



Waitakere City Council
Te Taiāo o Waitakere

PROPOSED PLAN CHANGE 26
Living Environment Bulk and Location
Rules

Prepared in fulfilment of Section 32 of the
Resource Management Act 1991

23 April 2008

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Proposed Plan Change 26 To amend the Bulk and Location Rules relating to the Living Environment Zoning

Analysis under Section 32 of the Resource Management Act 1991

1.0 Introduction

This report provides a background to Proposed Plan Change 26 which seeks to amend a number of the District Plan's operative Rules of the Living Environment.

A number of matters have been identified where the Living Environment Rules have been incorrectly drafted, are open to misinterpretation or are not achieving the desired outcomes on-site. A change to the District Plan will provide clearer Rules which are not open to misinterpretation, which in turn will mean that the Resource Consent process could be simplified, costs minimised, customer satisfaction increased and amenity enhanced within residential areas.

This report has been prepared to fulfil the requirements of Section 32 of the Resource Management Act 1991 (the Act). Section 32 of the Act requires that an evaluation of the Proposed Plan Change be undertaken, and that a report summarising the evaluation be available for public inspection at the time the Proposed Plan Change is publicly notified.

2.0 Background to Plan Change

The District Plan (the Plan) contains Policies, Objectives and Rules for the purpose of managing the effects of land use on the environment.

Since public notification in 1995, the Plan has been required to be considered in the assessment of applications, with varying degrees of weight as the Plan has progressed through the transitional to operative status. Over that time a significant number of applications for Resource Consent have been processed, with a number of small, but not insignificant, issues being identified in the drafting or interpretation or outcomes of the Rules. Although these issues may not be considered strategically significant, addressing them will assist with streamlining the processing of Resource Consents, reduce the cost and time for applicants and improve the environmental outcomes and amenity on site.

On 10 July 2007 the Council resolved (Resolution 3047/2007) as follows:

1. That the Issues and Options Paper: Review of the Bulk and Location Rules of the Waitakere City Council District Plan (Living Environment) report be received.
2. That a review of the bulk and location Rules of the Living Environment be undertaken and that a draft Plan Change be prepared and reported back to the Planning and Regulatory Committee for consideration.
3. That the framework, in particular the timeline, for the review be reported to the August 2007 meeting of the Planning and Regulatory Committee.

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A timeline was developed and on 7 August 2007 the Council resolved (Resolution 3231/2007) as follows:

1. That the timeline for the Review of the bulk and location Rules of the Waitakere City Council District Plan (Living Environment) report be received.

On this basis, the Proposed Plan Change has been prepared.

3.0 Description of Proposed Plan Change

The Proposed Plan Change seeks to modify various Living Environment Rules so that the intent of each Rule is clear and not open to misinterpretation.

The purpose of the Proposed Plan Change is not to overhaul the Living Environment Rules contained within the Plan, but to provide clearer interpretation of the Rules, provide simplification of the Rules where possible and ultimately to provide enhanced amenity within residential areas, without substantially changing or challenging the Objectives of the Plan.

The Plan Change centres around the Living Human Environment Rules, however, in order to retain consistency within the Plan, where the same or similar Rules occur within another Human Environment (such as the Height in Relation to Boundary Rule), these Rules have been reviewed across all Human Environments.

In some instances changes to the Human Environment Rules have consequential impacts on the Natural Area Rules (such as earthworks on sensitive ridgelines) and therefore these Rules have also been reviewed where applicable.

No amendments to the Objectives and Policies of the District Plan are required, as the amendments within the Proposed Plan Change are already sufficiently provided for by the existing District Plan Objectives and Policies.

3.1 Proposed Changes to the District Plan Rules

3.1.1 Amend Existing Living Environment Rules

Living Environment Rule 2: Residential Activities / Density

- Specifically exclude the assessment of additions and alterations to existing dwellings under this Rule so that another Resource Consent is not required for density infringements where a Resource Consent has already been granted.

Living Environment Rule 3: Building Location – Natural Landscape Elements

- Amend this Rule so that it is a Permitted Activity to undertake additions or alterations where there is no increase to the height of the building or development, and where there is no increase to the building coverage beyond the existing building footprint. This would generally apply to

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enclosing existing verandahs and areas underneath existing dwellings. This change also applies where there would be no further effects on a sensitive ridgeline.

Living Environment Rule 5: Height in Relation to Boundaries

- Amend this Rule so that the Height in Relation to Boundary (HIRB) recession planes also apply to road boundaries.
- Amend the Rule so that HIRB is taken from far side of an adjoining driveway (to a maximum of 3.2m) where the driveway serves a rear dwelling.
- Include a new diagram (Diagram 5B) in the Rule showing HIRB taken from the far side of an adjoining driveway.
- Amend the Rule so that HIRB is taken from site boundary, rather than the far side of an adjoining pedestrian accessway.

Living Environment Rule 8: Building Location – Privacy / Amenity

- Amend the wording under this Rule to clarify that the main glazing can either be separated from the site boundary or screened from the site boundary.
- Amend the wording so that the main glazing need not be screened when it is adjacent to the Transport Environment or Open Space Environment.
- Delete reference to outdoor space under this Rule as this is covered under Rule 9.

Living Environment Rule 9: Outdoor Space

- Reformatting to clarify interpretation of the Rule.
- Amendments requiring outdoor space for minor household units in addition to outdoor space requirements for main dwellings.
- Require the outdoor space to be directly accessible from the main living room of the dwelling and any minor household unit.

Living Environment Rule 10: Non-Residential Activities

- Delete requirement for a minimum site area of 450m² for non-residential activities on a site.

Living Environment Rule 12: Carparking and Driveways

- Amend this Rule to include minor household units in minimum standards for shared driveways.

Living Environment Rule 13: Noise (Non-Residential Activities)

- Amend Rule to reflect current noise standards.
- Amend Rule to require noise measurements at the appropriate part on a site, rather than any part of a site.

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3.1.2 Amend other existing Human Environment Rules

For consistency, the following consequential changes are proposed to other Human Environment Rules:

Building Location – Natural Landscape Elements

Changes to: Foothills Environment (Rule 3), Rural Villages Environment (Rule 3), Coastal Villages Environment (Rule 2), Bush Living Environment (Rule 2), Waitakere Ranges Environment (Rule 2).

- Amend this Rule so that it is a Permitted Activity to undertake additions or alterations where there is no increase to the height of the building or development, and no increase to the building coverage beyond the existing building footprint. This generally applies to enclosing existing verandah areas and areas underneath existing dwellings where there would be no further effects on a sensitive ridgeline.

Height in Relation to Boundary

Changes to: Rural Villages Environment (Rule 5), Coastal Villages Environment (Rule 5), Bush Living Environment (Rule 5), Open Space Environment (Rule 3).

- Amend this Rule so that the Height in Relation to Boundary (HIRB) recession planes also apply to road boundaries.
- Amend Rule so that HIRB is taken from far side of an adjoining driveway (to a maximum of 3.2m) where the driveway serves a rear dwelling.
- Include a new diagram (Diagram 5B) in the Rule showing HIRB taken from the far side of an adjoining driveway.
- Amend the Rule so that HIRB is taken from site boundary rather than the far side of an adjoining pedestrian accessway, where relevant.

3.1.3 Amend existing Natural Environment Rules

For consistency, the following changes are proposed to the Earthworks Rules in the following Natural Areas:

General Natural Area, Restoration Natural Area, Managed Natural Area, Coastal Natural Area, Protected Natural Area.

- Amend to allow earthworks on a sensitive ridge when they are within an approved building platform.

3.1.4 Amend existing City Wide Rules

For consistency, the following changes are proposed to the City Wide Noise Rules:

Changes to: City Wide General Noise Standards, Countryside Environment, Foothills Environment, Rural Villages Environment, Coastal Villages Environment, Bush Living Environment, Waitakere Ranges Environment, Open Space Environment, Community Environment, Working Environment.

- Amend Rule to reflect current noise standards.

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- Amend Rule to require noise measurements at the appropriate part on a site, rather than any part of a site.

3.1.5 Amend existing Definitions

- Changes to the Definitions section of the District Plan to exclude decks and terraces up to 1.0m above ground from calculations of total building coverage.
- Amend the definition of *Building* to exclude uncovered decks / terraces up to 1.0m above ground level.
- Amend the definition of *Building Coverage* to exclude decks and terraces.

3.1.6 Proposed new Definition

- Include a new definition for *Building Envelope* to describe the three-dimensional area encompassed by a roof, walls or framing and foundations.
- This definition will be referenced under the Building Location Rules and would assist in clarifying what development would be considered as a permitted activity (i.e. enclosing basement or verandah areas).

3.2 Proposed Changes to the District Plan Maps

The Proposed Plan Change will not amend the District Plan Maps, in either the Human Environments or Natural Areas.

4.0 Resource Management Act 1991

The Resource Management Act 1991 (the Act) provides a legislative framework for the sustainable management of natural and physical resources in New Zealand. The purpose of the Act is to promote the sustainable management of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety.

Part II (Sections 5-8) sets out the Purpose & Principles of the Act.

Section 5 (2) defines the purpose of the Act, sustainable management as:

“managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

Section 6 outlines Matters of National Importance that must be recognised and provided for:

“6. Matters of National Importance –
In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and

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physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development;
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development;
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers;
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, site, waahi tapu and other taonga;
- (f) the protection of historic heritage from inappropriate subdivision, use and development;
- (g) the protection of recognised customary activities.”

Section 7 sets out Other Matters that must be given particular regard including:

- (a) “Kaitiakitanga;
- (aa) The ethic of Stewardship;
- (b) The efficient use and development of natural and physical resources;
- (ba) The efficiency of the end use of energy;
- (c) The maintenance and enhancement of amenity values;
- (d) Intrinsic values of ecosystems;
- (e) Repealed
- (f) Maintenance and enhancement of the quality of the environment”

Section 8 of the Act requires that the principles of the Treaty of Waitangi be taken into account.

Part IV of the Act relates to functions, powers and duties of Central and Local Government.

The Councils’ functions are outlined in Section 31 as being the control of actual and potential effects of the use, development or protection of land and associated natural and physical resources in order to achieve the purpose of the Act. The Council is to establish, implement and review objectives, policies and methods to achieve this and can also include Rules, which prohibit, regulate or allow activities. The District Plan is a tool to assist the Council in achieving its functions.

Section 31(1) of the RMA outlines the Council’s functions as follows:

- (a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;
- (b) The control of any actual or potential effects of the use, development, or protection of land, including the for the purpose of-
 - (i) the avoidance or mitigation of natural hazards; and
 - (ii) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances;
 - (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land;
 - (iii) the maintenance of indigenous biological diversity;

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- (c) *Repealed*
 - (d) *The control of the emission of noise and the mitigation of the effects of noise;*
 - (e) *The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes;*
 - (f) *Any other functions specified in this Act.*
- (2) *The methods used to carry out any functions under subsection (1) may include the control of subdivision*

The purpose of a district plan as outlined in section 72 of the Act is to assist the Council to carry out its functions in order to achieve the purpose of the Act. Section 74 (1) of the Act is the statutory basis on which the Council undertakes changes to its plan. Section 74(1) states that:

“A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part II, a direction given under section 25A(2), its duty under section 32, and any regulations.”

Therefore before adopting an objective, policy or Rule or other method in the District Plan a rigorous assessment under Section 32 of the Act must be carried out. Section 32 (3-6) states:

- (3) *An evaluation must examine –*
 - (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
- (3A) *The subsection applies to a rule that imposes a greater prohibition on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstance of the region or the district.*
- (4) *For the purposes of the examinations referred to in 3 and 3A, an evaluation must take into account –*
 - (a) *the benefits and costs of policies, rules, or other methods; and*
 - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- (5) *The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
- (6) *The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.*

Part V of the Act relates to Standards, Policy Statements and Plans. Section 74 (1) has been mentioned above, however the remainder of that section of the Act is also relevant to plan changes:

- (2) *In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
 - (a) *Any—*

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- (i) *Proposed regional policy statement; or*
 - (ii) *Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
 - (b) *Any—*
 - (i) *Management plans and strategies prepared under other Acts; and*
 - (ii) *repealed*
 - (iii) *Relevant entry in the Historic Places Register; and*
 - (iii) *Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—*
to the extent that their content has a bearing on resource management issues of the district; and
 - (c) *The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*
- (2A) *A territorial authority must, when preparing or changing a district plan, take into account any relevant planning document recognised by an iwi authority, and lodged with the authority, to the extent that its content has a bearing on resource management issues of the district.*
- (3) *In preparing or changing any district plan, a territorial authority must not have regard to trade competition.*

In respect of district plans, Section 75 states that:

- (1) *A district plan must state –*
 - (a) *the objectives for the district; and*
 - (b) *the policies to implement the objectives; and*
 - (c) *the rules (if any) to implement the policies*
- (2) *A district plan may state -*
 - (a) *the significant resource management issues for the district; and*
 - (b) *the methods, other than rules, for implementing the policies of the district; and*
 - (c) *the principal reasons for adopting the policies and methods; and*
 - (d) *the environmental results expected from the policies and methods; and*
 - (e) *the procedures for monitoring the efficiency and effectiveness of the policies and methods; and*
 - (f) *the processes for dealing with issues that cross territorial authority boundaries; and*
 - (g) *the information to be included with an application for resource consent; and*
 - (h) *any other information for the purpose of the territorial authority's functions, powers, and duties under this Act.*
- (3) *A district plan must give effect to—*
 - (a) *any national policy statement, and;*
 - (b) *any New Zealand coastal policy statement, and;*
 - (c) *any regional policy statement.*
- (4) *must not be inconsistent with-*
 - (a) *a water conservation order; or*
 - (b) *a regional plan for any matter specified in section 30(1).*

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- (5) *A district plan may incorporate material by reference under Part 3 of Schedule 1.*

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

5 Section 32 Analysis

In achieving the purpose of the Act, section 32 requires that before notifying a proposed Plan Change the Council must carry out an evaluation of the alternatives, benefits and costs of the Proposed Plan Change.

The Council's obligations under section 32 are divided into five parts. These comprise the following:

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

5.1.1 The extent to which each objective is most appropriate in achieving the purpose of the Act (s32(3)(a))

The purpose of the Act as outlined in Part II is the sustainable management of natural and physical resources. It is considered that the Proposed Plan Change will not compromise the sustainable use of the City's land.

As the Proposed Plan Change does not seek to amend any existing objective, or introduce any new objective into the District Plan, further analysis of the District Plan's objectives is not required. In addition, it is considered that there will be no eroding of any existing objectives as a result of amending the Rules, as the amendments seek to refine the existing Rules and to provide clearer interpretation while maintaining their intent. All activities will remain subject to other relevant Rules and assessment criteria.

Section 6 of the RMA identifies matters of national importance, which need to be recognised and provided for in achieving the purpose of the Act. The operative District Plan addresses matters identified under this section. It is considered that the Proposed Plan Change will not be contrary to section 6 of the RMA as only minor amendments are proposed to the Rules that will not change the intent of the policies or objectives.

Section 7 deals with other matters to which particular regard shall be had to in achieving the purpose of the Act. The matters of particular relevance to this Proposed Plan Change are:

- Section 7 (c) The maintenance and enhancement of amenity values

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The District Plan includes methods to ensure that amenity values in the Living Environment are maintained, particularly in relation to on-site amenity values. The Proposed Plan Change contains amendments in relation to on-site amenity, particularly regarding outdoor space requirements for minor household units. It is expected that amenity values will be maintained and enhanced within the Living Environment and the Plan Change will not detract from the regard given to this matter, or from achieving the purpose of the Act.

Consequently it is considered that section 7(c) is being given particular regard in this Proposed Plan Change.

- Section 7 (f) Maintenance and enhancement of the quality of the environment

The majority of the land zoned Living Environment is located within a modified urban environment and the District Plan Rules (including the City Wide Rules and Natural Environment Rules) work together to maintain the qualities of this modified environment. The Plan Change proposes to provide clarification of the Rules and anticipates that a consistent approach will be undertaken when implementing the Rules.

Consequently it is considered that the quality of the environment will be maintained and that section 7(f) is being given particular regard in this Proposed Plan change.

Section 8 provides that in achieving the purpose of the Act, the principles of the Treaty of Waitangi (Te Tiriti O Waitangi) shall be taken into account. There are no known Treaty issues with respect to the Proposed Plan Change.

Overall, it is considered that the Proposed Plan Change will not be inconsistent with Part II of the Act. The Proposed Plan Change will enable a clearer interpretation of the District Plan Rules and allow for enhanced amenity outcomes while maintaining the integrity of the District Plan and avoiding, remedying or mitigating any adverse effects on the environment.

5.1.2 Whether, having regard to efficiency and effectiveness, the Rules, or other methods are the most appropriate for achieving the objectives (s32(3)(b))

The Council is required to have regard to other methods that may be used in achieving the objective of the Proposed Plan Change. This includes non-statutory methods such as education, provision of services, incentives and levying of charges. Other methods could include retaining the existing Rules (the status quo) or taking no action at all (removing all Rules).

The following other methods have been identified and are considered below (including the Proposed Plan Change):

- The Proposed Plan Change
- Retain the existing Living Environment Rules (the "status quo" option)
- Have no Rules (the "do nothing" option)

The Proposed Plan Change

The Proposed Plan Change is expected to follow the usual statutory process.

In terms of efficiency, the Proposed Plan Change is considered to be more efficient than retaining the existing Living Environment Rules as it would allow for a clearer interpretation and application of the Rules, which would in turn allow for simplification of the Resource Consent process and a reduction in processing times and costs.

In terms of effectiveness, the Proposed Plan Change will be more effective in achieving the development and desired outcomes that are anticipated as it would allow for a consistent application of the Rules. Some of the operative Rules are not achieving the desired outcomes on site (for example the outdoor space Rules). If these Rules were more effective, enhanced amenity within residential areas could be achieved.

Retain the Existing Rules (The Status Quo)

The current Rules are open to misinterpretation which is not effective as it can result in time delays, increased costs and an inconsistent application of the Rules.

Have no Rules (Do Nothing)

This option would remove the Living Environment Rules from the District Plan and would enable any form of development to occur without consent under the Human Environment Rules. Removal of the Living Environment Rules would create a "gap" in the District Plan as all land in Waitakere City is currently subject to Human Environment Zonings.

It is considered that this measure would not be efficient or effective as it would allow for unfettered development to occur, rather than addressing what are primarily drafting and interpretation issues in the District Plan.

There would be no Rules and therefore efficiency in terms of time and costs associated with misinterpretation would not be an issue. However, this option has no merit in terms of effectiveness, as it achieves little certainty and does not control adverse effects that could occur on sites as a result of unfettered development.

5.1.3 Benefits and costs of policies, Rules or other methods (s32(4)(a))

The following other methods have been identified and are considered below (including the Proposed Plan Change):

- The Proposed Plan Change
- Retain the existing Living Environment Rules (the "status quo" option)
- Have no Rules (the "do nothing" option)

The Proposed Plan Change

Benefits

- Clearer interpretation of the Rules which would result in better amenity outcomes in residential areas.
- Minimisation of time and costs spent on interpretation of Rules (for both internal and external users of the District Plan).

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- The Proposed Plan Change is not inconsistent with the provisions of Part II of the RMA, the Auckland Regional Policy Statement and the objectives and policies of the District Plan.

Costs

- The cost of undertaking the Plan Change including conducting a hearing and resolving any subsequent appeals (if required).
- The cost of providing guidance to the public and internally on the Proposed Plan Change. This is considered to be a minimal cost as structures are already in place to facilitate the transition (for example the planning telephone help desk and Counter Services).

The Proposed Plan Change is considered to be the most effective and efficient method.

The Status Quo

Benefits

- There would be no Plan Change and therefore no processing costs associated with alteration of any Rules or Definitions.

Costs

- Further time and money spent on interpretation by both Council and external District Plan users.
- Uncertainty of outcomes, particularly in relation to amenity within residential areas.

Do Nothing

Benefits

- No further resources required than for any other Plan Change. The 'do nothing' approach would mean that relevant parts of the District Plan would be uplifted. This would mean that a "laissez-faire" or "anything goes" regime would be established as in the absence of any Rules, any activity becomes permitted.

Costs

- A Plan Change to re-identify the land with no Living Environment identification would create a "gap" in the District Plan as all land is currently subject to Human Environments and Natural Areas identification. This would create uncertainty for the Council and the community. The cost of this cannot be quantified.
- There would be considerable cost to the community and environment if the relevant parts of the Plan were uplifted as it would enable any development at all to occur unfettered on the subject site.

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- There would be a cost to the Council in defending applications for inappropriate activities for use and development of the subject land – this is likely to be extensive.

5.1.4 The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, Rules or other methods (s32(4)(b))

It is considered that the Council has both certain and sufficient information derived from administration of the District Plan over the last ten years. This information has been utilised in the preparation of the Proposed Plan Change, regarding the subject matter (including policies, Rules and other methods) of this Plan Change. Therefore, it is not considered necessary to investigate the risk of acting or not acting as outlined in s32(4)(b) of the Act, and ultimately no further assessment is deemed necessary in this regard.

5.1.5 Summary of evaluation and reasons for evaluation

The evaluation has identified a number of options; the Proposed Plan Change, the status quo, or do nothing. The alternatives that have been assessed are not considered to be efficient or effective, as they would challenge the integrity and accuracy of the District Plan and cost the Council and community. The Proposed Plan Change is considered to be the best option available.

It is considered that the above evaluation fulfils the Council's requirements with regard to section 32 of the Act, and that the analysis of alternatives benefits and costs has been carefully undertaken and summarised accordingly. Further, this evaluation will be available for public inspection at the same time as the Proposed Plan Change is publicly notified.

5.2 Assessment of Actual or Potential Adverse Effects on the Environment

Under section 31 of the Act the Council's function includes "*the control of any actual or potential effects of the use, development, or protection of land*". Section 76(3) requires that in making a Rule, a territorial authority is to have regard to the actual or potential effect of activities on the environment. Likewise, section 5(2)(c) provides for avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The Proposed Plan Change does not enable any new significant activities that have not previously been permitted by the Plan. Rather, it seeks to provide clarification on the interpretation of a range of District Plan Rules. Resource Consent is, and will continue to be, required for activities that do not comply with the District Plan provisions. This allows the Council to be confident that any adverse effects arising from these activities will be avoided or mitigated through the Resource Consent process.

Overall it is considered that there are no adverse environmental effects that will be generated by the Proposed Plan Change as it exists in framework that avoids, remedies or mitigates the adverse effects arising from residential development in the City.

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5.3 Assessment under Sections 74 and 75 of the Act

The Proposed Plan Change is considered to be consistent with sound resource management practice across the region. The Proposed Plan Change is consistent with national policy statements and regional planning documents.

6.0 Waitakere City District Plan

6.1 Existing District Plan Objectives/Policies/Rules

The Plan Change relates to the Living Environment Rules of the District Plan however in order to retain consistency within the Plan, where the same or similar Rules occur within other Human Environments, changes are also proposed to these Rules.

In some cases, changes to the Human Environment Rules have consequential impacts on the Natural Area Rules and therefore some of these Rules also require amending.

The Proposed Plan Change does not seek to amend any objectives or policies. The existing District Plan objectives that apply to the Proposed Plan Change are outlined in the Table below. It is considered that the Proposed Plan Change is consistent with the following objectives of the District Plan.

Objective 3	Consistency with Proposed Plan Change
To maintain the life-supporting capacity of the City's land resource.	<ul style="list-style-type: none"> • The Proposed Plan Change will not detract from the life-supporting capacity of the soils in the City. • The Proposed Plan Change includes consequential changes to the Natural Environment Earthworks Rules to allow for earthworks within an approved building platform and on a sensitive ridge as a permitted activity. It is not considered that this will detract from the life-supporting capacity of the land.

Objective 9	Consistency with Proposed Plan Change
To protect the quality and significance of the City's outstanding landscapes, including maintaining: <ul style="list-style-type: none"> • the form and significance of those landscape elements that define each landscape; 	<ul style="list-style-type: none"> • The Proposed Plan Change includes changes in regard to undertaking additions or alterations to buildings on a sensitive ridge. The changes relate to additions or alterations where the height of the building and building coverage is

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Objective 9	Consistency with Proposed Plan Change
<ul style="list-style-type: none"> the landscape character that is associated with each landscape and contributes to its uniqueness and value for residents. 	<p>not increased.</p> <ul style="list-style-type: none"> An associated change allows earthworks within an approved building platform on a sensitive ridge. The changes relate to existing structures and will not detract from the City's outstanding landscapes.

Objective 10	Consistency with Proposed Plan Change
<p>To maintain and enhance those natural and physical characteristics (amenity values) that contribute to the wellbeing of residents and workers, including maintaining:</p> <ul style="list-style-type: none"> an acceptable level of quiet and freedom from nuisance created by noise, odour, dust and vibration; adequate levels of daylight and sunlight in dwellings; adequate levels of darkness for sleep; a safe environment; an accessible environment, which includes enhancing public access to and along the coast and waterways and between areas of public land; adequate levels of on-site privacy; healthy air quality. <p>This Objective is intended to achieve, at the very least, a minimum level of physical health and wellbeing for residents, workers and visitors. The Resource Management Act requires the District Plan to manage the effects of activities on the environment and humans. It also requires the Plan to have particular regard for the maintenance and enhancement of those natural and physical characteristics that contribute to people's appreciation of, amongst other things, its pleasantness. Any enjoyment or sense of pleasantness derived from the environment is fundamentally dependent on whether residents, workers and visitors find it a healthy place to be.</p>	<ul style="list-style-type: none"> The Proposed Plan Change retains much of the existing Rule framework that has previously been accepted as achieving this objective. It modifies aspects of it to assist in interpretation and achieve positive outcomes, however there is no change to the objective or what it seeks to achieve. The Proposed Plan Change amends the Rules relating to on-site outdoor space and requires that outdoor space is provided for minor household units, in addition to the existing requirements for main dwelling. This change is intended to provide adequate areas of outdoor space for all residents and will contribute to their wellbeing.

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Objective 11	Consistency with Proposed Plan Change
<p>To achieve a quality of settlement and associated activities within each of the City's Human Environments which is sympathetic to, and protects and enhances, the dominant natural and physical (including building) features which contribute to the amenity value and the neighbourhood character of an area, including maintaining and enhancing:</p> <ul style="list-style-type: none"> • the quality and character of different patterns of settlement within the City's intensively settled residential areas; • the pedestrian-oriented amenity values of the town centres and the character of those areas as retail centres; • the utilitarian nature and character of the industrial areas; • the natural and physical features that give each rural and coastal village its particular and unique character; • the pastoral/rural character of the northern parts of the City; • the complex, mixed landscape of the foothills. 	<ul style="list-style-type: none"> • The Proposed Plan Change relates to the Living Environment with associated changes to other Human Environment and Natural Environment Rules where relevant. No changes are proposed that will significantly alter the characteristics of the Living Environment.

7.0 Other Statutory Assessments

7.1 Auckland Regional Policy Statement

The Regional Policy Statement (RPS) seeks to maintain a quality environment for the Auckland Region and at the same time, maintain and enhance opportunities for the region's future growth. The RPS comprises four parts: Regional Overview and Strategic Direction; Resource Management Matters of Significance to Iwi; Transport and Energy; and Environmental Protection. Each part identifies issues, objectives, policies, methods, reasons and the environmental results anticipated as a result of implementation of the RPS. It is considered that the Proposed Plan Change will give effect to the Regional Policy Statement.

The Proposed Plan Change is generally consistent with the objectives of the RPS and the Air, Land and Water Plan. It is considered that the Proposed Plan Change is also consistent with Proposed Plan Change 6 which seeks changes to the Regional Policy Statement in accordance with the Local Government (Auckland) Amendment Act 2004.

8.0 Non-statutory Planning Assessments

8.1 Agenda 21 And The Eco City

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Agenda 21 was the outcome of the United Nations "Earth Summit" held in Rio de Janeiro, Brazil in 1991. The summit established an international agreement to integrate environmental and developmental concerns to achieve sustainable development. The implementation of this is encapsulated in a document entitled Agenda 21.

As part of Waitakere's eco-city concept, Waitakere City Council agreed to implement at the local level the goals and programs proposed under Agenda 21. The Proposed Plan Change represents sustainable management of the City's land resource.

8.2 Waitakere Long Term Council Community Plan

The 10 year Long Term Council Community Plan (LTCCP) covers the first decade of Council's 20 year Strategic Direction. The purpose of the LTCCP is to:

- describe the activities of the Council;
- describe the community outcomes desired for the city;
- provide integrated decision making (between the Council and the community) and co-ordination of resources;
- provide a long term focus for the Council's decision and activities;
- provide a basis for accountability to the Waitakere City community; and
- provide an opportunity for community participation.

The Long Term Council Community Plan has nine platforms that set out the Council's goals and actions for managing the social, economic and environmental wellbeing of the City. The Urban and Rural Villages pathway identifies the need for the Council to provide a range of lifestyle options. It is also considered that the proposal is not inconsistent with the Green Network Strategic pathway, as it does not have the potential for adverse effects on the natural environment in this instance.

9 Consultation

Clause 3 to the First Schedule to the RMA states that during the preparation of a Proposed Plan Change, a local authority shall consult with the Ministry for the Environment, other Ministers of the Crown deemed to be affected, other Local Authorities deemed to be affected and the tangata whenua of the area. Clause 3 also states that a local authority may consult anyone else during the preparation of a Proposed Plan Change.

The issues addressed in the Plan Change are amendments to existing Rules in order to clarify interpretation or improve amenity on site. These are minor changes which will not impact on the Ministry for the Environment or other Ministers of the Crown. No consultation has been undertaken as part of this Proposed Plan Change, however consultation is to be undertaken with local iwi prior to the decision on notification.

Opportunities for residents and any other interested party to comment will be available to those persons through the public notification process of this Plan Change.

10 Conclusion

The Proposed Plan Change seeks to undertake a range of amendments to the existing Living Environment Rules (and consequential changes to other Human

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Environment and Natural Environment Rules) to enable a clearer interpretation of the Rules and to assist in achieving the desired outcomes on-site.

The section 32 analysis has identified that the proposed Plan Change would enable the Council to manage resources (including land resources) efficiently whilst meeting the purpose of the Act by allowing sustainable management of natural and physical resources. The section 32 analysis also concludes that the amendments to the existing Living Environment Rules (and other consequential changes to Rules) would be the most efficient and effective method to resolve this issue.

The Proposed Plan Change either gives effect to or is not inconsistent with any relevant statutory or non-statutory document (as discussed above). In addition, it is considered that there will be no adverse environmental effects generated as a result of the Proposed Plan Change.

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5 **APPLICATIONS FOR SPECIAL EXEMPTIONS - FENCING OF SWIMMING POOLS ACT 1987**

638/2008

MOVED by Cr Flaunty, seconded Cr Battersby:

The Swimming Pool Exemption Subcommittee resolved to:

1. **Receive** the Applications for Special Exemptions - Fencing of Swimming Pools Act 1987 report.
2. **Agree** to approve (subject to conditions) the application for special exemptions sought.

CARRIED

ADJOURNMENT

639/2008

MOVED by, Cr Flaunty, seconded Cr Mitchell:

That the meeting stand adjourned.

CARRIED

9.47 am The meeting adjourned.

10.15 am The meeting reconvened.

APPLICATIONS

K and R Burriss, 14 Konini Road, Titirangi

640/2008

MOVED by Cr Battersby, seconded Cr Mitchell:

The Swimming Pool Exemption Subcommittee resolved to:

1. **Approve** the application and the exemptions sought by K and R Burriss at 14 Konini Road, Titirangi for an indefinite term subject to the following condition being fulfilled:
 - (1) That the latch on the gate to the pool area be repaired with the addition of another spring, so as to ensure that the gate is self-latching.
2. **Agree** that the condition in resolution (1) above be completed within 30 working days of this decision or such longer period as the Team Leader: Enforcement may approve and if not completed within that period this exemption will lapse and be of no further effect.
3. **Agree** that this exemption will run with the property situated at 14 Konini Road, Titirangi, notwithstanding any changes of ownership.

CARRIED

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ADJOURNMENT

641/2008

MOVED by, Cr Flaunty, seconded Cr Mitchell:

That the meeting stand adjourned.

CARRIED

10.18 am The meeting adjourned.

10.35 am The meeting reconvened.

GB and NC Douglas, 58 Jaemont Avenue, Te Atatu South

DECLARATION OF INTEREST

10.36 am Cr Flaunty declared an interest and withdrew from the meeting, taking no part in the discussion or decision on the application from GB and NC Douglas at 58 Jaemont Avenue, Te Atatu South.

642/2008

MOVED by Cr Battersby, seconded Cr Mitchell:

The Swimming Pool Exemption Subcommittee resolved to:

1. **Approve** that the application and the exemptions sought by GB and NC Douglas at 58 Jaemont Avenue, Te Atatu South be approved for an indefinite term.
2. **Agree** that this exemption will run with the property situated at 58 Jaemont Avenue, Te Atatu South notwithstanding any changes of ownership.
3. **Agree** that the application fee of \$250 to be paid by GB and NC Douglas at 58 Jaemont Avenue, Te Atatu South be waived.

CARRIED

10.49 am Cr Flaunty returned to the meeting.

ADJOURNMENT

643/2008

MOVED by, Cr Battersby, seconded Cr Mitchell:

That the meeting stand adjourned.

CARRIED

10.50 am The meeting adjourned.

11.00 am The meeting reconvened.

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FT and VV Chan, 21 Seacrest Drive, West Harbour

644/2008

MOVED by Cr Battersby, seconded Cr Mitchell:

The Swimming Pool Exemption Subcommittee resolved to:

1. **Approve** the application and the exemptions sought by FT and VV Chan at 21 Seacrest Drive, West Harbour for an indefinite term.
2. **Agree** that this exemption will run with the property situated at 21 Seacrest Drive, West Harbour not withstanding any changes of ownership.
3. **Agree** that the application fee of \$250 to be paid by FT and VV Chan at 21 Seacrest Drive, West Harbour be waived.

CARRIED

11.12 am

The Chairman thanked Members for their attendance and attention to business and declared the meeting closed.

CONFIRMED AT A MEETING OF SWIMMING
POOL SUBCOMMITTEE HELD ON

DATE:.....

CHAIRMAN:.....

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