

**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO
BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN,
WAITAKERE CITY, ON TUESDAY, 8 MARCH 2005
COMMENCING AT 9.30 AM**

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PART A - OPENING OF MEETING

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

Meeting Minutes - Tuesday, 8 February 2005.

RECOMMENDATION

That the minutes of the Meeting of the Planning and Regulatory Committee held on Tuesday, 8 February 2005, as circulated, be taken as read and now be confirmed.



PART B - REGULATORY / ENFORCEMENT

4 LEGAL UPDATE (AS AT 24 FEBRUARY 2005)

INTRODUCTION

The following is a list of legal actions in respect of matters within the scope of the Planning and Regulatory 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 or proceedings were first filed in Court.

COSTS - MAWHINNEY & RELATED ENTITIES

A1 At the January 2005 meeting the Planning and Regulatory Committee requested information regarding the costs incurred by the Council in respect of the various court proceedings initiated by Peter Mawhinney and his various companies. A schedule of costs and recoveries is attached as an appendix at page A1.

ENVIRONMENT COURT

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

Council's application for costs against Mr Mawhinney was heard before Judge Whiting and two commissioners on 17 February 2005. Having heard submissions the Court awarded \$70,000 costs, plus approximately \$4,500 disbursements (\$74,500 in total) reflecting an almost 70% recovery on costs. It is considered that this is a good outcome from Council's point of view, in light of experience with previous costs awards in the Environment Court.

The order is currently being sealed and demand for payment will be made immediately thereafter. Mr Mawhinney has 15 working days in which to appeal the decision. An appeal does not operate as a stay. It is recommended that enforcement proceedings be commenced to ensure payment. If an appeal is lodged it will be necessary for Mr Mawhinney to seek a stay.

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. The parties are presently considering consent orders which may settle this appeal.

Abacus Developments Limited & Mawhinney v Waitakere City Council (February 2000)

This is a long running appeal against 29 consent conditions imposed on a subdivision consent previously held by Abacus. It was set down for hearing in week of 14 February 2005 before Judge Whiting, together with various other matters relating to Peter Mawhinney and his related companies. The case was opened by Peter Mawhinney, and the Judge (and the two commissioners) then retired to read the evidence. The Judge was clearly very concerned about the amount of evidence that Mr Mawhinney had filed (approximately 1200 pages of evidence-in-chief and a further 200 pages of 'rebuttal') and also the extent of the submissions.

The Judge also considered that Mr Mawhinney was unnecessarily duplicating proceedings in light of the current reference appeal (RMA 886/98) in relation to the proposed Dilworth Structure plan, which is part heard. The Judge took the view that the Court would be better to spend its time on the structure plan rather than this resource consent appeal which concerns largely the same land. The outcome of this appeal could potentially pre-empt the structure planning process, which the Court has determined is the appropriate way to deal with the land. The reference was progressing and will be heard in August 2005 if mediation is not successful prior to that time. In those circumstances the Court considered that it was not appropriate to hear this appeal as it may well compromise the structure plan. The Court ordered the proceeding be adjourned *sine die*.

Consequently this case will be held in the 'on hold' list by the Court, at least until the structure plan proceedings have been concluded. Judge Whiting also commented that, had Mr Mawhinney continued with this appeal, the Court would have considered entertaining an application to have the Dilworth Structure Plan struck out as a potential abuse of process.

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. The parties attended a Court-assisted mediation on 7 September 2004, however no resolution was achieved. The parties are in discussions regarding timetabling for a hearing on this matter.

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 20 October 2004. Progress has been made and, as a result, the Council is likely to consider the options for dealing with the Plan Change at the end of March 2005.

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. Settlement discussions are taking place in an attempt to refine the issues in dispute.

Auckland Regional Council v Waitakere City Council (September 2004)

An appeal by Auckland Regional Council against a decision by the Council to grant approval to a subdivision by Mr P Lipsham, relating to the property at 146-148 Parker Road, Oratia. Evidence is to be exchanged over the next few months, with a hearing after mid 2005.

CDL New Zealand Limited v Waitakere City Council (October 2004)

An appeal against Council's decision granting subdivision consent; the appellant opposes the financial contribution conditions in respect of stormwater. Negotiations between the parties have resulted in agreement on the subject conditions and a joint memorandum and draft order has been filed in Court and approved. This matter is now concluded.

Trichon v Waitakere City Council (October 2004)

An appeal against an abatement notice issued by Council in respect of unauthorised earthworks. The matter was referred to a Court-assisted mediation on 17 November 2004 and it has since been agreed that the Trichons' consultants would provide the required further information with the purpose of advancing the resource consent application for stabilisation of the earthworks and additional development of the site (as proposed by the Trichons). The Trichons have since provided Council with reports from a geotechnical engineer and survey plans regarding the proposed development and remedial works; further information is still required before the application can be processed.

However, given the progress made to date, the Council considers that the current abatement notice is no longer required and will advise the Court that the notice can be cancelled and the appeal can be allowed by consent.

E A Haines v Waitakere City Council (December 2004)

An appeal against a decision of Council's Commissioner (John Childs) to refuse consent for a golf driving range. The appeal has only recently been filed and the parties to the appeal have yet to taken any substantive steps.

Interested parties have confirmed their interest, and now this has occurred Council will canvas the possibility of an agreed resolution. If resolution is not possible, a timetable for the exchange of evidence will be formulated by the end of March 2005.

Vault Investments Limited v Waitakere City Council (October 2004)

An appeal (pursuant to the Local Government Act) against Council's confirmation of its decision to create a pedestrian mall at Todd Avenue, New Lynn as part of the town centre revitalisation (resolution no.1344/2004 on 28 July 2004 confirming resolution no.854/2004 on 26 May 2004), together with the amendments to the Todd Triangle redevelopment plan as recommended by the Hearings Committee in response to the Appellant's submissions. The Appellant owns tenanted commercial properties in Todd Avenue and submitted that the loss of roadside parking resulting from the creation of a pedestrian mall reduces their commercial viability. They also have an issue with a resource consent parking shortfall in relation to Council's district plan car parking requirements for their property redevelopment plans given that Council is removing the car parking at Todd Avenue.

The parties are still negotiating the matters and a further update is to be provided to the Court by the end of March, when it is hoped that the matter can be resolved.

Auckland Regional Council v Waitakere City Council (February 2005)

An appeal against the Council's decision granting consent to Shefco Limited to establish a food processing facility at 76-78 State Highway 16. Notice of reply to be lodged shortly.

Waitakere City Council v Minister of Defence (February 2005)

Council has recently filed a Notice of Appeal in relation to a proposal by Defence to remove St Marks Chapel from the Hobsonville Air Base to Papakura. The Chapel is a listed heritage building and is protected under the District Plan. A key issue concerns whether the Ministry of Defence is entitled to remove the Chapel under the Defence designation associated with the Air Base. The appeal was lodged on 23 February 2005. It is expected that further declaratory proceedings may have to follow, to clarify whether the Ministry of Defence has the authority to remove the Chapel.

HIGH COURT

P W Mawhinney (substituted plaintiff) v Waitakere City Council (February 2002) (Civil Proceedings)

This is a civil claim for approximately \$6.7 million by Mr Mawhinney (who has been substituted as plaintiff for the Kitewaho companies) against Council alleging that he has suffered losses as a result of Council improperly delaying the processing of the subdivision consents. These applications were also the subject of the Declaratory Proceedings.

The Council's application for security for costs was completed on 28 January 2005 before Associate Judge Sargisson. A decision is awaited currently. If an order is made and Mr Mawhinney then fails to pay this amount into Court these proceedings will be stayed pending the provision of security.

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

An appeal by Council 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 Homes' subdivision in Ranui Station Rd. 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 has been granted leave to appeal to the Court of Appeal (on two issues, out of an original seven pursued). A hearing will take place in the Court of Appeal in mid 2005.

Estate Homes Limited v Waitakere City Council (Sturges Road)

This is an arbitration concerning the valuation of reserve land, Lockington Green at Sturges Road, Henderson. The value of the reserve is to be offset as a credit against payment of reserve contributions by the developer, Estate Holmes. The arbitration was part heard on 24 and 25 November 2004 and will be completed this month. Estate Homes' evidence has been heard and Council's evidence part-heard; valuation evidence and closing submissions will be completed in the February session.

Foundation Engineering Piling Limited v Waitakere City Council - Dovey Place - (December 2004)

This is an appeal against a conviction for undertaking or permitting building work without a building consent. Foundation Engineering is pursuing a technical point in relation to the time the charge was laid in relation to the work being undertaken. The District Court determined that the charge was properly laid. The parties are awaiting notification of a date of a date of hearing from the High Court.

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 cleanfill 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. The matter was set down for a trial during the week beginning 20 September 2004 but the Covichs changed their pleas to guilty and the matter was the subject of a restorative justice conference on 16 November 2004. Sentencing occurred on 8 February 2005: each of the defendants was sentenced to 300 hours community service.

Lance Olsen - Dovey Place, Massey (February 2004)

Charges were laid against the building contractor who undertook work on five houses without building consent. A pre-trial issue has been raised by Mr Olsen regarding the validity of information as his company has been struck off the register – the Council seeks to have the charges amended so that Mr Olsen is personally liable for the alleged offences. This matter will be heard on 26 April 2005.

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 defendants have been granted building consent for removal of the unauthorised works. The prosecution matter has been adjourned to 2 May 2005.

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 defendants have entered not guilty pleas; we await allocation of a defended hearing date.

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. The defendant has entered not guilty pleas. A status hearing is to occur on 14 March 2005.

Future Developments Limited & P Slimo - 221-233 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 defendants have entered guilty pleas; sentencing is scheduled for 11 April 2005 in the Auckland District Court.

L A Green - 9 Herrings Cove Lane, Titirangi (July 2004)

Charges laid under the 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.

The defendant has intimated a guilty plea and the matter has been adjourned for a plea to be entered before an Environment Court Judge on 28 February 2005.

Trubuhovich Holdings Limited - 18 Brigham Creek Road, Whenuapai (August 2004)

Charges laid under the Building Act and the Resource Management Act in respect of the unauthorised construction of numerous poly/shade houses, which were built without building consent and which breach various District Plan Natural Environment Rules. Trubuhovich Holdings Limited has intimated a guilty plea and the matter has been adjourned for pleas to be entered and sentencing before an Environment Court Judge on 28 February 2005.

S & U Kumar - 24 Te Muri Place, Glendene (August 2004)

Charges laid under the Building Act for unauthorised building work (including extension to house and change of use of lower level of dwelling to create separate residential unit). The owners have advised that they are undertaking works to address some of Council's concerns. In these circumstances the matter has been adjourned to 2 May 2005 without plea.

C Nisbett - Dovey Place, Massey (September 2004)

Charges laid under the Building Act for continued building work on two unauthorised houses. The prosecution against Mr Nisbet has been set down for defended hearing on 30 May 2005.

EA Haines - 80 Hobsonville Road, Hobsonville (September 2004)

Charges laid under the Resource Management Act in respect of unauthorised removal of protected trees. The matter has been adjourned without plea and is listed for call in the Auckland District Court on 28 February 2005.

DP Kiely – 60 Wisely Road, Hobsonville (September 2004)

Charges laid under the Resource Management Act in respect of unauthorised removal of protected trees. The matter has been adjourned without plea and is listed for call in the Auckland District Court on 28 February 2005.

J & M Activities Limited (directors: MR Hannett & JM Timoteo) - 77 Fruitvale Road, New Lynn (September 2004)

Charges laid under the Building Act for using and/or permitting the use of an unsafe building. The matter has been adjourned to 2 May 2005 on the basis that the defendant is undertaking building works to rectify the dangerous state of the building.

Steven Lee and Hee Ja Noh - 2/7 Te Atatu Road (December 2004)

Charges laid under the Building Act in respect of alleged unauthorised building work. Mr Lee is alleged to be the builder; Mr Noh is the property owner. Mr Noh has indicated that he is undertaking building works to address Council's concerns and on this basis both matters has been was adjourned when called on 21 February 2005 to 2 May 2005.

TM Sharman & Others - 5 Stephen Avenue (December 2004)

Charges laid under the Building Act in respect of alleged unauthorised building work (including the conversion of garage into a minor household unit). The property owner has submitted a "safe and sanitary" report in relation to the works and asked Council to consider this. On this basis the matter has been adjourned to 2 May 2005 for Council to determine whether it should proceed with prosecution and whether any other rectification steps are required.

N & D Alexander and D Pirrit - 11 Cascade Avenue (December 2004)

Charges laid under the Resource Management Act in respect of unauthorised earthworks and vegetation clearance in the Protected Natural Area and on a protected ridge.

The defendants have intimated guilty pleas and the matters have been adjourned for pleas to be entered and sentencing before an Environment Court Judge on 28 February 2005.

RECOMMENDATION

That the Legal Update Report be received.

Report prepared by Brigid McDonald, Contract Solicitor.



PART C - DISTRICT PLAN / STRUCTURE PLANS

5 DISTRICT PLAN APPEALS UPDATE TABLE

PURPOSE OF THE REPORT

The Principal Advisor: District Plan will provide a verbal update to the Planning and Regulatory Committee on progress in dealing with the appeals on the Proposed District Plan.

An up-to-the-minute progress report will be brought to each meeting outlining the status of the appeals.

RECOMMENDATION

That the information be received.

Report prepared by: Charlie Inggs, Democracy and Governance Team Manager.



PART D - ENVIRONMENTAL MANAGEMENT

6 ZERO WASTE PLAN REVIEW PROCESS

PURPOSE OF THE REPORT

The purpose of this report is to request the Planning and Regulatory Committee to nominate representatives to take part in the review of the Waste Management Plan at its early stages by participating in workshops.

BACKGROUND

The current Waste Management Plan for Waitakere City was adopted in June 2003. It sets a number of targets in line with the New Zealand Waste Strategy and states that its purpose is the following:

“A short-term operational guideline of how the Council intends to manage the waste it generates, collects and receives at its Refuse and Recycling Transfer Station over the next three to five years. However, a more comprehensive review is anticipated before the end of 2005 to fully review pricing and other tools to take the city towards zero waste to landfill”.

The Council is also currently undertaking a Water and Sanitary Services Assessment, as required under the Local Government Act 2002, which includes an assessment of its solid waste services. The waste assessment provides the details of the waste the Council is managing, the expected increase in waste as a result of growth, and indicates to what extent the Council can achieve its zero waste objectives under the current Waste Management Plan. The Water and Sanitary Services Assessment will be reported to the Council at its next meeting.

In anticipation of the final assessment for waste, the more comprehensive review to take the city towards a zero waste vision can begin. The influence that this vision will have on the types of services provided by the Council and on the community in Waitakere over the next few decades will be significant.

To begin the review, it is intended that a series of workshops with Councillors and relevant staff members are to be held starting in March. Maunsell Limited have been contracted to undertake the waste assessment and begin the review process using the Zero Waste Action Planning Tool that they have developed.

The proposed comprehensive review will contain the following steps:

1. Review of existing services and waste streams (currently underway as a part of Waitakere City Council's Water and Sanitary Services Assessment).
2. Input of Waitakere City Council waste data into a Zero Waste Action Planning Tool (The Zero Waste Action Planning Tool was developed by Maunsell and Waste Not Limited, with funding from the Zero Waste Trust and the Ministry for the Environment Sustainable Management Fund, to assist the assessment of up to 50 different waste minimisation initiatives towards a goal of zero waste to landfill).
3. Preliminary review of 50 waste minimisation initiatives by staff.
4. Hold a waste initiative-ranking workshop to be attended by Council staff, Councillors and Maunsell.
5. Review of workshop outputs.
6. Propose new Waitakere City Council Waste Management Plan incorporating:
 - a) Workshop outputs.
 - b) Feedback from public consultation with regard to the Water and Sanitary Services Assessment.
 - c) Principles of the North-West region's Memorandum of Understanding.
 - d) Proposed new Bylaw on licensing and a waste levy.
 - e) Proposed kitchen waste collection system.
7. Handover of Zero Waste Action Planning Tool and outputs to Waitakere City Council.

Overview of the Zero Waste Action Planning Tool

The Zero Waste Action Planning tool is the key outcome of a four-year zero waste strategy project funded by the Ministry for the Environment. The tool is essentially a set of five Excel spreadsheets into which basic data on 50 different possible waste minimisation initiatives can be input and assessed using sustainability assessment criteria. The assessment criteria are arranged into four categories of Environmental, Social, Economic and Cultural (or other).

The tool groups the 50 waste initiatives under 5 different groups that affect the zero waste process as set out in the table below:

5 Key Groups	Key effect on Zero Waste Process
Take Direct Action (e.g. kerbside collection)	Action creates conviction
Change the Rules (e.g. Bylaws)	The path of least resistance heads them in the right direction
Foster New Ideas (e.g. actions for organic waste)	Creativity engaged for positive outcomes
Communicate and Educate (e.g. education centre)	Everyone is included
Monitor and feedback (e.g. waste analysis audit)	Reality Check

The Zero Waste Initiatives will also vary depending on the source and destination of the waste stream. The three significantly different waste streams in Waitakere City are set out in the table below.

Waste Category		Approx tonnes in 2004
1	Waitakere City Council waste going through Waitakere City Council Refuse Transfer Station i.e. waste generated in Waitakere City, collected by Council contractors and/or handled at the Waitakere City Council Refuse Transfer Station (both recovered and sent on to landfill).	21,000 recycled/recovered 67,000 to landfill
2	Waitakere City Council waste not going through Waitakere City Council Refuse Transfer Station i.e. waste generated in Waitakere City but transported to transfer stations / landfills outside of Waitakere City.	49,000 (estimated)
3	Non Waitakere City Council waste going through Waitakere City Council Refuse Transfer Station i.e. waste generated outside of Waitakere City but handled at the Waitakere City Council Refuse Transfer Station.	59,000

STRATEGIC CONTEXT

Zero Waste to landfill by 2020 is one of the Council's nine strategic platforms. The Long Term Council Community Plan 2003 vision for solid waste is that by 2020 Waitakere will be a clean and attractive city that turns all its waste into resources. The City has made good progress on waste minimisation with kerbside recycling, composting of green waste, establishment of a re-use centre, education and cleaner production programmes. However, further initiatives will be required to achieve this goal by 2020.

ISSUES

Two (2) to four (4) Councillors are requested to take part in Step 4 - The Initiative Ranking Workshop to be held during the month of March 2005.

The Initiative Ranking Workshop includes:

- Introductory 1 hour session and distribution of information pack to all participants one week prior to workshop date so all participants can familiarise themselves with the background information and workshop process (approx. 5 - 10 pages);
- Participation in a ½ day workshop using the Zero Waste Action Planning Tool;
- Follow up information (if requested).

Following the half day workshop Maunsell will use the ranking information agreed upon at the workshop to produce the following outputs:

- Summary of up to 50 waste minimisation initiatives;
- Proposed waste initiative start dates;
- Indicative costs for each initiative;
- Total amount of waste diverted by all initiatives each year up to 2020;
- Accumulative costs versus waste diversion each year up to 2020;
- Employment creation potential for each year up to 2020.

RESOURCES

The resources required to cover the waste assessment and consultation, as required under the Local Government Act 2002 Special Consultative Procedure, are available in the current budget of the Long Term Council Community Plan. The costs associated with consultation and finalisation of the waste management plan will fall in the 2005/2006 Annual Plan budget.

CONCLUSION

The assessment of waste, together with the results of consultation and planned workshops will assist with the review of the Waste Management Plan to be completed by June 2005, and consulted on during the review of the Long Term Council Community Plan 2006/2016 with implementation beginning in June 2006. Councillors are invited to participate in this process through the workshop.

RECOMMENDATIONS

1. That the Zero Waste Plan Review report be received.
2. That the Planning and Regulatory Committee nominates representatives to attend the workshops to review waste management to achieve zero waste objectives.

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



7 **DRAFT SUBMISSION ON THE ISSUES AND OPTIONS PAPER: FRESHWATER FOR A SUSTAINABLE FUTURE**

PURPOSE OF THE REPORT

The purpose of this report is to present a draft submission on central government's issues and options paper "Freshwater for a Sustainable Future" for the Planning and Regulatory Committee's consideration.

BACKGROUND

The Ministry for the Environment has released for comment its issues and options paper: "Freshwater for a Sustainable Future". The closing date for submissions is 18 March 2005. The discussion document can be viewed at www.mfe.govt.nz.

The Government established the Water Programme of Action in 2003 to ensure that the country's freshwater resources are managed to best support New Zealand's future sustainable development. The programme is part of the Government's wider Sustainable Development Programme of Action. The Water Programme examined the demand pressures and quality issues to assess how well the current water management framework is dealing with them. It has found that:

- Not all expectations and needs for freshwater are currently being met, and demands are growing;
- Water quality is declining in many areas and is unacceptable in some; and
- Given the range of people's interests in water (social, economic, environmental and cultural) it is difficult under the present system to establish priorities for use.

Currently, regional councils are responsible for making decisions on the allocation and use of water within their boundaries. City and district councils are also involved in water management, particularly drinking water, stormwater and sewage.

Central Government can become involved with water management by using tools provided for in the Resource Management Act. These include national policy statements, national environmental standards (which may set water quality standards), water conservation orders, and government submissions on regional and district plans.

The issues and options document under discussion identifies eight key issues as follows:

1. To date, Central Government has not determined the national interest in freshwater and has not set national outcomes for water quality.
2. Individual water bodies may have nationally important values that are under threat. However, nationally important values have not been identified.
3. The consequences of different land uses, water use patterns, the comparative value of different water uses, and the needs of particular water bodies' ecosystems have not been determined by scientific scrutiny.
4. Water is over-allocated in some catchments, is not consistently allocated to its highest value use, and can be wasted in a climate of increasing competition for water.
5. Tension between water users' certainty about ongoing rights, and retaining flexibility to manage environmental risks and respond to emerging water demands.
6. Effective Maori engagement with water management issues has not been widespread.

7. There is evidence in some catchments that diffuse discharges of contaminants are not being effectively managed.
8. Development of water infrastructure is not keeping pace with demand.

A2-A5

The Council has a high level of interest in the water allocation and management of the Waitakere dams, and supply of drinking water for the City. The Council also recognises the high ecological and landscape values of the Waitakere ranges, including the land leased by Watercare Services Limited for the purposes of extracting water for supply. The issues and options paper for discussion raises some issues of interest for the Council. A draft submission for the Committee's consideration is attached at pages A2 to A5.

STRATEGIC CONTEXT

Waitakere City Council takes an innovative approach in managing drinking water supply, wastewater and stormwater together, under the heading of The Three Waters. The Council has taken great steps in advocating for, and achieving, water conservation practices in the City. The Council also has an undertaking with Watercare Services Limited that the City's water supply will be fed from the Waitakere dams except for an emergency situation.

ISSUES

The document identifies a number of issues in relation to freshwater resources but there is no mention of other issues which are specific to urban areas as follows:

- The protection of streams, wetlands, aquifers and harbours from the cumulative effects of urban development;
- The need for a national approach to demand management. For example in New South Wales all new buildings are required to comply with a sustainability assessment (BASIX) and provide water efficient appliances and rainwater tanks. This type of approach could be included in the review of the Building Act;
- The lack of community awareness of freshwater issues;
Unless there is increased community awareness, there will be little improvement in the social, economic, cultural and environmental outcomes for freshwater. The most efficient method of increasing awareness is through government education and information programmes, including school curriculum;
- The government's paper raises the issue that water infrastructure is not keeping pace with demand.

This issue should also include a reference to the fact that many communities, including Council, find it difficult to develop and maintain infrastructure for wastewater and stormwater due to the funding constraints imposed by land rates. This should also include consideration of the role of economic instruments such as user charges for wastewater and stormwater.

In addition, the Council supports the requirements of the Local Government Act 2002 to complete an Assessment of Water and Sanitary Services, including the following:

"In making an assessment of current and future demands for water services and options to meet those demands, a territorial authority must consider:-

- (a) *the full range of options and their environmental and public health impacts, including (but not limited to):-*
 - i. *on-site collection and disposal;*
 - ii. *grey water and stormwater reuse or recycling;*

- iii. demand-reduction strategies, including public education, information, promotion of appropriate technologies, pricing and regulation; and*
- iv. the full range of technologies available."*

There should be a reference in the Government's paper to the Assessment and that the principles of a holistic approach for the management of the Three Waters should be included in the discussion paper and specific outcomes developed by Government to implement these principles.

There needs to be a strong link between energy efficiency and water allocation, for example:

- Reducing energy demand will reduce the need for additional hydroelectric power stations;
- Water efficiency in homes will reduce the need for hot water and thus energy.

A specific package of actions has been put together for consultation. Underpinning the proposed actions is the belief that local government should retain responsibility for water management and decision-making, with greater support and direction from central government.

The proposed actions include the following key issues for the Council:

- Develop national policy statements that would specify national priorities for freshwater, set allocation limits and require regional councils to set targets for water quality;
- Develop national environmental standards that would specify methods for setting environmental bottom lines (for water quality and allocation limits) and address the management of diffuse discharges;
- Address nationally important values and prioritise for action those under threat;
- Develop special mechanisms for regional councils to enable them to deal with over-allocation or declining water quality;
- Set requirements for regional freshwater plans;
- Enable regional councils to allocate water to priority uses.

The interest for the Council rests with how any change in role and responsibilities will affect:

- a) The priority use of the Waitakere water catchment, whether for water supply or for ecology and landscape.
- b) The allocation of the water, that is, whether for Waitakere City use or for another priority user.

DISCUSSION

National Policy Statements that specify national priorities for freshwater and set allocation limits would potentially conflict with regional or local priorities. For example, if it was in the national interest to identify the Waitakere Ranges streams and associated lakes and wetlands as a priority for habitat conservation and not to be used for water extraction, it would not serve the Council's interest in maintaining the City's water supply solely from the Waitakere dams. Priority use for any water body should be heavily weighted to the regional and local imperatives rather than set by central government.

National environmental standards for water quality and allocation may be useful for setting bottom lines, however, as is the case with the national air quality standards these may not be useful for the local situation where higher than the national threshold is desirable and achievable.

However, Central Government does need to identify water bodies with nationally important values and have these agreed with interested communities. There are critical areas of conflict when water bodies and rivers have high ecological value but are also available for electricity generation. These conflicting or competing uses are not always easily solved through allocation of use or water and the priority for use must be agreed with the wider community.

It is entirely appropriate that regional councils retain the role of allocating natural resources. However, their effectiveness in this role is currently compromised by the lack of ability to constrain or retrench existing consents to take water or discharge contaminants. The approach suggested in the document is for water permits to be modified as to duration of consent, percentage of flow, setting seasonal volumes or other modifications required as a result of monitoring the effects of use.

In addition, transfer of allocated water between users and assessing renewals of consent against new competing applications probably requires national guidelines or criteria, or could be guided by national standards for water quality and allocation.

Regional councils also need a means of comparing applications for water use against each other and against community priorities. Regional water plans (rather than national policy statements) may be a suitable means of addressing allocation issues.

RESOURCES

There are no resource implications within the foreseeable future for either responding to the issues and options document, or the policy document that will be drafted. Any cost implications of a change in current policy and practice will be taken into account in the Long Term Council Community Plan 2006/2016.

CONCLUSION

It is recommended that the Planning and Regulatory Committee appoints a Councillor to approve the final submission and be Council's spokesperson on this issue.

The Government has released a discussion paper "Freshwater for a sustainable future: issues and options". This report recommends that Council supports the paper in general with enhancements to ensure:

- Alignment with the Local Government Act 2002;
- National education and community information programme;
- Linkages with energy efficiency, the Building Act, land use and transport planning.

RECOMMENDATIONS

1. That the draft submission on the "Freshwater for a Sustainable Future" report be received.
2. That the draft submission attached at pages A2 to A5 of the Agenda be approved and submitted as Council's submission on the "Freshwater for a Sustainable Future".

3. That a Councillor be appointed to be Council's spokesperson on the "Freshwater for a Sustainable Future" issue and to approve the final submission on behalf of the Council.

Report prepared by: Carol Bergquist, Senior Analyst Environmental Policy and Tony Miguel, Group Manager Asset Management.



8 UPDATE ON ST. MARKS CHAPEL - HOBSONVILLE AIRBASE

PURPOSE OF THE REPORT

The purpose of the report is to provide the Planning and Regulatory Committee with an update on an Outline Plan of Works application lodged by the New Zealand Defence Force to remove St Marks Chapel at Hobsonville Airbase, a Category III heritage item, and relocate it at Papakura military base.

BACKGROUND

The Council received an Outline Plan of Works application by the New Zealand Defence Force to relocate St Marks Chapel in January this year. The Minister of Defence has a designation over the military bases at Hobsonville and Whenuapai enabling works for defence purposes and associated activities.

A6-A13

The building is listed as a Category III heritage item in the District Plan and this status was unsuccessfully challenged by New Zealand Defence Force when the District Plan was publicly notified in 1995. St Marks Chapel is an interdenominational chapel that was constructed in 1942. It is believed to be one of seven such chapels built around the same time with similar ones at Whenuapai, Wigram, Harewood and Woodbourne Bases. St Marks Chapel meets all of the seven criteria for listing heritage buildings in the City based on its historic, architectural, landmark and visual values, community significance, patterns of settlement and contributing towards a sense of place. St Marks Chapel has value as part of a wider cluster of buildings and as part of the infrastructure of Hobsonville Base. The chapel has been a part of the fabric of the Hobsonville Base since it was constructed and makes an important contribution to its identity. A heritage assessment of the building has recently been undertaken by a consultant and a copy of that report is attached at pages A6 to A13.

STRATEGIC CONTEXT

The Hobsonville airbase forms an integral part of the City's built heritage. Hobsonville was initially developed ahead of Whenuapai Airbase in the 1930s and had the advantage of allowing for seaplanes and conventional aircraft. The future planning proposals for Hobsonville will respect the unique heritage character of the site through the use of precincts, viewshafts and associated rules. The Hobsonville military base has associations for the broader community in terms of its social, economic and cultural significance and removal of St Marks Chapel would be contrary to the ICOMOS Charter principles.

ISSUES

The Outline Plan of Works application received by Council has raised issues about the ability of New Zealand Defence Force to remove buildings from Hobsonville Airbase despite buildings being listed in the heritage appendix of the District Plan. Legal advice from the Council's solicitors on the scope of the designation and District Plan indicates that the removal of the Chapel without a resource consent could contravene the District Plan. Furthermore, the removal of the Chapel is not a public work purpose covered by the Hobsonville Airbase designation. The fact that New Zealand Defence Force intends to remove the Chapel indicates that there is no longer any public work purpose for the Chapel on the designated site. New Zealand Defence Force have indicated that they have started work to remove the building so that it can be operational at Papakura by April 2005. This work has been undertaken without consent.

It is considered that the removal of the Chapel from the Airbase would diminish the heritage values associated with the building and destroy community associations with it. The Council has a duty under Part II of the Resource Management Act 1991 to protect matters of national importance, which includes heritage matters.

RESOURCES

There is sufficient resource in terms of staff time and legal budget for this matter. However, if the Council wishes to pursue a heritage order on the building, there will be financial implications.

CONCLUSION

A14-A15

Given the significance of St Marks Chapel in Hobsonville, the Manager of Consent Services has written to New Zealand Defence Force staff outlining the Council's concerns and requesting that the Outline Plan of Works application be withdrawn and the Chapel retained. In addition the letter states that the Council considers that the removal of the chapel is not covered by the designation. The letter concludes by offering the opportunity to meet with defence officials to discuss the future of the building and a copy of the letter is attached at page A14 to A15. New Zealand Defence Force has not formally replied to Council's request. Under the Section 176 of the Resource Management Act 1991 in relation to the Outline Plan of Works, the New Zealand Defence Force in this case is required to inform Council of their decision on Council's response. On receiving the New Zealand Defence Force's written reply Council has 15 working days to lodge an appeal to the Environment Court. In the meantime no works are to be undertaken until the matter is resolved. It is understood that New Zealand Defence Force is currently seeking legal advice on this matter.

RECOMMENDATION

That the Update on St. Marks Chapel – Hobsonville Airbase be received.

Report prepared by: Graeme McCarrison, Manager: Consent Services



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

PURPOSE OF THE REPORT

The purpose of this report is to provide Council with a summary update on the Painted Apple Moth eradication programme.

BACKGROUND

Painted Apple Moth was first discovered in Glendene in 1999. Ground spraying proved ineffective and aerial spraying commenced in 2002. Additional eradication measures included a trapping grid to determine the spread of the pest, ground spraying, a vegetation control zone, host removal (felling and clearance of Wattle trees) and sterile insect technique (sterile male moths released to breed with wild females).

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

Eleven expanded aerial spray rounds were completed over the period from October 2002 to May 2003. Three aircraft - a Fokker Friendship, an air tractor and a helicopter – were used to spray up to 10,300 hectares.

The winter operation, from June to September 2003, involved four targeted aerial sprays over five known hotspot areas; Ranui/Swanson, Riverpark, Waikumete Cemetery, Hobsonville and Meola Creek. The air tractor or air tractor plus helicopter were used to cover the 892 hectares of the aerial spray operation.

The spring operation involved two expanded aerial spray rounds of 6,500 hectares in October and November 2003 using three aircraft - a Fokker Friendship, an air tractor and a helicopter.

The summer operation, from December 2003 to February 2004, involved five 21 day aerial spraying cycles of 892 hectares over five hotspot areas; Ranui/Swanson, Riverpark, Waikumete Cemetery and Hobsonville in Waitakere City and Meola Creek in Auckland City. The air tractor and the helicopter were used for these operations. The 56 hectares over Ranui/Swanson and Riverpark received three (3) additional 10 day targeted helicopter aerial sprays where weather permitted between each scheduled 21 day aerial spray cycle. This concluded the aerial sprays required for the Hobsonville and Meola Creek areas.

In early March 2004 the air tractor sprayed 701 hectares over three hotspot sites; Waikumete Cemetery, Riverpark and Ranui. This was the last aerial treatment for both Waikumete Cemetery and Riverpark.

Aerial spray operations were reduced to one hotspot site of 254 hectares over Ranui. Three aerial spray treatments using the air tractor were carried out on 31 March, 20 April and 13 May 2004. This concluded the programmed aerial spraying for painted apple moth. No further aerial spraying was anticipated unless a remnant population was found at a later stage.

STRATEGIC CONTEXT

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

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

ISSUES

Current eradication programme

Although the aerial programme is now finished the eradication programme continues. No further wild male painted apple moths have been caught in the trapping grid since the Mt Eden catch in January 2004. The monitoring grid of approximately 1800 moth traps will remain in place for two years from the date of the last moth caught, that is January 2006. In addition the vegetation control zone, an area that covers most of the urban part of Waitakere City, will remain in place and a permit will still be required from AgriQuality to remove vegetation outside this zone.

If no further moths are caught or larvae found the Ministry of Agriculture and Forestry will declare painted apple moth eradicated in January 2006.

Sterile male moths

Two releases per week of sterile male moths continued at three hotspot sites as part of the eradication programme. Cooler temperatures of autumn and winter mean the male moths were unlikely to fly so the sterile male moth programme was terminated at the end of April 2004.

Contents of the aerial spray Foray 48B – Ministry of Agriculture and Forestry, Foray 48B, Complaint by Waitakere City Council under the Official Information Act

Council lodged a complaint under the Official Information Act 1982 to the Office of the Ombudsmen challenging the refusal by the Ministry of Agriculture and Forestry to release the ingredients of Foray 48B. In the context of that complaint negotiations, as overviewed by the Ombudsmen's Office, have been in progress for some time. Council, the independent expert and Valent BioSciences, the manufacturer of Foray 48B, have reached agreement on the basis by which Council will engage an independent expert to carry out a review of the health effects of Foray 48B.

The main points are summarized below:

1. Valent BioSciences will make available the necessary confidential information to the expert upon signing of relevant confidentiality agreements.
2. The independent expert will provide a scientific and technical Report to Council offering:
 - a) a conclusion as to whether aerial spraying of Foray 48B in West Auckland (including Waitakere City) constituted a health nuisance which is "injurious or offensive to health"; and

- b) an opinion, based on its work in preparing the Report, as to whether future aerial spraying of Foray 48B both in West Auckland (including in Waitakere City) and elsewhere in New Zealand would be likely to constitute a health nuisance which is "injurious or offensive to health".
3. The report and its findings will be made available to the public.
4. The timing of the report from the expert is not yet known. Further advice will be given once the timeframe has been confirmed.

Wellington School of Medicine Health Study

In February 2004 The Ministry of Health published the findings of a review of health issues related to the aerial spraying of Foray 48B in Auckland. The review included:

- An analysis of existing scientific information about the potential health effects of the spray;
- A summary of consultation with stakeholders and members of the public on health concerns, symptoms and effects; and
- Recommendations for further study.

The executive summary from the report included the need for a study on the long term effects of Foray 48B, something Waitakere City Council had long advocated.

Pheromone testing

Both Dr. John Clearwater and HortResearch continue to work on development of the pheromone. Currently, neither party has a product with the necessary longevity for use in the field.

Reinstatement of host removal sites

A Council contract was awarded for weed control and planting on 14 parks that had previously had painted apple moth host removal work undertaken by the Ministry of Agriculture and Forestry. Weed control works have been completed with planting of 50,000 eco-sourced native plants in June 2004.

Council made provisions in the 2003/2004 Annual Plan for some revegetation of Council land where host removal work has been undertaken by the Ministry of Agriculture and Forestry. The 2004/2005 Annual Plan provided \$55,000.00 for further reinstatement work plus maintenance of parks planted in the previous financial year.

Restricted Place Notice

On the 6 August 2004 Ministry of Agriculture and Forestry revoked the Restricted Place Notice on Waikumete Cemetery.

RESOURCES

The 2005/2006 Annual Plan provides \$125,000.00 for further reinstatement work plus maintenance of parks planted in the current financial year. The Ministry of Agriculture and Forestry has made available \$80,000.00 worth of ecosourced plants for reinstatement works within the 2005/2006 period with Council providing the resources from the annual plan provision above to implement the site preparation, planting and first year maintenance of the plants.

Due to the cessation of the aerial spray programme the regular monthly updates to Council were considered unnecessary as it was essentially repeating previously reported information. It was recommended that monthly reports be replaced with reports when there are significant updates and/or changes to the eradication programme.

CONCLUSION

The final aerial spray was completed on 13 May 2004. This concluded the programmed aerial spraying for painted apple moth. No further aerial spraying is anticipated unless a remnant population is found at a later stage.

Although the aerial programme is now finished the eradication programme continues. Pheromone development work continues. The monitoring grid of moth traps and the vegetation control zone will remain in place until January 2006. If no further moths are caught or larvae found the Ministry of Agriculture and Forestry will declare painted apple moth eradicated in January 2006.

As part of reinstatement weed control has been carried out on 14 parks where host removal works occurred. Planting of over 50,000 eco-sourced plants has been completed and further reinstatement works are planned for completion toward the end of June 2005.

RECOMMENDATION

That the Painted Apple Moth Update Report from the Ministry of Agriculture and Forestry be received.

Report prepared by: Roscoe Webb, Asset Manager, City Arborist.

