLAW**

### **PURPOSE OF THE REPORT**

The purpose of this report is to provide the Environmental Management Committee with information on submissions received on the Council's draft Policy on Dogs and draft Dog Control Bylaw, and to recommend decisions on those submissions. Submissions closed on 19 July 2004.

### **BACKGROUND**

The Dog Control Amendment Act 2003 ("the amendment Act") came into force on 1 December 2003 and requires Council to review its policy in respect of dogs by September 2004, and to review its bylaws regarding dogs within 60 days of adopting the policy.

The principal laws for the management of dogs in New Zealand are contained in the Dog Control Act 1996 ("the principal Act"). The principal Act imposes obligations on dog owners, and provides regulatory powers to Council for the control and care of dogs.

To ensure Council's regulatory powers are used effectively and efficiently, and form part of a multi-faceted approach to the management of dogs (including for instance education and provision of services and facilities), the principal Act requires every Council to adopt a policy in respect of dogs in its area through a public consultation process.

Where necessary, the principal Act also empowers Council to give effect to its policy through bylaws, for instance to identify areas in the City where dogs can or cannot be taken and where they are required to be on a leash.

**Note:** The introduction of the policy states that a policy on dogs must be adopted by 1 September 2004. This clearly cannot be achieved as the policy cannot be adopted until submissions have been considered by Council. Many submitters have expressed concern over this statement. However, Waitakere City Council will be in a position to adopt its policy on dogs before the end of September 2004.

## **STRATEGIC CONTEXT**

As a regulatory body, Waitakere City Council must be cognisant of all legislation that it is expected to comply with and implement. The Dog Control Amendment Act 2003, which came into force on 1 December 2003 requires Council to review its policy in respect of dogs by September 2004, and bylaw within 60 days of adopting its policy.

A policy on the control of dogs, implemented through a by-law, that will minimise any danger, distress and nuisance from dogs to the community generally and that will provide for the well being, exercise and recreational needs of dogs and their owners contributes towards making Waitakere a safe city; one of Council's five top priorities.

## **ISSUES**

### **Summary**

A22-A103

Submissions were received from 364 submitters, each with one or more points of submission. A summary of the points of submission are attached at pages A22 to A103 and a copy of all the submissions has been made available to Councillors and to the public. Issues that were raised by submission are discussed below.

### **General Support**

Submitters 6, 86, 104 and 350 expressed general support for the provisions of the Policy and Bylaw, and many submitters support the wellbeing provision in Clause 8 of the Bylaw.

### Recommendation

That the submissions be accepted and no change is required.

### **Definitions** (Policy on Dogs, Clause 2.1 Dog Control Bylaw)

Submitter 39 seeks an addition to the definition of "working dog" to include participants in dog sports, as these dogs are under strict control by their owners because of the nature of their training and sports activity.

#### Discussion

The exemption for working dogs from the rules restricting dog access is for the purpose of allowing the working dog to carry out its function in assisting its owner. The exemption from the restrictions is not related to the level of control the owner might have over the dog, but relates to the purpose for which the dog must accompany its owner.

#### Recommendation

That the submission be declined and the definition of working dog to remain the same as the definition in the Dog Control Act.

Submitter 17 seeks a specified length of leash, for example, a four-metre maximum.

#### Discussion

The current dog bylaw includes in the definition of leash a two metres maximum length for the reason that there have been instances of dog owners having dogs on very long leashes where control has been lacking. However, there are some extendable/retractable leashes which do enable the dog owner to exercise greater control and also provide improved exercise opportunities for the dog. So a modification of the current definition of leash may address this point.

#### Recommendation

That the submission be accepted and the definition of leash in the Policy and Bylaw be as follows:

**Leash:** means any lead, chain, strap or other sufficient contrivance of a length not exceeding two metres, which is in good order and will not break if the dog strains or pulls on it. The leash must also have a secure handle or loop to enable the owner to maintain a hold on the leash. Where a leash is retractable/extendable then as long as the leash is retracted to be a maximum of a two metre length when the dog and owner are within 10 metres of any other person or animal then such a contrivance is deemed to fall within the definition of "leash".

#### **Foreword & Introduction (Policy on Dogs)**

Many submitters opposed the statement "It is a privilege to own a dog" and expressed the belief that it is a right rather than a privilege.

#### Discussion

The statement is expressed as Council's perception and as such is beyond challenge.

#### Recommendation

That the submissions be declined and the wording remain.

The same submitters also seek a more positive wording to the Introduction by including the benefits to society that dogs provide, such as encouraging fitness and health, relieving stress and providing companionship and safety.

#### Discussion

The introduction is more about why there is a need to have a policy on the control and care of dogs rather than to advocate either way about dog ownership.

Recommendation

That the submission be declined as the educational material produced by Animal Welfare is a more appropriate avenue to highlight the benefits of dog ownership.

Submitter 79 seeks that in the third bullet point of the Foreword the word “determined” as in the impact of a dog on others is determined by the owner of the dog, is amended to “controlled.” The reason given is that as it stands it reads as though the impact would be as interpreted by the owner, which is not the intended meaning.

Discussion

Although the submitter raises a valid point, the submitter’s rationale also holds for the use of the word “controlled” so it would seem best to alter the grammatical structure of the sentence.

Recommendation

That the submission be accepted and the third bullet point be reworded to read:

“The impact of a dog on others is in the hands of the owner of the dog.”

**Editing Changes**

Submitter 19 seeks amendments to Clauses 10.3 and 10.4 of the Bylaw which reference Sub-clause 5(1) and which should reference Clause 10.1 instead.

Discussion

This is an editing error which should be corrected.

Recommendation

That the submission be accepted and the changes made.

**Education (Policy on Dogs)**

Submitter 5 and others seek guidance to be provided to people not owning dogs, particularly for children, on the correct and safe behaviour around dogs.

Discussion

This is a really important point as it is often the sector of the community that do not own dogs that are very ignorant about dog behaviour. The second bullet point in the Policy on Education in the draft does cover this point; “Council will promote better understanding in the care and control of dogs through: The promotion of better management of dogs by way of media advertising, and lectures to schools, clubs and the general public.”

Recommendation

That the submissions be accepted but that no change is required to the policy.

Many submitters seek the promotion of better management of dogs through educating the whole community about dog behaviour and management with events reinforcing good habits and teaching children about approaching dogs.

#### Discussion

Council places great emphasis on the benefit of education and advocacy and appreciates the support and involvement of community and interest groups towards wider community awareness. Specific programmes and initiatives on raising the level of understanding of issues around dogs will be subject to funding through the Annual Plan process.

#### Recommendation

That the submissions are accepted in part to the extent that particular initiatives will be considered when put forward through the Annual Plan process.

#### **Microchipping** (Policy on Dogs).

Many submitters oppose micro chipping of dogs, whereas submitter 3 seeks the micro chipping of all dogs not just new dogs.

#### Discussion

The requirement to microchip newly registered dogs from 1 July 2006, and menacing and dangerous dogs on classification is mandated by the Dog Control Amendment Act 2003 and cannot be amended through local authority bylaws. The intention of the law is to eventually have all dogs with microchips for identification. However, for practicality reasons it makes sense to start on newly registered dogs and leave the current population unless a problem arises, that is, the dogs becomes "dangerous".

#### Recommendation

That the submissions be declined.

#### **Disqualification**

Submitter 57 opposes the ability of Council to disqualify a person from owning a dog if the owner commits three or more infringement offences.

#### Discussion

Disqualification is a not automatic but is matter that would be at the discretion of Council according to the nature of the offending. Council must have this avenue open for serious offending.

#### Recommendation

That the submission be declined.

#### **Fees** (Policy on Dogs)

Many submitters seek a reduction in dog registration fees for senior citizens, and further reduction for those with de-sexed dogs, and those who have attended approved training courses.

#### Discussion

The fees structure for dog registration currently offers reduction for senior citizens, as well as other categories of dog owner. The fees charged are subject to change from time to time and not set within the Policy.

#### Recommendation

That the submission be accepted but no change is required to the Policy.

Submitter 23 supports the current dog registration fees structure but seeks the refunding of training fees or further registration fee reduction for properly trained dogs.

#### Discussion

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, etc. 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 - de-sexing and dog owner education test - cover the responsibility incentive aspect to some extent.

#### Recommendation

That the submission be declined

Submitter 32 opposes dog registration and suggests this would enable rates and the size of the council to be reduced.

#### Discussion

Dog registration is a statutory requirement which Council is legally obliged to comply with.

#### Recommendation

That the submission be declined.

### **Banned Breeds**

Submitter 20 seeks that no dangerous dogs be brought into New Zealand.

#### Discussion

The Dog Control Act as amended 2003 prohibits specific breeds (4 in total) from being brought into New Zealand and requires the individuals of these breeds already in New Zealand to be muzzled and leashed in public. These four breeds are classified as "menacing." A dog of any breed may be classified as "menacing" or "dangerous" by the Council if it considered to pose a threat to any person or animal, or there has been a conviction for an offence involving aggressive behaviour resulting in harm.

#### Recommendation

That the submission be declined as the Dog Control Act already restricts certain breeds from being imported.

Submitter 12 opposes specific breeds being banned for import into or breeding in New Zealand.

Discussion

This is a requirement of the Dog Control Act and the particular purpose of the 2003 Amendment. The issue is not addressed within the draft policy and bylaw but mandated by law.

Recommendation

That the submission be declined.

Submitter 25 seeks that dangerous dogs be required to be on a leash and muzzled.

Discussion

This is a requirement when a dog has been classified as dangerous or menacing.

Recommendation

That the submission be accepted.

Submitter 13 seeks that dogs classified as menacing be automatically de-sexed.

Discussion

Council does have the ability to require dogs that it has classified as menacing (by breed or behaviour) or dangerous (by behaviour) to be de-sexed.

Recommendation

That the submission be declined and it remain at Council's discretion when to require a dog to be de-sexed.

**Removal of Faeces** (Clause 4.1 Dog Control Bylaw).

Submitter 25 seeks that dog faeces must be removed by the dog's handler at the time.

Discussion

This is provided for in Clause 4.1 of the draft Bylaw.

Recommendation

That the submission be accepted.

Many submitters supported the requirement for owners to remove faeces but also seek promotion and encouragement with provision of special bins.

Discussion

The issue is operational and does not require change to the Policy or Bylaw. However an in depth look at this issue in 2003 concluded that the special bins would be a double up to existing park bins and would therefore be unjustified in terms of expenditure and that promotion and education of disposal of dog waste using existing resources were the keys to improving this aspect of dog owner behaviour.

Recommendation

That the submission be declined.

### **Requirement to Provide for Well Being Of Dogs** (Clause 8, Dog Control Bylaw)

Many submitters supported this section of the Bylaw.

#### Recommendation

That the submissions be accepted.

### **Limiting Number of Dogs** (Clause 10, Dog Control Bylaw)

Many submitters opposed this section of the bylaw limiting the number of dogs to one on premises of less than 600m<sup>2</sup>. The reason provided is that dogs are companion animals and it is unnatural for them to be alone. The lonely dog is more likely to be unhappy and cause problems than if it had a companion. With most people away from home during the day, a responsible owner should have the option of keeping two dogs. Within reason, the land area is not relevant (except for large dogs).

#### Discussion

The submitter's rationale about companionship is valid and is a strong reason why there is a two dog limit on premises less than 2000m<sup>2</sup>. However on smaller properties Council has had significant problems in the past with multiple dogs and that is why the restriction was introduced for properties of less than 600m<sup>2</sup>. Where a dog owner believes that having two dogs on a property less than 600m<sup>2</sup> will not be a problem, then the option is still available to apply for a permit to keep two dogs. A part of the permit application process is to obtain agreement with adjoining neighbours for the keeping of two dogs.

#### Recommendation

That the submissions be declined.

### **Bitches in Season** (Policy on Dogs)

Submitter 110 opposes the Council recommendation (Policy 6) that entire bitches are treated with veterinary medication to prevent them coming into "season" for the reason that no safe medication is available in New Zealand.

#### Discussion

Many common interventions and/or medications are not one hundred per cent safe but are used with calculated risk. The option between administering medication and an unwanted litter is debatable. With an unwanted litter there is potentially up to another 12 or so unwanted dogs to add to the dog control problem including euthanasia of surplus dogs. It is arguable that medication is preferable to unwanted litters where the dog is entire and de-sexing is not practical and/or affordable in a particular instance. However the best solution is de-sexing if possible and affordable.

#### Recommendation

That the submission be declined.

### **De-Sexing of Dogs**

Submitter 17 seeks that all dogs within the city be de-sexed except for registered breeders, and that all unregistered dogs not de-sexed be destroyed.

#### Discussion

The Dog Control Act 1996 and amendments contain particular provisions relating to the requirements of de-sexing dogs belonging to non compliant dog owners. There is no power for Council to override the existing statutory provisions within a Bylaw

Recommendation

That the submission be declined.

**Dog Breeder's Permit**

Submitter 39 supports the requirement for a Dog Breeder's Permit.

Submitters 214, 224 and 310 oppose the requirement for a permit to breed a litter of dogs.

Discussion

Excess breeding of dogs is a problem nationwide and results in people within animal control and welfare agencies euthanizing thousands of dogs per annum because there is a surplus of dogs. The requirement for a dog breeder's permit is designed to address the owners who allow their dogs to breed litter after litter with no consideration of the future accommodation of the offspring.

Recommendation

That the submission 39 be accepted and that the submissions 214,224 and 310 be declined.

Many submitters seek the banning of sale of dogs in pet shops that are not council-accredited with high standards of dog care and buyer vetting.

Discussion

It is accepted that the sale of dogs can be a problem. However where potential dog owners purchase a dog through an agency such as a pet shop then usually standards are reasonable and if not then complaints are made to Council and the matter is followed up under the terms of the Animal Welfare Act. The bigger problem is the "dogs free to a good home" culture that exists in various media advertising. This latter type of sales contains no controls at all and is an area that may be addressed once a strategy is devised.

Recommendation

That the submission be declined.

**Control of Dogs in Public Places**

Submitter 9 seeks more control over dogs, with a maximum of two per property, fully fenced for dogs, compulsory dog obedience courses and with owners having to pay full medical expenses and compensation plus a heavy fine for their dog attacking people.

Discussion

The draft Bylaw does limit dogs to two per property and requires a permit for more dogs. Council also advocates for dog obedience classes and applies restrictions to limit opportunities for dogs to cause a nuisance to humans and other animals. Council believes that, through its Policy and Bylaw, it has struck a fair and reasonable balance between preventing harm and nuisance arising from dog ownership on the one hand, and providing for the wellbeing and health of dogs and their owners on the other.

Recommendation

That the submission be declined.

Submitters 31 and 57 oppose the restriction of dogs to being on a leash in any public place.

Submitter 3 seeks that all dogs be required to be on a leash when being exercised in a public place.

Discussion

There are plenty of parks in the City where dogs are permitted off leash providing ample opportunity for exercise and freedom. In the interests of everyone's safety, including the dog, it is appropriate that a dog be restrained by a leash when exposed to any number of people, other dogs and vehicles passing by public areas.

Recommendation

That the submission (3) be accepted and submissions (31 and 57) be declined and dogs be required to be on a leash in any public place.

Submitter 16 seeks that dogs be prohibited from all shops, and particularly be prohibited from being left tied up outside while the owner shops.

Discussion

The submission coincides with the proposed bylaw. Dogs must be on a leash in any public place and this includes the streets outside shops. Dogs are also not permitted in shops, even on a leash. The owner is responsible for the dog at all times, whether the dog is tied up or not.

Recommendation

That the submission be accepted.

Submitter 16 seeks an age limit below which children should not be able to be left in control of walking a dog.

Discussion

The definition of a dog owner under the Dog Control Act 1996 includes "*the parent or guardian of a person under the age of 16 years who owns the dog*". With the vast range of individual behavioural differences between dogs and also between capabilities of under 16 year olds to manage a dog it becomes very arbitrary where to draw the line in terms of an age limit restricting children from walking the dog. In addition, it is seldom that Council receives complaints in relation to problems relating to a child being in charge of an uncontrolled dog. It therefore seems reasonable to defer to the parent or guardian as the person responsible for making this decision.

Recommendation

That the submission be declined.

**Regional Park Land**

Submitter 6, the Auckland Regional Council, seeks the following wording amendments to the Policy on Dogs:

Policy 3, note 2

(a) Replacing the words "*Whatipu Scientific Reserve and the Crown foreshore*" with the words "*Whatipu Scientific Reserve and adjoining Crown foreshore and the Pararaha Valley.*"

(b) Replacing the words "*Watercare dams area and Paraha Valley*" with the words "*Water supply dam buffer zones.*"

Discussion

The amendments sought are to more accurately describe locations.

#### Recommendation

That the submissions be accepted and the words amended.

Auckland Regional Council also seek amendments to the Dog Control Bylaw, Clause 3.5 (c), to include the Regional Council as potential organiser of a special event on regional park land with performing dogs or dogs associated with emergency services for which they may wish to exempt from the restrictions of control in public places for the purposes of the event.

Discussion

An event on the Regional Park for which the exemption would be sought would not need to be referred to this Council.

#### Recommendation

That the submission be accepted and the words "or Regional Council" be added.

Auckland Regional Council seeks that the policies as they relate to the Regional Park land be carried through to the Bylaw, that is, where dogs may be restricted on Regional Park land.

Discussion

Although the Regional Council has the power under the Local Government Act and Reserves Act to develop its own bylaws, in the interest of a unified approach to the management of dogs in Waitakere City the Regional Council is willing to adopt Waitakere City policies and bylaws for the control of dogs as the only ones that apply to the Waitakere Ranges Regional Park. This will necessitate the City Council warranting the regional park rangers as dog control officers or dog rangers under the Dog Control Act for the purposes of administering the bylaws on the regional park land.

#### Recommendation

That the submission be accepted and the restrictions for dogs as outlined in the Policy be reflected in the Bylaw.

### **Prohibited Areas**

Submitter 4 opposes the grassed area at the back of Cornwallis Beach being prohibited to dogs.

Discussion

This area is part of the Regional Park and dogs are prohibited from the grassed area by the Auckland Regional Council because of the high level of use by the public. Dogs are permitted on a leash on the beach or off leash between sunrise and 9.00 am.

Recommendation

That the submission be declined.

Many submitters oppose dogs being prohibited from picnic areas and seek designated picnic areas for dog owners.

Discussion

The prohibition applies to areas specifically set up for picnics with the intention of avoiding the potential clash of dogs with food, nuisance and faeces. People who wish to picnic with their dogs are at liberty to do so in another area. It is not considered necessary to provide designated areas for picnicking with dogs.

Recommendation

That the submissions be declined.

Submitter 56 opposes the prohibited to dogs areas being playgrounds and sports fields and seeks a relaxation of restrictions on parks. They submit that dogs will be at risk of not being able to socialise with people and other dogs if they are too restricted.

Discussion

There appears to be a general misconception that parks are not generally off leash areas.

Recommendation

That the submission be declined but that it be clearly advertised where dogs can be exercised off leash.

Submitter19 seeks that any fitness apparatus and shopping areas be included as Prohibited Areas.

Discussion

Fitness apparatus is mentioned as prohibited to dogs in the policy but is not carried through in the bylaw. This is an omission. Dogs must be on a leash in shopping areas but are not permitted inside shops.

Recommendation

That the submission is accepted in part to the extent that the wording "fitness apparatus" be included in (c) of the First Schedule of the Bylaw.

Submitters 264 and 333 oppose the 10 metre restriction to dogs around sports fields and playgrounds.

Submitter 79 seeks that the prohibited zone around sports fields and playgrounds be increased to 20 metres.

Discussion

The intention of prohibiting dogs within 10 metres around sports fields and playgrounds is to ensure that there is no opportunity for faeces to be left in the area, and to avoid the potential conflict of dogs with people or children rushing around and exciting the dogs. It is therefore unnecessary to increase the prohibited zone as 10 metres achieves the purpose.

Recommendation

That the submissions be declined.

**Leashed Areas**

Submitter 1 seeks that Harbourview - Orangihina, at least from the boardwalk in a seaward direction, be designated as a Leashed Area and included in the Second Schedule of the Bylaw. The reason for this is that the wetland area below the boardwalk and the whole coastal margin is an important wildlife area with fern bird, which is a clumsy low-flying species, and possibly bittern and banded rail, which tend to remain still and hide when under threat. These three species are threatened species and vulnerable to ground predators. The Crown Foreshore under the administration of the Department of Conservation is already an area identified as prohibited to dogs.

Discussion

At present as a Council reserve, the area is classified as an Off Leash Area. The Parks planning officer agrees that the requirement to have dogs on a leash is anticipated in the reserve management plan for the area. As the park becomes developed it may be that part of the higher ground will become an Off Leash Area.

Recommendation

That the submission is accepted and Orangihina be included in the Second Schedule as a Leashed Area

Submitter 106 opposes part of North Piha beach being a leashed area.

Submitter 109 opposes beaches (with the exception of Piha and Bethells) being leashed areas as this cannot be justified.

Discussion

The coastal margins around both the Waitemata Harbour and the West Coast are areas used by a variety of wildlife which needs protection from dogs. Species such as little blue penguin are well known to be vulnerable to dog attack. In order to protect wildlife the beaches are generally leashed areas. Provision is made for off leash exercise at Bethells. Piha and Cornwallis beaches, but limited by space and/or time.

Recommendation

That the submissions be declined.

Submitter 57 opposes the rule that dogs must be on a leash in any public place.

Discussion

The reason for requiring dogs to be on a leash in public places is to protect both dogs and people from unwelcome dogs approach or interference. A dog can become alarmed by sudden noise or disturbance and respond unpredictably. To safeguard all parties, requiring dogs to be on a leash is not unreasonable.

Recommendation

That the submission be declined.

Submitter 19 seeks clarification of the requirement regarding dogs around shopping centres.

#### Discussion

Shopping centres are considered public places and therefore dogs must be on a leash. However, shopping malls would be classified as buildings and open to the public, where dogs would be prohibited (except for working dogs).

#### Recommendation

That the submission be accepted with no change being required.

#### **Off Leash Areas**

Many submitters seek the following areas to be off leash for dogs:

- Older part of Waikumete Cemetery;
- Karamatura Beach Reserve and beach;
- Kakamatua beach;
- Extend the off leash time at Cornwallis;
- All Manukau Harbour beaches;
- At least one off leash area in each suburb.

Submitters 40, 61, 69 and 108 seek more areas where dogs under the control of owners can be unleashed.

#### Discussion

At the discretion of the Cemetery and Crematorium Manager, dogs are permitted within Waikumete Cemetery grounds provided they are on a leash. This is a concession as, in the rest of Auckland region, dogs are prohibited from cemeteries.

The reserve backing on to Karamatura Beach is part of the Waitakere Ranges Regional Park and is currently being grazed by sheep. The Auckland Regional Council will be continuing to lease the land for grazing and consider it inappropriate for dogs to be off leash in this area. The Regional Council also administer the beach area adjacent to the regional park.

Kakamatua beach (around the Kakamatua Inlet) is a wildlife area with fern bird and dotterel habitat.

All Off Leash Areas on beaches are restricted to daylight hours in order to protect wildlife that may be roosting or returning to roosts during the night. Cornwallis Beach is used by many visitors during the day and it is considered sufficient for dogs to be allowed off leash in the early part of the day only.

Off leash areas on beaches must be separated from any wildlife and identified to be clear to dog owners and other beach users; such is the case at Bethell's and Piha beaches. Dogs are permitted on any other beach in Waitakere City provided they are on a leash, and are able to be off leash on any Council reserve.

All parks and reserves are off leash areas provided the dog is not being a nuisance and can be controlled by its owner.

#### Recommendation

That the submissions be declined.

Many submitters consider that, although dogs are permitted off leash, many reserves are unsuitable for off leash exercise as they are either close to busy roads or children's playgrounds, and many parks have signage stating that dogs must be on a leash.

Discussion

It appears that the international symbol with a dog on a leash has been used on park signs in order to indicate that dogs must be under the control of their owner.

Recommendation

That the submissions be accepted in part to the extent that park signage will be reviewed to signal clearly that dogs may be off leash but must still be under the control of their owner.

The same submitters seek clear signage indicating off leash areas and times of use.

Discussion

The park signs are to be altered to be clear that they are off leash areas, Piha has a sign with a map indicating the different areas of control, and Bethell's Beach off leash area is marked with green poles. There are also maps indicating these areas in the Policy and Bylaw, and a list of Council Reserves.

Recommendation

That the submission be accepted and every effort made to clarify the situation for dog owners and the community at large.

Submitter 79 opposes all Council reserves being off leash areas.

Discussion

Council reserves have been off leash areas since 1997, and provided owners are able to command their dogs and bring them to heel, there is no reason why there should be any conflict with other park users. Where dogs are in a neutral territory it is Council's experience that few incidents of dog aggression or other problems occur and that the bulk of dog control problems occur on or around the dogs' territories and dog owners' residences as opposed to parks and reserves.

Recommendation

That the submission be declined.

Submitter 165 seeks that dogs be required to be on a leash in most parks and reserves with maybe one in four being off leash and one in four being prohibited to dogs to cater for all park users.

Discussion

Parks and reserves have been off leash areas since 1997 with few problems. Dogs are already prohibited from playgrounds, sports fields and picnic areas, and unless there is a strong argument for change, the status quo should remain.

Recommendation

That the submission be declined.

### **Designated Dog Exercise Areas** (Policy on Dogs, Fourth Schedule Dog Control Bylaw)

Submitters 11, 18, 121 and 331 oppose there being no designated dog exercise areas and seek such areas to be provided. A designated area would enable dogs to be exercised in the knowledge that there would be no conflict with other users of the area. People who wished to avoid dogs would not go there.

#### Discussion

Designated dog exercise areas are for the primary use of dog owners wishing to exercise their dogs without constraint. Such an area would be fully fenced and sign-posted, may provide specific dog exercise opportunities and would be an area where dangerous and menacing dogs could be exercised off leash if muzzled and responsive to their owner. This is an option open to Council and may be the subject of Annual Plan submissions.

#### Recommendation

That the submission be accepted in part to the extent that it be considered for future budgeting to develop such an area.

Submitters 58, 59 and 64 oppose Council considering designated dog exercise areas where dangerous and menacing dogs can be exercised.

#### Discussion

Designated dog exercise areas are for the primary use of dog owners wishing to exercise their dogs without constraint. Such an area would be fully fenced and sign-posted, may provide specific dog exercise opportunities and would be an area where dangerous and menacing dogs could be exercised off leash if muzzled and responsive to their owner. This is an option open to Council and may be the subject of Annual Plan submissions.

#### Recommendation

That the submissions be declined.

### **RESOURCES**

No additional resources are required.

### **CONCLUSION**

With the amendments recommended in this report and any the Committee wish to make as a result of hearing submitters, the Policy on Dogs and Dog Control Bylaw can be adopted.

### **RECOMMENDATIONS**

1. That the Hearing Report for the Draft Policy on Dogs and Dog Control Bylaw report be received.
2. That the draft Policy on Dogs and Dog Control Bylaw be adopted with amendments.

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



**PART IV - CONFIDENTIAL ITEM**

**16 HENDERSON VINEYARDS BUSINESS CAMPUS - UNIVERSAL DRIVE EXTENSION**

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

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely Henderson Vineyards Business Campus - Universal Drive Extension.

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"><li>Henderson Vineyards Business Campus - Universal Drive Extension</li></ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"><li>enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li></ul>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

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

- The report contains details that could affect Council's negotiations for possible property acquisitions.*

