NOTICE OF MEETING

PLANNING AND REGULATORY COMMITTEE

I hereby give notice that a Meeting of the Planning and Regulatory Committee will be held on:-

DATE: **Tuesday, 11 October 2005** **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.

17 October 2005

Owena Schuster
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

Councillors	VS	Neeson, JP (Chairperson)
	RP	Dallow, QPM, JP (Deputy Chairperson)
	DQ	Battersby, JP
	PJ	Booth, OBE
	MFP	Chan, JP
	JM	Clews, QSO, JP
	RI	Clow
	LA	Cooper
	AK	Corban, OBE, JP
	WW	Flaunty, QSM, JP
	DE	Gilmour
	PA	Hulse
	JP	Lawley
	CA	Stone

Mayor, RA 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.)

WAITAKERE CITY COUNCIL

Waitakere City Council
Te Taiao o Waitakere

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, 11 OCTOBER 2005 COMMENCING AT 9.30 AM

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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, 11 OCTOBER 2005 COMMENCING AT 9.30 AM

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, 13 September 2005

RECOMMENDATION

That the minutes of the Meeting of the Planning and Regulatory Committee held on Tuesday, 13 September 2005, as circulated, be taken as read and now be confirmed.

PART B -

REGULATORY / ENFORCEMENT

4 LEGAL UPDATE (AS AT 28 SEPTEMBER 2005)

INTRODUCTION

The following is a list of legal actions in respect of matters 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, parking, 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. Each item is now marked 'Changed', 'Unchanged' or 'New' for easier identification of matters which have been added, or in respect of which there have been changes of circumstances, since the date of the last report.

ENVIRONMENT COURT

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

Appeals filed by the applicant Mr Selak and his neighbours, Mr Collett and Ms Nye. Both appeals relate to the operation of a go-kart track on Mr Selak's property at Kennedy's Road, Whenuapai. Mr Selak has appealed a condition disallowing use of the track on Sundays and public holidays. Mr Collett and Ms Nye have appealed Council's decision to allow the go-kart track. Mr Selak has put forward a new proposal, involving additional mitigation of the noise impact of the go-kart track, which was considered by all parties at a Court assisted mediation held on 8 June 2005. The parties are preparing consent documentation in accordance with the agreement reached at mediation, pending the outcome of a current consent application for a proposed noise mitigation fence. The Court has set a further reporting date of 31 October 2005.

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

This case has been placed in the 'on hold' list by the Environment Court, until the Dilworth structure plan proceedings (Resource Management Act 886/98) has been concluded.

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

An appeal against the Council's decision confirming consent conditions regarding financial contributions payable in respect of a proposed subdivision. The parties attended a Court assisted mediation on 7 September 2004 but no resolution was reached. An agreed evidence exchange timetable has been set. The matter has been set down for hearing in the week commencing 7 November 2005.

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

This matter relates to a reference against the Council's decision approving Plan Change 2. It makes changes to the zoning of land in Harbourview on the Te Atatu Peninsula. The Plan changes the Living Environment and Harbourview South Special Area to 'Open Space Environment' and 'Marae Special Area' respectively. A Court assisted mediation took place on 16

July 2004 and 20 October 2004. The Council has recently resolved to proceed with this plan change. Preparation of evidence is underway and a hearing date is to be allocated shortly (likely to be in November or December 2005).

(Unchanged) **I & Z Farac v Waitakere City Council (May 2005)**

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.

(Changed) **E A Haines v Waitakere City Council (December 2004)**

This is an appeal against a decision of Council's Commissioner (John Childs). The Commissioner declined to grant consent to a golf driving range at a property owned by E A Haines. The Commissioner determined there was insufficient evidence to confirm that golf balls could be contained in the property. Some neighbouring property owners confirmed an interest in the appeal. The appellant has now obtained engineering advice to confirm the facility can be used for such a purpose. The matter was set down for hearing in the week of 7 November 2005. In preparing evidence for the matter Council obtained advice from an engineer and golf driving range expert which indicated the proposed facilities would no contain all golf balls. This information was passed on to the applicant/appellant and based on this she decided to withdraw her appeal.

(Changed) **Auckland Regional Council v Waitakere City Council (February 2005)**

This is an appeal by the Auckland Regional Council against the Council's decision granting consent to Shefco Limited to establish a food processing facility at 76-78 State Highway 16. The Auckland Regional Council opposed the consent application alleging that granting consent to an urban manufacturing business would undermine the Auckland Regional Policy Statement, the Metropolitan Urban Limits and would create negative precedent effects.

This appeal was heard on 12 and 13 September 2005 with his Honour Judge McElrea presiding. Unusually the Court reached a decision on the application the day after the hearing finished, upholding Councils decision and dismissing the Auckland Regional Council's appeal. The Court has indicated that it will impose further conditions on the consent which will limit opportunities to use the site for other urban activities. The Court has reserved reasons for its decision.

(Changed) **Waitakere City Council v Minister of Defence (February 2005)**

Council filed a notice of appeal in relation to a proposal by the Ministry of Defence ("Defence") to remove St Mark's Chapel from the Hobsonville Air Base to its Papakura base. The Chapel is listed as a heritage building and is protected under the Waitakere City District Plan ("District Plan"). The Minister of Defence has rejected the Council's recommendation that the Chapel remain at Hobsonville. The Ministry of Defence is of the opinion that the Chapel is to be used by defence personnel and this use is best served at Papakura where the Chapel will be more appropriately preserved.

The Council has also filed an application for a declaration in respect of the ambit of the Ministry of Defence's designation and whether the proposed removal of the chapel is a "public work". The parties are currently preparing evidence. The matter has been set down for hearing in the week commencing 7 November 2005.

(Unchanged) **South Kaipara Nominees Limited v Waitakere City Council (February 2005)**

An appeal by the appellant company (director: Peter Mawhinney) in respect of a decision by the Council to decline to grant a certificate of compliance regarding a proposed subdivision at Anzac Valley Road, for want of jurisdiction. The application sought to cancel an amalgamation condition that was imposed under subdivision consent; this could not be described as a permitted activity and accordingly did not meet the preconditions of the Resource Management Act 1991.

On 22 April 2005 the Council filed an application to strike out the appeal on the grounds that there was no jurisdiction to grant the relief sought or any right of appeal in respect of the Council's decision. Mr Mawhinney withdrew his appeal and the Council has been awarded costs of $5,700. Council has since filed an application to liquidate the Company, to be called in the High Court on 10 November 2005.

(Unchanged) **T Whimp v Waitakere City Council (April 2005)**

An appeal against an abatement notice issued by the Council in respect of a breach of the Transport Environment rules. The appellant has been using the carriageway, footpath and grass berm throughout the City for residential purposes. The Council and Mr Whimp entered into an agreement following Court assisted mediation on 22 April 2005. The parties reported to the Court on 30 June 2005 that no suitable accommodation was found that met both the needs of Mr Whimp and the Council. In the meantime, Mr Whimp has been in a fire and suffered some serious injuries. Mr Whimp has now been discharged from hospital into the care of a friend. The Council has sent Mr Whimp information about pensioner housing but we have yet to hear back. The Council is to report to the Court on or before 31 October 2005.

(Changed) **Auckland Regional Council v Waitakere City Council (May 2005)**
Waitakere Ranges Protection Society Inc v Waitakere City Council (May 2005)

An appeal by the Auckland Regional Council and Waitakere Ranges Protection Society Inc ("WRPS") against a decision of the Council to grant consent to a subdivision by M and K Duncan, relating to the property at 46 Christian Road, Swanson. Both Auckland Regional Council and Waitakere Ranges Protection Society Inc oppose the consent on the basis of the density of the proposed subdivision and alleged precedent effect. A judicial conference was held on 5 September 2005 to consider issues including whether these appeals should be heard following resolution of the appeals on the Swanson Structure Plan. The Court has directed that these appeals should be put on hold to await the resolution of the structure plan appeals.

(Changed) **South Kaipara Nominees Limited and Others v Waitakere City Council (June 2005)**

A further appeal by South Kaipara Nominees Limited/Peter Mawhinney in relation to a refusal by Council to issue Certificates of Compliance for boundary changes to 27 separate Certificates of Title. There are two alternative proposals; (a) to widen access lots of the subdivision and make various other consequential changes to the surrounding lots; and (b) a sequenced series of 10% boundary adjustments. Council has filed a notice of reply to the appeal opposing the relief sought and indicating that such boundary adjustments would require discretionary or non-complying consents. An application to strike out South Kaipara's appeal has been lodged with the Court. Written submissions will be filed in support of the application before the end of October 2005. Mr Mawhinney then has four weeks to respond.

(Changed) **M and C Brickell, W Ashton and L Schwab v Waitakere City Council (June 2005)**

This is an appeal by the applicants M and C Brickell, W Ashton and L Schwab under s 121 of the Resource Management Act 1991 against a decision of the Council to refuse to grant consent to a 7 lot subdivision at 54-56 Christian Road, Swanson. The Auckland Regional Council and Waitakere Ranges Protection Society Inc have lodged applications with the Court in support of the Council as Section 274 parties. A judicial conference took place on 5 September 2005 at which time the Court directed that this appeal be put 'on hold' to await the resolution of the Swanson Structure Plan appeals.

HIGH COURT

(Unchanged) **Waste Management v Waitakere City Council, North Shore City Council, Rodney District Council and Christchurch City Council (August 2005)**

This is an action for judicial review by Waste Management seeking a declaration that the Local Government Acts 1974 and 2002 do not provide for that part of Councils' newly passed waste bylaws which make provision for imposing levies on waste for the purpose of providing economic incentives and disincentives under section 544 of the Local Government Act 1974. A timetable has been set for the matter. It is has been set down for a four day hearing beginning 24 April 2006. All four councils have retained Kensington Swan as solicitors and David Kirkpatrick as barrister.

(Unchanged) **Carter Holt Harvey v Waitakere City Council, North Shore City Council and Rodney District Council (August 2005)**

This is an action for judicial review by Carter Holt Harvey alleging that the Local Government Acts 1974 and 2002 do not permit a waste bylaw which requires it to be licensed for paper recycling activities where that is a private relationship and to impose a levy on waste. There has been some consolidation of this proceeding with the Waste Management proceeding. This matter is set down for hearing within the four days set beginning 24 April 2006. All four councils have retained Kensington Swan as solicitors and David Kirkpatrick as barrister.

(Changed) **Waitakere City Council v Peter William Mawhinney (July 2005)**

The Council took enforcement action against Mr Mawhinney to require payment in respect of an costs awards. Bankruptcy notices were served on Mr Mawhinney who has applied to have these set aside. The matter was heard on 28 September 2005. Mr Mawhinney has been given 21 days to pay $101,592.30. This includes approximately $89,000 owed to Waitakere with the remainder being owed to the Auckland Regional Council. Mr Mawhinney is required to pay interest on this amount until paid. If Mr Mawhinney fails to pay this sum by 5 pm on 19 October he will commit an act of bankruptcy and can be bankrupted by Council or any other creditor.

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

This claim is currently on hold pending the payment of security for Waitakere City Council's costs of $60,000 ordered by Associated Judge Sargisson on 2 May 2005. Mr Mawhinney must pay the security sum within six months (or no later than 16 November 2005) or we are able to apply to strike out his claims.

(Unchanged) **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'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 in Council's favour. The decision reversed the decision of the Environment Court. Estate Homes was granted leave to appeal to the Court of Appeal (on two issues, out of an original seven pursued). A hearing took place in the Court of Appeal on 1 September 2005. The Court reserved its decision.

DISTRICT COURT

(New) **Prosecutions under the Fencing of Swimming Pools Act 1987 (December 2003-September 2005)**

At the beginning of 2005 there were prosecutions filed in the District Court in relation to 117 swimming pools. These prosecutions had all been commenced prior to the delivery of the declaratory judgment in the High Court by Justice Randerson in October 2004. These matters have now been dealt with as follows:

- Convictions were entered against the owners of 9 pools when they failed to appear and convictions were entered by way of formal proof. Subsequently the owners of 3 of those pools have applied for a rehearing. In each case Council is opposing the application for rehearing.
- Prosecutions in relation to 75 pools were withdrawn because either the pool fencing complied as a consequence of the Randerson judgement without the need for any further work (4 pools) or the necessary work to bring the pool into compliance was completed to the Council's satisfaction (71 pools).
- Exemptions were granted in respect of the other 33 pools. In some cases exemptions were granted on the basis that further work would be done. In 4 of those cases Council is presently awaiting advice of completion of that work. Those 4 cases have a call over date of 4 November 2005. It is anticipated that all matters will be resolved, and the prosecutions withdrawn, by that date. That action will bring the absolute finality to the outstanding ~~**convictions**~~ **prosecutions**.

(NOTE: Corrected at the direction of the Planning and Regulatory Committee at its meeting on 11 October 2005.)

In addition to the exemptions referred to above the Swimming Pools Exemption Committee has heard and granted 16 further exemptions independently of the earlier prosecution proceedings and as a consequence of an increased understanding of the role of that committee in enabling pool owners to establish compliance with the requirements of the Act.

There are 4009 swimming pools and spa pools registered with Waitakere City Council but there may be more pools of which the Council is unaware. Records indicate the 91% of the registered pools presently comply with the requirements of the Act and efforts to enforce compliance with the requirements of the Act in relation to the remaining pools continue. It is likely that the continued efforts to enforce compliance will bring further applications for exemption, since that is the remedy provided by the Act for pool owners who wish to have absolute legal certainty as to their position or who wish to seek some relaxation from strict compliance with the more prescriptive requirements of the Act. If the recent rate of applications for exemption continues it is anticipated that the number of pools in Waitakere City which will comply with the Act as the consequence of an exemption being granted will be somewhere between 1.5% (60) and 3% (120) of the total number of pools in the City.

(Unchanged) **McGuigan Syme Chilcott Limited, R McGuigan, G Chilcott, T Donald, G Pitts, M and J Engle, R Foster, D Owens Limited, D Owens – 71 Riverlea Road, Whenuapai (August 2005)**

Charges laid under the Building Act for unauthorised building work undertaken to construct concrete foundations and timber framing as well as failing to stop work after the direction of an authorised officer. A building consent was lodged, but work commenced prior to the consent being granted. First call is set down for 21 October 2005.

(Unchanged) **P and D Clark, R Hawkins, R Johnston – 97 Shaw Road, Oratia (August 2005)**

Charges laid under the Building Act for unauthorised building work. The nature of the work has been extensive extensions to create new rooms and move kitchen facilities. First call is set down for 21 October.

(Unchanged) **Restaurant Brands Limited: KFC New Lynn – 3052 Great North Road, New Lynn (June 2005)**

The Council filed a notice of prosecution alleging contravention of 7 provisions of the Food Hygiene Regulations and 2 provisions of the Food Safety bylaw. These were filed against Restaurant Brands Ltd which is the owner of KFC New Lynn. Restaurant Brands have pleaded guilty to all charges and have asked that their current "A" grade certificate be taken into account as a mitigating factor in the Judge's sentencing decision, which is to be made by a District Court Judge sitting alone in chambers. We are still awaiting a decision.

(Changed) **G Nicola, P Freeman, A Casey, and Eurovision Building Removals Limited – 4 Bowers Road (June 2005)**

Charges laid under the Building Act for unauthorised building work undertaken to construct pile foundations to support a relocated house which was relocated onto the foundations. No building consent was obtained for the construction of the foundation or the relocation. The matter was adjourned called on 23 September 2005. The defendants chose not to enter a plea and sought a further adjournment to clarify the legal positions. The Court granted the adjournment. The matter is set down for a second call on 18 November 2005.

(Changed) **A Mackinnon – 5 Armour Road, Parau (June 2005)**

Charges were laid under the Resource Management Act for the clearance of at least 80 native trees including mänuka, kanuka, kahikatea, mahoe, and cabbage trees from a Protected Natural Area without resource consent. The matter was called on 23 September 2005 where the defendant entered a guilty plea. The matter has been transferred to the Auckland District Court for a call over on 4 November 2005 so as to be allocated to an Environment Judge. Sentencing is likely to take place on this date.

(Changed) **R and P Chand – 16 Archibald Road, Kelston (June 2005)**

Charges laid under the Building Act for unauthorised building work to create a residential unit by converting a downstairs garage, and under the Resource Management Act for the use of the unit in breach of the residential rules of the District Plan. The matter was called on 23 September 2005 where the defendant sought a further adjournment to undertake mitigation works. The defendants have now obtained building consent and are removing the unauthorised building works. The matter has been transferred to the Auckland District Court for a call over on 4 November 2005 so as to be allocated to an Environment Judge.

(Changed) **Sher Mohammad and Adbdul Hafeez – 73 Huia Road, Titirangi (May 2005)**

Charges were laid under the Building Act for unauthorised building work (construction of a dwelling without consent) and under the Resource Management Act in respect of District Plan rule breaches relating to unauthorised vegetation clearance, and earthworks. The matter was called on 23 September 2005 where no plea was entered by Mr Hafeez and Mr Mohammad was not represented. Mr Hafeez sought a defended hearing for himself and on behalf of Mr Mohammad. The matter is set down for a two day hearing on 12-13 December 2005 with an Environment Judge at the Auckland District Court with the parties being required to attend a call over on 4 November 2005.

(Unchanged) **John Steed – Public Places Bylaw (March 2005)**

An application for an order pursuant to section 162 of the Local Government Act 2002, requiring Mr Steed to cease breaching the Council's Public Places bylaw (Bylaw No. 4, Ch 2, cl 233.1(b)). Mr Steed has been living in his caravan on roadsides and road reserves in various locations in the City in breach of the bylaw and has refused to comply with Council officers' requests to cease doing so, has contravened an abatement notice, and is generally causing a nuisance in the locations where he resides in the caravan (e.g. by burning his household rubbish on the roadside and emptying wastewater from the caravan into the stormwater drainage system). Council officers have tried to assist him with alternative accommodation but he refuses to consider such options. The Court has granted an interim order restraining Mr Steed from breaching the bylaw. The final order was considered on 30 September 2005.

(Changed) **D Thompson & Others – 10 Pohutukawa Road, Whenuapai (March 2005)**

Charges laid under the Building Act for unauthorised building work undertaken to create two residential units within an existing warehouse building, and under the Resource Management Act for the use of those units in breach of the residential rules of the District Plan. This matter has been transferred to the Auckland District Court to be allocated to an Environment Judge, for call over on 4 November 2005.

(Changed) **M K Kasprzak – 27 Bedford St, Te Atatu South (March 2005)**

Charges were laid under the Building Act and Resource Management Act in respect of a second minor household unit constructed without the requisite building and resource consents. Mr Kasprzak has entered not guilty pleas and the matters have been transferred to the Auckland District Court to be dealt with by an Environment Judge. The matter has been adjourned to 7 October 2005 to allow time for Council and the defendant to meet and determine what further action is required.

(Unchanged) **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 is set down for hearing on 21 November 2005.

(Changed) **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. A defended hearing is to take place on 2 November 2005.

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

Charges were laid under the Resource Management Act 1991 ("Resource Management Act") regarding the contravention of District Plan Rules (as the property is being used to store vehicle wrecks and undertake vehicle repairs, without the requisite resource consent) and for contravention of an abatement notice. Mr Stanic pleaded guilty. A restorative justice conference was held on 13 May 2005, at which time the Council, affected neighbours and Mr Stanic discussed the situation. An agreement was reached that Council would assist the defendant to remove the vehicles from the property and that no further vehicle repair work would be undertaken at the property. The Council will seek an enforcement order to ensure that this occurs. Sentencing was scheduled for 7 June 2005 but Mr Stanic failed to appear. A new date is yet to be set.

RECOMMENDATION

That the Legal Update (As At 28 September 2005) be received.

Report prepared by Setareh Masoud-Ansari, Contract Solicitor.

PART C - ENVIRONMENTAL MANAGEMENT

5 AUCKLAND REGIONAL POLICY STATEMENT PLAN CHANGES

PURPOSE OF THE REPORT

The purpose of this report is to advise the Planning and Regulatory Committee on three plan changes to the Auckland Regional Policy Statement, and seeks delegated authority from the Chair to approve Waitakere City Council's submission to these plan changes.

BACKGROUND

The submission period for the plan changes runs from Monday, 26 September 2005 to Monday, 31 October 2005, with submissions due no later than 5pm on Monday, 31 October 2005.

The three Auckland Regional Policy Statement plan changes are:

1. Plan change 8 – Volcanic Features and Landscape
2. Plan change 9 – Include reference to the Hauraki Gulf Marine Park Act 2000
3. Plan change 10 – Chapter 11 – Natural Hazards

These plan changes have been promulgated in response to various changes in the legislative framework and the results of new research, as discussed in relation to each below. Waitakere City Council can make submissions to the proposed plan changes to influence the statutory framework in which the Waitakere District Plan lies, and to which effect must be given through the District Plan.

STRATEGIC CONTEXT

The content of the plan changes is discussed below. However, the strategic context of each is discussed briefly here.

Plan Change 8 – Volcanic Features and Landscapes. This plan change has a significant relationship with the Waitakere Ranges and Foothills protection project, and related proposed legislation, as all of the areas identified as outstanding natural landscapes are within this area. The Auckland Regional Policy Statement provisions will be a major influence on the future landscape values of these areas, and accordingly it is important that they contribute to a statutory framework which supports the long term protection of the Ranges and foothills. The Waitakere Ranges and Foothills protection project is a key Council Green Network initiative.

Plan Change 9 – Include reference to the Hauraki Gulf Marine Park Act 2000. This plan change similarly affects the eastern foothills, with consequent impact on and relationship with the Green Network strategic platform. Additionally, adherence with the requirements of both the Hauraki Gulf Marine Park Act 2000 and related Auckland Regional Policy Statement provisions impacts directly on the delivery of the Three Waters strategic platform.

Plan Change 10 – Natural Hazards. This plan change relates directly to the Three Waters strategic platform, as it includes provisions which impact on the management of flooding and streams. The plan change also relates to the Strong Communities strategic platform, as community confidence around the management of natural hazards and civil defence emergency management is a component of the level of safety felt by the community.

Some amendment to the Waitakere District Plan will likely be required as a result of Auckland Regional Policy Statement plan change 8, and possibly in response to Auckland Regional Policy Statement plan change 10. As discussed below, there is already a legal requirement for Waitakere City Council to amend its District Plan to give effect to sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 . However, Auckland Regional Policy Statement plan change 9 in itself is not expected to necessitate a District Plan change.

ISSUES

Plan Change 8 – Volcanic Features And Landscape

This plan change relates to Chapter 6 – Heritage, of the Auckland Regional Policy Statement, and also to the maps in the Auckland Regional Policy Statement which identify those areas that have a landscape character and quality such that they are considered to be directly related to section 6(b) of the Resource Management Act 1991. Section 6 of the Resource Management Act requires that:

> ***…all persons exercising functions and powers [under the Act] …shall recognise and provide for the following matters of national importance:***
>
> ***…(b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.***

Thus, there is a high level of legislative protection afforded such landscapes, and accordingly it is important that the identification and management of these areas is appropriate. The Auckland Regional Policy Statement contains both maps and policy in relation to the management of areas of outstanding natural landscape values, and this plan change modifies both of these sets of provisions.

Amendments to the Auckland Regional Policy Statement proposed in plan change 8 that are of particular significance to Waitakere City, and on which it is intended to submit include:

- A clear statement to the effect that Chapter 6 is intended to address the landscape and visual quality of non-urban areas only. Most of the Titirangi/Laingholm area is within the urban areas (as defined by the Metropolitan Urban Limits) yet contains areas with outstanding natural landscape values, and moreover is within the proposed Waitakere Ranges Heritage Area;
- A changed approach to managing landscapes that do not qualify as "outstanding" (in terms of section 6(b) of the Resource Management Act), yet which are still valued, including the introduction of a requirement to manage landscapes that have a physical or visual connection to areas of outstanding landscapes;
- Greater recognition of the causes of landscape degradation;
- Specific identification of the contribution that the Waitakere Ranges and associated eastern foothills, and the west coast make to the region's landscape;
- The identification of more detailed methods for achieving the objectives and policies contained in chapter 6, including how land use and subdivision controls can be used to manage landscapes; and
- Discussion of the 'pitfalls' associated with gaining restoration and enhancement through subdivision and development provisions by trying to ensure that the provision of restoration and enhancement does not become justification for inappropriate subdivision.

Additionally, there have been some significant amendments to the identification of areas of outstanding natural landscape in Waitakere City, including the exclusion of large parts of Piha, and the inclusion of areas of Titirangi-Laingholm, on which the Council may wish to make a submission.

Generally, the proposed amendments are considered to be appropriate, and there has been a good working relationship between Auckland Regional Council officers and staff of Waitakere City during their development, which is reflected in the proposed provisions. Nevertheless, some changes could be made to better suit the requirements of managing landscape in Waitakere City. As all of the outstanding natural landscapes within the City are in the proposed Waitakere Ranges Heritage Area, it is important that the Auckland Regional Policy Statement contains provisions as consistent as possible with the objectives of the Waitakere Ranges and Foothills protection project, and there is some scope for greater consistency in this area.

The Council has engaged a landscape consultant to review and make recommendations regarding the mapping and management of outstanding natural landscapes in Waitakere City, and this work will be used to inform the Council's submission to Auckland Regional Policy Statement plan change 8. An update on this can be presented to the Committee meeting.

This plan change also introduces new provisions relating to volcanic features. These provisions have a minor direct impact on Waitakere City, as none of the identified volcanic features are within Waitakere. However, the Auckland Regional Policy Statement proposes to introduce a new 'view shaft' to Mt Albert from the north western motorway adjacent to Harbourview. Policies and methods associated with these view shafts require that buildings do not intrude into the view shafts. As this view shaft lies along the motorway or adjacent Whau River, this provision will not have a significant impact. Nevertheless, it would be appropriate for the Waitakere City Council to indicate support for the identification of the view shaft.

Additionally, consideration could be given to advocating for a greater range of volcanic features to be identified in the Auckland Regional Policy Statement, particularly in relation to the Waitakere Ranges and the west coast, such as the 'pillow lava' features at Maori Bay, Muriwai or parts of the Waitakere Ranges. Council staff will assess this aspect in more detail prior to drafting the submission.

Plan Change 9 – Include Reference To The Hauraki Gulf Marine Park Act 2000

This plan change inserts reference to the Hauraki Gulf Marine Park Act 2000 into several parts of the Auckland Regional Policy Statement.

The purpose of the Hauraki Gulf Marine Park Act 2000 is to integrate the management of the resources of the Hauraki Gulf, its islands and catchments; establish objectives for their management; establish the Hauraki Gulf Marine Park and the Hauraki Gulf Forum; and recognise the historic, traditional, cultural and spiritual relationship of the tangata whenua with the Hauraki Gulf and its islands.

The eastern foothills, the Countryside Environment in the north, and most of the urban area of Waitakere City drain to the Waitemata Harbour, and hence are affected by this Act.

Section 7 of the Act establishes (amongst other things) that the interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance. Section 8 sets out a number of objectives are included which have the general effect of protecting and where appropriate enhancing the resources of the Hauraki Gulf, its islands and catchments, to recognise this national significance.

The plan change has been promulgated in response to the requirements of section 9(5) of the Hauraki Gulf Marine Park Act 2000 which states that:

> ***The provisions of section 55 of the Resource Management Act 1991 apply as though sections 7 and 8 of this Act were a national policy statement and a regional council or a territorial authority must take action in accordance with that section and notify a change to a regional policy statement, plan, or proposed plan within 5 years of the date of commencement of this Act***

Section 55 of the Resource Management Act requires that local authorities amend their statutory plans to give effect to the requirements of any national policy statement that applies.

The proposed plan change does little more than introduce references to the legislation, and does not make any substantive changes to the Auckland Regional Policy Statement. The Auckland Regional Council has made the assessment that the general thrust of the Auckland Regional Policy Statement is in accord with the Hauraki Gulf Marine Park Act 2000, and that the proposed changes included in Plan Change 9 adequately address the requirements of section 9(5) of the Hauraki Gulf Marine Park Act 2000. They consider that any more substantive changes would require a level of resourcing which is not necessary at this time.

There is nothing objectionable about the proposed amendments. However, a submission from the Waitakere City Council seeking more detail would be appropriate. For example a clearer identification of those existing parts of the Auckland Regional Policy Statement which are considered to be already giving effect to section 7 and 8 of the Hauraki Gulf Marine Park Act 2000, and/or some recognition of the interrelationship between the management of the eastern foothills of the Waitakere Ranges and the Hauraki Gulf would be useful.

The Act received its assent (i.e. came into force) in February 2000, meaning that local authorities should have made any necessary amendments to their statutory plans by February, this year. This provision also applies to Waitakere City Council. To date, no Auckland local authority except the Auckland Regional Council has promoted plan changes in response to the Hauraki Gulf Marine Park Act 2000. Once the proposed Auckland Regional Policy Statement provisions are operative (in whatever form that is), the Waitakere City Council should promote a plan change to the District Plan to ensure our compliance with the legislation and to give effect to the Auckland Regional Policy Statement.

Plan Change 10 – Natural Hazards

This plan change amends chapter 11 of the Auckland Regional Policy Statement, which relates to the management of natural hazards. Broadly speaking, the chapter addresses the requirement of sections 30 and 31 of the Resource Management Act 1991 that (amongst other things) local authorities control the use of land for the purposes of avoiding natural hazards. More recently, the Civil Defence Emergency Management Act 2002 has introduced a requirement for (amongst other things) greater coordination between local authorities. That Act also seeks to “improve and promote the sustainable management of hazards.” The Building Act 2004 directs building consent authorities to refuse a consent if the land on which the building work is to be carried out is subject or is likely to be subject to natural hazards which cannot be adequately managed, or if the work is likely to worsen or result in a natural hazard. In addition, the Resource Management (Energy and Climate Change) Amendment Act 2004 requires all persons exercising functions and powers under the Resource Management Act to have particular regard to, and plan for, the effects of climate change.

Plan change 10 introduces a number of amendments to chapter 11, which the Auckland Regional Council has characterised as:

- providing clarity around the respective roles of the Auckland Regional Council and the territorial local authorities of the Auckland Region in relation to natural hazards, as the Resource Management Act places very similar requirements on both;
- addressing a more comprehensive range of natural hazards and hazard management responses, in particular tsunami and to better manage flooding hazards; and
- updating the legislative framework to incorporate the new provisions discussed above.

In general, most of the proposed amendments are considered to be reasonable. The legislative framework in which the management of natural hazards lies <u>has</u> changed, and recent global events have emphasised the need for good natural hazards planning, and emergency responses. Some of the amendments have come out of the Regional Civil Defence Emergency Management Group, of which the Waitakere City Council is a member, and set out a clearer regime for the management of such issues as flooding. However, there are significant concerns around the level of data collection and management that the provisions would impose on territorial authorities like Waitakere City Council., and more significantly, the level of liability that the Council would be exposed to. Proposed Method 11.4.2.2 would introduce a new requirement on territorial authorities to gather information, and undertake or commission research on natural hazards, and to make this information available to all persons through a natural hazard database. Previously this research function sat with the Auckland Regional Council alone, and proposed amendments would make the Auckland Regional Council responsible only for this role in relation to <u>regional</u> hazards. This raises issues of the practicality, capability and cost for the Council. There is also a real risk of duplication, with the Auckland Regional Council, and one or more territorial local authorities gathering the same information. For example, it may not be clear at which point a hazard becomes regional in nature. Moreover, the very explicit requirement on territorial authorities to be in possession of this information could have significantly increased the Council’s exposure to liability in the event that information is not known, or is in some way inadequate.

Council staff are looking at this very closely and is seeking legal advice. It is expected that the Council's submission will deal explicitly with this issue.

RESOURCES

Completion of submissions to plan changes 8, 9 and 10 requires mostly Council staff time. The extra landscape work commissioned to inform the submission to plan change 8 is budgeted for.

CONCLUSION

The three plan changes discussed in this report are of varying significance to Waitakere City Council, and a measured response is required in relation to each. This agenda item sets out some of the issues identified to date, and highlights areas where more work is required. Council staff are finalising submissions in time for the close off date of 31 October, 2005. An update can be presented to the Committee at its meeting, if required. In order to meet the timelines, it is recommended that authority to approve the submissions be delegated to the Chair of the Committee.

RECOMMENDATIONS

1. That the Auckland Regional Policy Statement Plan Changes report be received.

2. That authority to approve the submissions to Auckland Regional Policy Statement plan changes 8, 9 and 10 be delegated to the Chairperson of the Planning and Regulatory Committee.

Report prepared by: Jenny Fuller, Senior Adviser, District Plan.

6 DRAFT POLICY ON EARTHQUAKE PRONE, DANGEROUS AND INSANITARY BUILDINGS

PURPOSE OF THE REPORT

The purpose of this report is to seek input from the Planning and Regulatory Committee on the draft policy for earthquake-prone, dangerous and insanitary buildings and to obtain approval to put the draft policy out for public consultation.

BACKGROUND

Section 131 of the Building Act 2004 ("the Act") requires territorial authorities to adopt a policy on earthquake-prone, dangerous and insanitary buildings within their district by 31 May 2006.

The policy is required to state:

- The approach that the territorial authority will take in performing it's functions in relation to those buildings;
- The priorities to be observed in performing those functions;
- How the policy will apply to heritage buildings.

In developing and adopting their respective policies, territorial authorities are required to follow the consultative procedure set out in section 83 of the Local Government Act 2002.

A1-A32 The required summary of information, statement of proposal and draft policy on earthquake-prone, dangerous and insanitary buildings is attached at pages A1 to A32.

The report entitled Auckland Regional Policy Statement Plan Changes on this Agenda outlines changes to the natural hazards section of the Auckland Regional Policy Statement (Plan Change 10). Plan Change 10 seeks to clarify the roles of Auckland Regional Council and local Councils in relation to natural hazards. This draft policy will help clarify Councils role on earthquake-prone, dangerous and insanitary buildings and is consistent with the proposed changes to the Regional Policy Statement.

STRATEGIC CONTEXT

The Act reflects Parliament's policy objective for New Zealand buildings. The provisions relating to earthquake-prone buildings seek to reduce the level of earthquake risk to the public over time and targets the most vulnerable buildings. Strengthening buildings to improve their ability to withstand earthquake shaking will involve costs to territorial authorities, building owners and the community generally. However, at this stage these costs cannot be quantified, but the aim is to do so within the first year of the policy coming into force.

Waitakere City Council ("Council") is committed to ensuring that Waitakere City is a safe place to live and work. Earthquake-prone, dangerous and insanitary building issues have a strong relationship with Council's strategic priorities for a safe city and first call for children.

ISSUES

1 Earthquake-prone building policy

Parliament has not imposed a "one size fits all" approach to the management of problems associated with earthquake prone buildings. The measures in the legislation recognise that local economic, social and environmental factors have an impact on the implementation of these provisions of the Act. The measures in the legislation also recognise the need for a consistent, transparent and accountable approach to the implementation of the provisions in order to protect both building owners and users.

Before a territorial authority submits its earthquake-prone building policy for community consultation, it should consider the way in which it wishes to implement its policy. There are three approaches that territorial authorities could adopt.

(a) An active approach

Under an active approach, Council would carry out an initial evaluation of buildings in its district to identify those likely to pose a high risk. In light of this, Council would establish priorities for further, more detailed evaluations and set timetables for action. Building owners would then be advised that their buildings are likely to be earthquake-prone and, if appropriate Council would seek from them a more detailed assessment of the building. If the detailed assessment confirmed that the building was earthquake-prone, Council would issue a notice to reduce or remove the danger to the level set out in its earthquake-prone building policy.

Adoption of this approach would provide Council with the best possible risk reduction programme as it is able to set and control the level of any work required to mitigate risk.

(b) A passive approach

If Council were to adopt a more reactive approach, the initial evaluation process and detailed assessment and any improvement of structural performance would only be triggered by an application under the Act for building alteration, change of use or extension of life or sub division.

This second approach has the significant disadvantage that it relies upon a somewhat haphazard order of remediation of earthquake-prone buildings in Waitakere City, based essentially on an owners intentions for a building. This could leave some significant high risk buildings untouched for a long period of time.

(c) A mixture of active and passive

Council may wish to adopt an implementation regime that includes elements of both an active and passive approach that reflects the level of earthquake risk and priorities specific to Waitakere City. The draft earthquake-prone building policy reflects this approach.

Under the draft policy Council would take an active approach in dealing with buildings identified in NZS 1170.0 2002 table 3.2 (A21) as having importance levels three and four. Level three structures are structures that as a whole may contain people in crowds or contents of high value to the community or pose risks to people in crowds. Level four structures are structures with special post disaster functions (e.g. hospitals).

All buildings identified as heritage buildings would also be subject to an active approach given the importance of heritage buildings to the historical and cultural life of the nation and the local community.

A passive approach would then be taken with buildings identified in NZ 1170.0 2002 table 3.2 (A21) as having importance levels one and two. Level one structures being structures presenting a low degree of hazard to life and other property and level two structures being structures not in other importance levels (e.g. car park buildings).

The policy does not apply to buildings that are used wholly or mainly for residential purposes unless the building comprises of two or more stories and contains three or more household units.

2. Dangerous and insanitary building policy

The requirements for dealing with dangerous and insanitary buildings under the 2004 Act are very similar to the Building Act 1991. Consequently the draft policy on dangerous and insanitary buildings effectively seeks to formalise the existing approach used to deal with these issues.

Council’s existing approach is to investigate all dangerous and insanitary building issues as they arise. Where that investigation confirms that a building is dangerous or insanitary Council issues a notice to reduce or remove the danger; or prevent the building from remaining insanitary. Where a building is determined to be immediately dangerous or insanitary Council will cause any action to be taken to remove that danger or fix those insanitary conditions, (this may include prohibiting persons using or occupying the building, undertaking works to remove the danger or those insanitary conditions and demolition of all or part of the building). Action will then be taken to recover costs from the owner(s).

RESOURCES

The desk top examination of buildings in Waitakere City has identified approximately 640 buildings that warrant a visual assessment to be made by a suitably qualified person to determine whether or not they are likely to be earthquake-prone buildings. Council does not possess the resources required to carry out this work and consequently it will need to be sourced from outside of Council. Council has already approved $125,000 in the 2005/2006 Annual Plan for this exercise. This ought to adequately address the necessary investigation in respect of earthquake-prone buildings. No such proactive assessment is feasible for dangerous and insanitary buildings as it would require sufficient additional resources to enable inspection of every building in the City. The draft policy seeks to formalise the existing approach used to deal with dangerous and insanitary buildings. The current resource and level of funding is considered to be adequate to deal with dangerous and insanitary buildings given the relatively low numbers of confirmed dangerous and insanitary buildings encountered annually (approximately 50 dangerous buildings and 30 insanitary buildings per year).

CONCLUSION

Council is required by statute to adopt a policy on earthquake-prone, dangerous and insanitary buildings by 31 May 2006.

While Council may adopt a policy on earthquake-prone buildings that is either active or passive it is considered that a mixture of both active and passive will provide a responsible approach to dealing with earthquake-prone buildings in Waitakere City.

In relation to dangerous and insanitary building policy the similarities between the Building Act 1991 and the Building Act 2004 enable Council to adopt a policy that formalises the current approach taken in dealing with dangerous and insanitary buildings in Waitakere City.

The measures in the legislation recognise the need for a consistent, transparent and accountable approach to the implementation of the provisions in order to protect both building owners and users. Accordingly Council is required to follow the consultative procedure set out in section 83 of the Local Government Act 2002.

RECOMMENDATIONS

1. That the Draft Policy on Earthquake-Prone, Dangerous and Insanitary Buildings report be received.

2. That it be recommended that:

A1-A32

   a) The Draft Earthquake-prone, Dangerous and Insanitary Buildings Policy 2006/2011, Summary of Information and Statement of Proposal attached to the agenda at pages A1 to A32 be approved in principle and that Council officers be authorised to implement the Special Consultative Procedure as set out in Section 83 of the Local Government Act 2002.

   b) The Planning and Regulatory Committee hear any submissions during November 2005 with a final report in relation to the Draft Earthquake-prone, Dangerous and Insanitary Building Policy 2006-2011 to be brought back to Council for a final decision.

Report prepared by: Max Wilde, Manager Field Services and Setareh Masoud-Ansari, Contract Solicitor.

7

HERITAGE PROPOSED PLAN CHANGE

PURPOSE OF THE REPORT

The purpose of this report is to obtain the Planning and Regulatory Committee's approval to publicly notify a proposed plan change that will add historic houses and trees to the District Plan Heritage Appendix and correct some minor anomalies.

BACKGROUND

About five years ago, the Council commissioned a heritage consultant and landscape architect to assess specific trees and buildings identified by members of the community as being potential heritage items. The studies ruled out some buildings and trees as heritage items as they did not satisfy the criteria in the District Plan for heritage listing. The Council has also recently commissioned a report on an historic dwelling in Henderson. The only way to incorporate additional heritage items into the District Plan Heritage Appendix is to publicly notify a plan change. At the time that the studies were completed, the Council's focus was on settling outstanding District Plan appeals and there was not the opportunity to progress a plan change at an earlier stage. The proposed plan change only incorporates those items that are significant enough to warrant heritage protection.

STRATEGIC CONTEXT

The Council has nine strategic platforms in its Long Term Council Community Plan. The Urban and Rural Villages platform, aims to: "Protect and celebrate the City's cultural diversity and heritage. Work in partnership with the many cultures of the City. Plan for the protection and celebration of all kinds of heritage in the City – for example Maori, industrial and environmental."

The Council has produced a heritage strategy and action plan that draws together broad protection policies with an implementation programme. The District Plan regulates the effects of activities on the environment and provides for protection of heritage buildings, trees and archaeological sites. As a strategic document, the District Plan should provide an accurate list of heritage items to be protected.

ISSUES

Trees

General tree protection controls in the District Plan offer a degree of protection to trees considered to have amenity value. The trees protected in the District Plan Heritage Appendix are those having particular heritage value and for which the general tree protection controls would not provide sufficient recognition and protection. Trees nominated by the community or the Council may be listed on the District Plan Heritage Appendix if they meet certain criteria that assess arboricultural and amenity values.

The Council has a report that assessed the value of various trees at Herald Island that were recommended for listing by the Herald Island Residents and Ratepayers Association. The Residents and Ratepayers nominated a total of eight trees for protection. However, only two trees were of sufficient value to warrant further protection. The location and species of trees are:

- Tall Italian Cypress tree located outside 28-30 Ferry Parade that was planted in the early 1950s and aerial photographs taken in the late 1950s verify this.
- Large Kauri tree located outside the 80 Ferry Parade planted to mark the entrance to the former primary school that was built in 1953, opened in 1954 and closed in 1958.

Structures

The District Plan Heritage Appendix lists approximately 220 sites or structures as being significant. This list was established based on items that were protected in previous plans, items identified by the community through consultation exercises and a survey undertaken by Council. A building or structure may be significant due to the following values:

- Historic
- Architectural merit
- Landmark value
- Community significance
- Visually contributes to the amenity, form, scale and fabric of the place or area
- Patterns of settlement
- Sense of place.

There are three management categories identified in the District Plan. Category I items are structures of high value which should not be modified, or modified only minimally, for example Lopdell House and the Glen Eden Playhouse. Category II items are structures of value, but where change could be considered if it is in keeping with the character. This category mostly includes dwellings. These items are good examples of their kind. Of the three management categories, Category III recognises the need for greater flexibility in terms of the management of the items.

The Council's heritage consultant has assessed six buildings and has recommended that the following four buildings warrant protection as Category II items:

- The Knoll (William Levy's house) 29 Lucinda Place, Glen Eden – Category II heritage item.
- Villa, 6 Glenview Road, Glen Eden - Category II heritage item.
- Old Fire Station 57 Ferry Parade, Herald Island – Category II heritage item.
- Former Cranwell home at 7 Crockett Lane, Henderson – Category II heritage item.

1. The house located at 29 Lucinda Place, Glen Eden is a Californian bungalow, with arched window and door openings with a square bay window, exposed rafter ends and roughcast exterior. The house has an additional distinctive design feature, a turret. The style of the dwelling is generally consistent with the architecture of the 1910-1930 period in New Zealand. However, it is significant as the house was built by William Levy, a notable figure in the history of West Auckland. William Levy was an early horticulturalist and nurseryman. Waitakere City has a special heritage of horticultural development, including its orchards and vineyards. The area has attracted many horticulturalists because of exceptionally good growing conditions, both soil and climate. Recognition of the heritage of notable nurserymen is therefore particularly appropriate for the City. In addition, this building is an interesting example of a Californian bungalow.

2. The dwelling at 6 Glenview Road was originally constructed in 1898 on land owned by the Wesleyan Mission in what is now Beach Road in Auckland City. The house was originally one of three and it stood on a site previously occupied by a notable early Auckland landmark, the Mission storehouse and later the workshop of Robert Stone, shipbuilder. In 1917 when Beach Road was widened, the villa was shifted out to Waikumete and placed on land adjoining the cemetery, for the use of the Waikumete Cemetery Foreman of Works. The villa has considerable cultural heritage significance because:

- It has a historical association with the Wesleyan Mission, which was established in Auckland in the 1840s and was an important colonial organisation; this association elevates it above its local associations.
- It has a historical association with Waikumete cemetery.
- It is one of the few remaining Victorian villas in Waitakere City.

3. The Herald Island fire station is located at 57 Ferry Parade. The station consists of a simple rectangular gabled buildings and a tower. The building is essentially a garage with large door opening at the front for a fire engine. It was constructed in 1959 by volunteer labour and extended by the addition of a Harman garage in 1969. The site is part of land originally owned by the post office. The Herald Island fire station building is now a relic of a former age of fire fighting. It is significant because:

   - It is associated with the establishment of a fire service on Herald Island.
   - It is a good example of a small rural fire station.
   - It has significance to the community and contributes to the identity of Herald Island.
   - It contributes to the form, scale and setting of the place; and
   - It is a rare example of a surviving rural fire station in Waitakere City and in the Auckland region.

4. The house at 7 Crockett Lane, Henderson is of considerable historic value. The two storey mansion was built from heart kauri in the late 1890s and was the family home of Thomas Cranwell who owned the Pomaria orchards which extended from the homestead up towards the end of Lincoln Road. Thomas Cranwell's grand daughter was Dr Lucy Cranwell, an internationally acclaimed botanist. The house is associated with the pioneering of commercial orcharding in Henderson, which together with viticulture became the area's most important industry for the better part of a century. The homestead has cultural heritage significance because:

   - It is associated with a founding family in Waitakere City that were involved in orcharding.
   - It has significance to the community and contributes to the identity of Henderson.
   - It is a rare example of a surviving homestead from the 1890s.
   - It is architecturally unusual, featuring an eclectic range of style characteristics

Minor Anomalies

The proposed plan change will also correct some minor mapping errors recording the location of heritage trees at 433 and 435 West Coast Road, Oratia and trees at 26-28 Wiseley Road.

A33-A95

A full section 32 report that supports the listing of these items and correction of some minor anomalies is attached at pages A33 to A95. The Resource Management Act 1991 has a specific process for notification of any changes to the District Plan that includes a public advertisement, the opportunity to make submissions, hold a hearing and issue a decision notice.

RESOURCES

There is sufficient resource allocated in the Annual Plan to undertake this proposed plan change.

CONCLUSION

The Council has produced a heritage strategy and action plan that draws together broad protection policies with an implementation programme. The District Plan regulates the effects of activities on the environment and provides for protection of heritage buildings, trees and archaeological sites. As a strategic document, the District Plan should provide an accurate list of heritage items to be protected. The proposed plan change to incorporate two trees and four heritage buildings into the District Plan heritage appendix is appropriate and will ensure that the District Plan accurately reflects those items of heritage significance.

RECOMMENDATIONS

1. That the Heritage Proposed Plan Change report be received.

2. That pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991, the Planning and Regulatory Committee resolve to publicly notify the heritage proposed plan change to the Waitakere City District Plan to correct some minor mapping anomalies, schedule two trees and four buildings identified in this report in the Heritage Appendix of the District Plan.

3. That a further report be prepared for the Planning and Regulatory Committee to consider any submissions received on the proposed Plan Change.

Report prepared by: Alina Hughes, Principal Advisor: Heritage

PART D -

PUBLIC EXCLUDED MATTER

8 SWANSON STREAM LAND SLIP

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(s) of the proceedings of this meeting, Swanson Stream Land Slip.

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.
• Swanson Stream Land Slip	The withholding of information is necessary in order to: • Maintain legal professional privilege • Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	That the public conduct of the whole of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section *7(2)(g)and (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:

- *To receive legal advice and that the report contains information which if released could affect Council's negotiations.*