



Waitakere City Council
Te Taiao o Waitakere

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, 9 September 2008 **TIME:** 9.30 am

MEETING Council Chamber

ROOM:

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson,
Waitakere

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

3 September 2008

Desiree Tukutama
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8815

MEMBERSHIP:

Councillors	VS	Neeson, JP (Chairman)
	WW	Flaunty, QSM, JP (Deputy Chairman)
	DQ	Battersby, JP
	MFP	Chan, JP
	LA	Cooper, JP
	AK	Corban, OBE, JP
	MM	Jolley
	JP	Lawley, JP
	PG	Mitchell

Mayor RA Harvey, QSO, JP (ex officio)
Deputy Mayor (ex officio)

(Quorum 5 members)

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(Meeting Room could be subject to change)

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

**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO BE
HELD IN THE COUNCIL CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON
VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY,
9 SEPTEMBER 2008, COMMENCING AT 9.30 AM**

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AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO BE HELD IN THE COUNCIL CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY, 9 SEPTEMBER 2008, 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 Chairman 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 CONFLICTS OF INTEREST

The Council has acknowledged in its Code of Conduct that Elected Members need to be vigilant to stand aside from decision making when a conflict arises between their role as a member of the Council and any private or other external interest they might have. This note is provided as a reminder to members to check that no such conflicts arise in relation to any items on this agenda.



4 CONFIRMATION OF MINUTES

Meeting Minutes - Tuesday, 12 August 2008

It is recommended that the Planning and Regulatory Committee resolve to:

Receive the minutes of the meeting of the Planning and Regulatory Committee held on Tuesday, 12 August 2008 as circulated, and that they be taken as read and now be confirmed.



PART B - PRESENTATION

5 KAURI COLLAR ROT – WAITAKERE RANGES

Dr Nick Waipara, Biosecurity Strategic Projects Officer: Auckland Regional Council, will give a presentation to the Planning and Regulatory Committee on Kauri Collar Rot, a newly diagnosed disease that has been found in several locations in the Waitakere Ranges. It is caused by an introduced pathogen known as Phytophthora Taxon Agathis (PTA) and appears to only affect and kill kauri of all ages from seedlings through to large long lived iconic trees.



PART C - REGULATORY / ENFORCEMENT

6 LEGAL UPDATE (AS AT 31 AUGUST 2008)

GLOSSARY

Planning and Regulatory Committee section	(the Committee) (s.)
Ritchies Transport Holdings Limited	(Ritchie's)
Rodney District Council	(RDC)
Waitakere City Council	(Council)
Auckland Regional Council	(ARC)
Auckland Regional Policy Statement	(ARPS)
Resource Management Act 1991	(RMA)
Department of Building and Housing	(DBH)
Weathertight Home Resolution Service	(WHRS)
Waitakere Ranges Protection Society Incorporated	(WRPS Inc.)
Certificate of Acceptance	(COA)
Building Act 2004	(the Building Act)
Public Works Act 1981	(PWA)
Metropolitan Urban Limit	(MUL)
Carter Holt Harvey	(CHH)
Weathertight Homes Tribunal	(WHT)

EXECUTIVE SUMMARY

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 minor prosecutions for dogs, swimming pools, health, parking, and litter although advice on any particular such prosecution can be provided to the Planning and Regulatory Committee (the Committee) if it wishes.

RECOMMENDATION

It is recommended that the Planning and Regulatory Committee resolve to:

Receive the Legal Update (As at 31 August 2008) report.

COURT OF APPEAL

(Changed) Carter Holt Harvey v Waitakere City Council, North Shore City Council and Rodney District Council (April 2006)

1. This appeal was heard before the Court of Appeal on 14 June 2007. David Kirkpatrick appeared as Senior Counsel on behalf of the Councils'. Bell Gully acted for Carter Holt Harvey (CHH). CHH argued that recyclable material obtained privately does not enter the waste stream and is therefore not waste. Mr Kirkpatrick argued for the Councils that all waste is governed by Part 31 of the Local Government Act 1974 including privately collected recyclable material. The decision has recently been released in favour of CHH. Declaratory orders have now been made by the Court (as agreed between the parties). The only outstanding matter is the resolution of costs. CHH has now directly contacted the Mayor's Office to discuss among other things; the costs of the High Court, and appeal hearings. The Mayor advised he did not wish to discuss legal matters and no further action has been taken. CHH has not yet lodged a claim for costs.
2. The Council will now need to revisit its Waste Management Policy and the current licensing regime under its Waste Bylaw. As part of the process the Council has made submissions on the supplementary order paper to the Waste Minimisation Bill. The Waste Minimisation Bill now has proposed new definition for "waste" in line with that sought by the Council in its submission to Parliament.

HIGH COURT

(Unchanged) J E Burgess v Waitakere City Council and Auckland Regional Council (February 2008)

3. This is a judicial review of Waitakere City Council's (Council's) decision (as well as the ARC's) to grant resource consent to a 15 lot subdivision and residential development on a non-notified basis at two properties which are situated back-to-back: 25 Kashmir Road and 47A Withers Road, Glen Eden; the properties are owned by one person and hereafter shall be referred to as 'the property'. The applicant, Ms Burgess, contends that in respect of the Council's decision there were adverse effects on her and the environment and therefore the resource consent ought to have been notified to permit her an opportunity to make submissions. The Council refutes that there were any adverse effects on Ms Burgess, her property or the environment and that the Council correctly reached a decision not to notify the application. The property is situated in the Living Environment with no protection afforded to the vegetation on the property. Once the development is complete it will blend into the surrounding area with minimum lot sized of 452m². The property has been a vacant site nominated for development for some 15 years. The parties have filed their statements of evidence but are continuing to pursue settlement discussions.
4. In the interim the property has been sold and the consent holder is seeking not to be involved in the review. It has given effect to that part of the consent relating to vegetation clearance. The matter has been allocated to the standard track proceedings and set down for a 2 day hearing in the week of 11 May 2009.

(Unchanged) Waitakere City Council v C P Brunel and the Cove Limited (December 2006)

5. Council sought to acquire land under the Public Works Act 1981 (PWA) for a car park at the Westpark Marina boat ramp. The owners objected and the High Court eventually declared that the Council could take the land. The property owners' application for leave to appeal was heard in the High Court on 19 March 2007. Leave was declined.

6. Negotiations to purchase the properties have been completed and the Council now owns the land, but with some minor compensation issues unresolved, including the costs issue. Hopefully the outstanding issues can be resolved with minimal disagreement.
7. Council has claimed costs for both hearings. The Court has not yet issued a decision on the matter of costs. A decision anticipated at the end of April 2008 has still not been secured.

(Unchanged) C W Williams and others v Waitakere City Council (February 2006)

8. The Council was served with seven sets of proceedings under the PWA in the High Court claiming the Council breached its duty to offer back land on the Te Atatu Peninsula bordering the Waitemata Harbour. The Council filed applications to strike out the various claims on the basis that the events which triggered an obligation under the PWA occurred prior to the offer back obligation coming into force and the PWA should not apply retrospectively.
9. Associate Judge Faire declined the applications. An application to review the Associate Judge's decision was heard before Williams J on 26 February 2007. The Court issued a decision upholding the decision of the Associate Judge Faire concerning the application of s. 40 Public Works Act. A Court of Appeal hearing was held in April 2008 to hear Council's appeal against the High Court decision. A Judgment of the Court is awaited.

Substantive hearings involving Mr Mawhinney

(Changed) Perceptus Limited and Others v Waitakere City Council (May 2008)

10. An appeal by companies controlled by Mr Mawhinney against the Environment Court's decision (issued in April 2008) to strike out three related appeals regarding purported applications for certificates of compliance and subdivision consents. Initial case management conferences have occurred. The Court has directed that:
 - (a) Mr Mawhinney be substituted as appellant provided that he file an affidavit regarding his status as trustee;
 - (b) Mr Mawhinney will be personally liable for any costs awarded against the appellants in this proceeding;
 - (c) Timetable for filing of submissions and related documents; and
 - (d) The allocation for a one-day hearing of this appeal on 12 November 2008.

ENVIRONMENT COURT

(Unchanged) Community Waitakere Charitable Trust v Waitakere City Council (June 2008)

11. This appeal opposes the Council's decision to decline a resource consent application by the appellant to construct a new "Community Resource" building within the Tui Glen Reserve at Henderson. The matter has been placed on the Court's Standard Track, with general case management directions applying. It is likely that this matter will proceed to a Court-assisted mediation in the first instance. A notice of reply has been filed and it is expected that a mediation date will be allocated shortly.

(Changed) Ritchie's Transport Holding Limited v Waitakere City Council and Rex Campell (as s. 274 party) (May 2008)

12. Ritchie's Transport Holding Limited (Ritchie's) appealed the Council's decision to grant consent on 23 April 2008. The appeal relates to the period of time for which consent has been granted to run bus depot operations at 619 Swanson Road (the site). The decision of the Council through Commissioners was to permit Ritchie's to continue operating from the site for two years with a higher level of activity. The appeal seeks to increase this time period to three years.
13. Mr Campbell joined as a s. 274 party opposing the grant of the three year period being sought by Ritchie's. The parties attended mediation on 28 August 2008 where the appeal was withdrawn by Ritchie's on the basis that they have a statutory right under the Resource Management Act 1991 (RMA) to seek an extension of the consent period if further time is required by Ritchie's to move from the site.

**(Unchanged) J Hsu v Waitakere City Council (April 2008)
Weddings Etc Limited v Waitakere City Council (April 2008)**

14. These appeals relate to the grant of consent for aspects of the operation of the function centre known as "Cassels"; including the extension of hours of operation.
15. Mr Hsu has appealed the Council's decision to grant consent in respect of noise issues. Weddings Etc Limited (applicant/consent holder) has appealed several conditions of consent. Mr Chapman has joined these appeals as a s. 274 party seeking additional conditions of consent.
16. The matter has been placed on the Environment Court's standard track list and a timetable for evidence exchanged has been agreed it is likely the matter will be heard before the end of this year.

**(Changed) Protect Piha Heritage Society Incorporated v Waitakere City Council and Auckland Regional Council
Preserve Piha Limited v Waitakere City Council (March 2008)**

17. Protect Piha Heritage Society Incorporated (the appellant) has appealed the joint decision of the Council and the ARC to grant resource consent for the establishment of a café at Piha in a residential environment at 20 Seaview Road, Piha (the property). The appellant was a submitter against the application when it was notified and presented submissions in opposition to the grant of the application at the resource consent hearing in November 2007. In the first instance the appellant would like to see the joint decision of the Councils' cancelled and resource consent refused. In the alternative the appellant would like to see the consent lapse in 2012, and if unexercised, the consents to lapse in 2009; for an archaeological report be commissioned on the heritage status of the old post office that occupies the site; compliance conditions to be included to ensure noise conditions are able to be complied with; that the café only operate 10.00 am to 5.00 pm, and be closed on Sundays and public holidays; that only 35 persons shall be provided for and that there be no seating outside; that no liquor is consumed on site; that no takeaways are to be sold; that there be no music played outside; that no odour is emitted from the property at any time.
18. In the second instance, Preserve Piha Limited, (the applicant) who was the applicant for the consent, appeals the conditions imposed on the consent by the Council. Specifically the applicant opposes condition 11: food preparation being limited to reheating of pre-prepared food, and condition 41: all activities on site are to comply with the noise standards approved.

19. There are now 12 s. 274 parties. They all support the granting of consent. The two s. 274 parties that opposed the grant of consent have withdrawn their interest.
20. These matters have been joined together by the Environment Court and standard track directions have been issued. Notices of reply have been served. The matter was before an Environment Court Commissioner for mediation on Monday 26 May 2008. Mediation was not successful and the matter is proceeding to a hearing, most likely in late September 2008, if not October 2008. The Councils' and the applicant have exchanged evidence and the appellant has nearly completed exchanging its evidence. In the meantime, the parties are continuing to pursue settlement discussions out of Court.

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

21. This is an appeal by the applicants M and C Brickell, W Ashton and L Schwab under s. 121 of the RMA against a decision of the Council to refuse to grant resource consent for a seven-lot subdivision at 54-56 Christian Road, Swanson. The Waitakere Ranges Protection Society Incorporated (WRPS Inc.) has lodged applications with the Court in support of the Council as s. 274 parties. This appeal was heard on 14 to 16 March 2007. The hearing resumed on 23 May 2007. This was in order that the Court could hear the evidence of a witness for a s. 274 party that was not available during the March 2008 hearing.
22. The hearing has now been completed. The Court has reserved its decision.

(Unchanged) Waitakere City Council v Rodney District Council (April 2007)

23. An appeal and s. 274 notices were filed by the Council regarding decisions by Rodney District Council (RDC) on the Rodney Proposed District Plan regarding future urban development issues. A pre-hearing conference occurred on 27 and 28 June 2007, at which time the Court directed a case management process going forward. This involves workshops and mediations from August 2007 with a hearing scheduled (if required) for 2008. The Court intends to resolve all outstanding appeals in respect of the Rodney Plan by the end of 2008.
24. The Council's appeal has been resolved by consent order. The appeal concerned a decision by RDC which addressed the Council's concerns, but which had not been properly worded in changes to the Rodney District Plan text.
25. The Council's officers have attended workshops and mediations on matters regarding which the Council has a s. 274 interest. Further mediations are scheduled.

(Unchanged) The Tree Council and the Sunnyvale Protection Society v Waitakere City Council (June 2007)

26. An appeal against the Council's decision to grant subdivision and land use consent to Sunshine Boulevard Limited for a 56 unit medium density residential development at 25-27 Awaroa Road and 20 Sunnyside Road, Sunnyvale. A notice of reply has been filed.
27. A Court assisted mediation occurred on 19 September 2007, at which agreement in principle was reached. The parties have had further discussions regarding the applicant's proposed changes to the development. The Court issued an order under s. 116 of the RMA to allow the partial commencement of the consent (removal of some vegetation and initial earthworks). A further consent order will be sought once the applicant has revised its development plans in accordance with the mediated agreement, and these changes have been accepted (which should occur shortly).

(Unchanged) Waitakere City Council v Auckland Regional Council, IMF v Auckland Regional Council, NZ Steel v Auckland Regional Council and Hahn and Others v Auckland City Council (August 2007)

28. This appeal concerns ARC's decision to grant resource consents to the Council for the discharge of stormwater and wastewater for the Hobsonville Peninsula, Waiarohia Stream, Totara Creek and New Lynn East catchments. The appeals seek changes to some of the consent conditions. Mediation and discussions/negotiations between the parties have occurred and revised consent conditions are being finalised with a view to resolution by consent.

Mawhinney Matters in the Environment Court

(Unchanged) Perceptus Limited v Waitakere City Council (January 2008)

29. This is a new proceeding lodged in the Environment Court by Mr Mawhinney on 21 January 2008. The Council was not served until 13 February 2008. The proceedings involve Mr Mawhinney seeking an enforcement order under s. 314 of the RMA directing the Council to give public notice on its decision to reserve control over "roads" under the subdivision rules. The Council amended the subdivision rules in 2001, and it is now opposing the application on substantive and procedural grounds. Evidence from Mr Mawhinney is now overdue and is being followed up.

(Unchanged) Perceptus Limited and Swanson Heights Limited v Waitakere City Council, Waitakere Resource Consents Limited and Glorit Subdivision Limited v Waitakere City Council, and Glorit Subdivision Limited and London and Greenwich General Trading Company Limited v Waitakere City Council (March 2006)

30. These three appeals are laid by entities associated with Mr Mawhinney and/or his land interests against the Council's decision under s. 358 of the RMA declining subdivision consents and certificates of compliance. The Council filed an application to strike out the appeals. A decision was released in April 2008 striking out this appeal and granting costs to the Council which has sought costs from the unsuccessful appellants. A decision is awaited.

(Unchanged) Waitakere Resource Consents Limited v Waitakere City Council (December 2005)

31. This is an appeal against a refusal to issue a certificate of compliance under s. 139 of the RMA. In essence the application contends that through a 'sequence' of activities, the establishment of 77 barns/residential units are a permitted activity under the District Plan. The application includes the creation of various 'allotments', the creation of barns and sheds, the conversion of barns to dwellings, terraces, decks and pergolas, earthworks, clearance of vegetation, driveways, establishment of lawn, and vesting of land as road.
32. The Council's strike out application was heard before Judge Whiting and Commissioner McConally on 6-7 September 2007. Various aspects of Mr Mawhinney's appeal were abandoned during the hearing. A decision striking out all aspects of this appeal was released this month by the Environment Court. The Council has also been granted costs. An application seeking costs has been lodged with the Court and a decision is awaited.

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

33. 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) have been concluded. Mr Mawhinney recently applied to reactivate this matter on the basis that it should be determined in advance of the completion of the Dilworth structure plan proceedings (which are part heard) seeking deferment of a decision for the Dilworth Structure Plan. A Joint Memorandum has been filed with the Court opposing these applications. The Court held a hearing on 9 July 2008 to consider the application and released an oral decision declining the application for priority. The Dilworth Structure Plan proceedings will now need to be completed before the Abacus case can be recommended.

Plan Change Hearings

(Changed) Local Government (Auckland) Amendment Act Plan Change Appeals (September 2007)

- A1-A3*
34. This is a summary of appeals against Plan Changes 13 to 18. The appeals will be set out in a summary format as to who the appellants are and which plan changes have been appealed. There are currently 53 appeals lodged by 27 parties. Further reports will be provided as time goes by. These appeals are set out as Annexure 1 to this report at pages A1 to A3 of this agenda.
35. In addition to appeals on the Council's Plan Changes 13 to 18, the Council has filed its own appeals regarding some decisions of the ARC in respect of Change 6 to the Auckland Regional Policy Statement (ARPS). The Council is also an interested party in respect of appeals filed by other parties where those other appeals affect or interlock with the Council's appeal. Progress reports will be included in further legal updates in due course.
36. On 7 March 2008 the Auckland territorial local authorities agreed and filed a memorandum with the Environment Court setting out that each Council has summarised the points of relief arising out of each appeal and that the appellants and all s. 274 parties would be invited to comment on those summaries. As a result, on the same day, the Council wrote to all appellants and s. 274 parties who had appealed the Council's plan changes, seeking that they review the manner in which the appeals had been summarised and provide feedback to the Council by 18 April 2008. The appellants and s. 274 parties were informed that the Auckland territorial local authorities would then make any relevant amendments and report to the Court by or soon after 2 May 2008.
37. The appeals have been separated into topics by each Council having its own topic groups and the region as a whole creating a topic for Commercial Appeals which address the appeals by the five large format retail appellants as to whether retail should be located in city centres or corridors.
38. A judicial conference was held on 23 May 2008 where all parties, including the Councils', put forward their strategies for managing the appeals.

39. The Council communicated the position it has maintained since the appeals commenced which was to expedite any hearings in relation to the Metropolitan Urban Limit (MUL) shift and Plan Changes 14 and 15. The Court accepted this position and the matter is set down for hearing, if one is needed, in late January – early February 2009. The Council reported back to the Court on 1 August and 1 September 2008 that it had met with the appellants to the appeals in this topic group and that there was a possibility of settlement, if an agreement could be reached with the s. 274 parties. The Council proposed, and the Court has accepted, that an evidence exchange timetable is premature at this stage and that the Council and the parties to these appeals have a further month to negotiate a settlement or otherwise seek for the matter to be set down for mediation. The Council will report back to the Court on 1 November 2008.
40. In respect of all other appeals, the topics classified and referred to above as Commercial Appeals has been set down for a hearing, if one is necessary, in the early part of the second quarter of 2009. The Councils' jointly were required to report back to the Court on 1 September 2008 as to progress made in resolving these appeals. This report has been provided detailing that the Councils' had met with the appellants but that further time was required to work through the issues. The Councils' will report back to the Court on progress of these matters on 1 November 2008.
41. In respect of all other appeals to the Waitakere City Proposed Plan Changes, the Council reported back to the Court on 1 September 2008. That report stated that most appellants had been involved in discussions with the Council but that further time was required to progress the resolution of these appeals and at that stage the parties may seek formal court assisted mediation and/or a hearing. The Council will provide the Court with a further progress report on 1 December 2008.

DISTRICT COURT

(Changed) Enterprise Steel Properties Limited and Others– 12 North Candia Road, Swanson (July 2008)

42. The defendants in this case allegedly constructed a pole retaining wall with an overall length of 115 metres long and 4 metres high. The wall was constructed without building consent.
43. The matter has a first call of 2 September 2008; however an adjournment by the defendants' has been sought and granted and the matter now has a first call on 20 October 2008.

(Changed) Albert Edward Gunn – 3 Dovey Place, Te Atatu (June 2008)

44. This matter relates to a current prosecution against the previous owner of the "Abbey Heights Rest Home".
45. Mr Gunn undertook the building works on behalf of the owner at the rest home.
46. Informations were laid against Mr Gunn pursuant to s. 40(1) of the Building Act 2004 (the Building Act). Mr Gunn pleaded guilty and was sentenced to a fine of \$4,500.00 plus Court costs of \$226.00 and solicitor's costs of \$130.00.

(Changed) Albany Apartments Limited – 80 Clover Road, Henderson (June 2008)

47. Council has laid informations in relation to unauthorised earthworks on the property. The earthworks consisted of excavation, cut and fill and allegedly constitute a contravention of s. 9 of the RMA.

48. Informations were laid against the company and its directors' in respect of the breaches of the general natural area rules, and earthworks within a riparian margin area. The matter had a first call on 15 July 2008.
49. The informant has since withdrawn the informations having discovered that they were two days out of time. The parties have agreed to meet with independent engineers to discuss remediation. The Council is considering enforcement order proceedings to ensure compliance.

(Changed) Cullen and Ko – 4 Kauri Point Road, Laingholm (April 2008)

50. This prosecution concerns alleged unauthorised building work on the property including: internal alterations, the construction of two lean-to additions to form a bathroom and living room, a timber deck, the demolition of a garage, and construction of a utility shed. All work was undertaken without building consent. Informations have been laid with the Court. Mr Cullen has pleaded guilty and the matter has been set down for sentencing on 16 October 2008.
51. The Council has considered Ms Ko's involvement and withdrawn the informations laid against her in light of a sworn affidavit provided to counsel.

(Unchanged) M and S Naicker – 12 Cushla Place, Massey (April 2008)

52. This matter relates to unauthorised building works undertaken by, M and S Naickers, the defendants, that included: the enclosure of a basement under a conservatory to form a two bedroom unit and bathroom for use by the defendants' extended family. One bedroom has no natural light or ventilation.
53. The building works did not comply with the building code, and no building consent was sought or granted for the work undertaken.
54. Mr Naicker has pleaded guilty and the matter has been set down for sentencing on 7 November 2008. The informations against Mrs Naicker have been withdrawn.

(Changed) HQH Limited and Others – 193 McLeod Road, Henderson (Riverglade Parkways) (March 2008)

55. Riverglade Parkways is a subdivision on McLeod Road, Henderson where the Council discovered the construction of 14 concrete slabs, and 9 houses framed, all without building consent.
56. Informations have been laid against all of the parties involved. One contractor has pleaded guilty and sentencing has been set down for 24 October 2008.
57. HQH Limited, the company's director, and the project manager entered guilty pleas on 2 September 2008. The matters have been set down for sentencing on 5 November 2008.
58. The remaining defendants' have pleaded not guilty and the matters have been set down for defended hearings on 28-29 October and 24-24 November 2008.

(Unchanged) AHC Reuben-Shepherd – 137 Simpson Road, Henderson Valley (January 2008)

59. This matter is in relation to an abatement notice issued under the RMA by Council in August 2007. The abatement notice required the defendant to remove significant numbers of disused vehicles, machinery, and miscellaneous metal and other objects from the property by the date specified in the abatement notice.

60. The use of the property by the defendant contravened Council's district plan Citywide Maintenance of Land and Buildings amenities rule. The defendant did not comply with the abatement notice, namely she did not remove any of the specified articles and vehicles from the property in accordance with the abatement notice.
61. Sentencing was on 16 June 2008. The defendant was convicted and sentenced to 80 hours of community service. Council was awarded costs of \$500.00, and the Court ordered that an Enforcement Order be put in place to ensure the lawful removal of the miscellaneous chattels by 16 December 2008.
62. The Enforcement Order granted by the Court has been filed and we await its sealing and return from the Court.

(Changed) RJ Dyas – 211 Laingholm Drive, Laingholm (January 2008)

63. This matter relates to charges laid for substantial unauthorised building works at the property. The works include internal structural works and significant structural changes to the basement area.
64. The building works were not in accordance with a building consent, and did not comply with the building code.
65. The defendant pleaded guilty and sentencing took place on 15 July 2008. The Judge reserved his decision and delivered it on 28 August 2008. Mr Dyas was convicted and sentenced to a fine of \$3000.00. The Court accepted the serious nature of the scope of the works and set a starting point of \$6,000.00. The fine was reduced by 50% to reflect Mr Dyas's personal financial circumstances, and other mitigating factors. The court also awarded the Council Court costs of \$130.00 and solicitor's costs of \$226.00 with 90% of the fine to be paid to the Council.

(Unchanged) V Kumar and others – 9-11 Aetna Place, Henderson (January 2008)

66. This matter relates to the construction of a warehouse associated with the Mitre 10 Mega store complex currently under construction at Henderson.
67. Council laid informations against various parties (including the developer company and a director) in respect of the unauthorised building works.
68. The company and Mr Kumar both entered guilty pleas on 15 July 2008. Sentencing has been set down for 31 October 2008.

(Unchanged) GM Garland – 82 Woodlands Park, Titirangi (November 2007)

69. Council laid informations in relation to unauthorised building works that include the development of the basement/garage of the dwelling into a habitable space. The works have not been carried in otherwise in accordance with a building consent.
70. The defendant pleaded not-guilty to the charges, and a hearing date was allocated by the Court. The matter has been set down for 9 and 10 October 2008.

(Changed) Metlifecare Pinesong – 48-72 Avonleigh Road, Green Bay (July 2007)

71. Charges were laid under the Building Act for building work undertaken without consent. The building work related to a partial re-cladding of 20 houses owned and operated by Metlifecare Pinesong Limited as retirement village. The occupants have a lifetime lease of the properties. The building work was undertaken by Asec Construction. Both parties were prosecuted. The matter was set down for sentencing on 15 July 2008.

72. The Court reserved its judgment and the parties appeared in Court on 18 August 2008 for the Court to deliver its decision. The defendants' Metlifecare Pinesong and Apsec Construction, were convicted and ordered to pay \$7,000 each (with 90% being directed to the Council in accordance with s. 289 of the Building Act), plus \$226 solicitor's costs and \$113 court costs to be paid by each defendant. In total the Council will be receiving \$13,278.

(Unchanged) G Yuan – 3 Dovey Place, Massey (August 2007)

73. The property is being used as a private rest home known as "Abbey Heights Rest Home". Ms Yuan had a conservatory built on an existing deck, retrofitted the existing deck to strengthen it for the conservatory, and installed a shower enclosure and vanity in the staff room, all without a building consent.
74. The deck area was converted to be used as the rest home's dining room. The building is a building intended for public use and any building works undertaken required a building consent. A Certificate of Acceptance (COA) cannot be granted for the building works. The Council referred the matter to the Ministry of Health who undertook an environmental audit on the property and granted certification that excluded the deck/dining room until the Council confirmed that the works had been undertaken in accordance with a building consent, and a code compliance certificate for the works could be issued.
75. The Council instructed the owners to cease using the conservatory area as a public area, and laid charges in relation to the unauthorised work, failure to comply with the notice to fix, and failure in permitting the use of the premises by the public where no building consent has been issued.
76. The defendant sold the business in late August 2007. The new owners were also instructed to cease using the conservatory as a dining area, and to close it to the use of residents. We understand the new owners have complied with the Council's instructions and a building consent to demolish the new parts of the deck and conservatory and reinstate in accordance with a building consent was granted on 11 August 2008.
77. The defendant pleaded not guilty. A hearing has been set down for 8 September 2008.

(Unchanged) P Cottingham - 122 Lone Kauri Road, Karekare (May 2006)

78. Charges were laid under the RMA and Building Act in respect of the use of numerous unauthorised minor household units on the site. The matter was called on 2 April 2007. Mr P Cottingham pleaded guilty to a charge of permitting building work without consent in respect of the conversion of 7 buildings on the property into sleep outs. The other charges of contraventions of the RMA and charges against Mrs J Cottingham were withdrawn by the leave of the Court and an out of court solution is being pursued in respect of issues under the RMA. The defendant applied for a determination from the Department of Building and Housing (DBH) in respect of the Council's decision to decline their application for a certificate of acceptance for the illegal conversion of 4 household units at the property. The DBH appointed an investigator to look into this matter. That report has now been received by the Council along with a draft determination. The draft determination accepts that there are 7 unauthorised sleep outs on the property. The matter has been set down for sentencing on 24 October 2008.

(Changed) Graham W Gordon - 159A Scenic Drive, Titirangi (October 2005)

79. This matter relates to breaches of the RMA and Building Act. Mr Gordon pleaded not guilty to both charges on 31 March 2006. The RMA matter was transferred to the Auckland District Court to be considered by an Environment Warranted Judge of the District Court.
80. The matter proceeded to a jury trial as it is an indictable matter, and was scheduled to proceed on 15 June 2007. As a judge was not available, it was unable to proceed and was set down for a jury trial on 18 February 2008.
81. The Building Act charges had also been set down to be heard by a Judge alone in the week of 25 February 2008.
82. Mr Gordon was assigned someone to represent him as *amicus curiae* (an independent representative who is a friend of the Court to ensure the Court is supplied with the appropriate evidence). This was because Mr Gordon refused to obtain legal representation.
83. Mr Gordon has now pleaded guilty to five of the six counts in the indictment. Two of the charges were laid in the alternative. One has now dropped off because Mr Gordon pleaded guilty to the other.
84. Sentencing was adjourned to 30 June 2008 to allow Mr Gordon to take steps to undertake works in accordance with Council's requirements.
85. The works will include:
 - Removal of car wrecks from the property by 14 April 2008;
 - Removal of house trucks and caravans by 30 June 2008;
 - Provide a fire report by 10 March 2008;
 - Cease all earthworks;
 - Cease depositing organic and inorganic material on the property;
 - Apply for all necessary consents by 14 April 2008; and
 - Permit reasonable access by Council employees.
86. The Building Act prosecution has also been adjourned.
87. The sentencing has been further adjourned to 24 October 2008.
88. In the event of non-compliance, the Crown will seek a custodial sentence.
89. The following update has been provided by Meredith Connell:
 - Sonja Bury of Council has undertaken an inspection of the property. As at 17 April 2008, 4 cars remain including 1 truck wreck. The Judge has instructed Mr Gordon to remove the remaining wrecks;
 - Mr Gordon was to obtain a fire report. This has not been provided and a memo was filed with the Court accordingly. Mr Gordon did advise that he would provide the report by 5pm, Tuesday 29 April 2008, however this was not done. On Wednesday, 30 April 2008, the Court received a letter from Wormald, however this was inadequate as no assessment of the buildings' safety for ingress and egress had been done. Field Services are to follow up in relation to the dangerous building issues, and report back to the Crown;

- The Council requested an audit of the buildings by New Zealand Fire Service. On the basis of this report, the Council has issued a Dangerous Building Notice. Mr Gordon has not complied with the notice;
 - An application for retrospective consent for earthworks has been lodged, and boundary adjustment application to address Council's concerns about the numbers of dwellings allowed on a lot. The boundary adjustment will address this, and looks likely to be granted;
 - Further reports are also required in relation to the contamination of the land; and
 - Mr Gordon has also proposed an application for chalets to be built to house tenants on the property.
90. The Council is required to undertake a further inspection of the property to ascertain compliance. To date Mr Gordon has refused entry and a search warrant will be required.

(Unchanged) R Brooky – 18 Silverstone Place, Henderson (April 2007)

91. Charges were laid under the Building Act for non-compliance with a notice to fix for work undertaken to re-clad the house. This matter was called on 23 July 2007. Although the defendant was served, he refused to appear. The matter was further set down for 20 August 2007 for the defendant to plead. The defendant pleaded not-guilty.
92. The matter was set down for a one day hearing on 9 November 2007 with a potential of further 2 days being reserved if needed. Although the Council was ready to proceed on 9 November 2007, the Court had not allocated adequate time and considered that because Mr Brooky had not served summonses on his witnesses the Court ought to set the matter aside until 2008; particularly because Mr Brooky is a lay litigant. The Court part heard the matter on 19 June 2008 and we will be going back to finish the case on 22 October 2008.

(Changed) S Hosaini - 71 Rosier Road, Glen Eden (May 2007)

93. Charges were laid under the Building Act relating to undertaking building work without consent. The works involved the excavation of the basement to create a new area underneath the house to create four new rooms separated off by walls and included: new concrete slab; new exterior cladding; construction of block retaining wall installation of waste water drainage system; creation of bathroom facilities; as well as other significant alterations in the first storey (now second floor) of the house. This matter was called on 23 July 2007. The matter was adjourned without plea to 15 October 2007 for disclosure to be completed. Mr Hosaini entered a guilty plea on 15 October 2007 with facts in dispute set for resolution between the parties by 28 April 2008. The facts appeared to have been resolved and Mr Hosaini was scheduled to be sentenced on 15 July 2008. However, at sentencing Mr Hosaini's solicitor advised the Court that there was in fact a dispute on the facts. The Council and Mr Hosaini's solicitor are seeking to resolve the dispute and the matter is now set down for 30 September 2008.

(Changed) Leaky Building Claims

94. Claims currently being handled are 32:
- High Court: 4
 - District Court: 3
 - WHRS/WHT 25

The number of claims recorded on the DBH website relating to properties in Waitakere as at 31 August 2008 was 338. This is the same as the number reported on 31 July 2008. This figure will include any buildings where building consents were processed and/or inspections were undertaken by building certifiers. In respect of those matters the Council may have no liability exposure from claims. As previously advised over half of these claims relate to 8 multi unit developments.

95. Significant new proceedings or developments in the handling of claims in the last month are:

- The Council has been served with High Court proceedings on behalf of 58 unit owners in multi unit development at Westward Ho. The total amount claimed is in the order of \$11.6 million. The developer of this block was associated with Dorchester Finance. The other parties sued at this stage are BH Heron Ltd, and the architect Brent Hulena. The property at Westward Ho is one of the 8 multi unit developments referred to above. Claims in respect of that development registered with the WHRS total 120. While researching the files related to the current proceedings we have discovered that the subsequent stages of this development may have been inspected by, a building certifier. This may significantly alter the Council's risk profile in respect of claims by the owners of the other units in this development.
- In June 2008 we became aware of a multi unit claim in respect of the units known as Clearwater Cove Apartments at West Park Marina through the WHT. More detail of that claim has now emerged. The claim has been brought by the body corporate and by 14 of the 18 unit owners against the Council as local authority, and Fletcher Construction Ltd as builder. The claim is for an amount just a little under \$2 million. There are several curious features about this claim. Of the 14 owners suing, a substantial majority of the interests are associated with the Livi Family Trust. ("livi" is "Ivil" spelt backwards. The settler of the trust was Mr Brent Ivil. The majority of the claimants appear to be, interests associated with the trust and/or Mr Ivil.) The Livi Family Trust was the purchaser of the land from the Council and the developer of the complex. Fletcher Construction Ltd was engaged to build the units. A dispute arose on completion between his family trust and Fletcher Construction Ltd which was settled. Fletcher Construction Ltd is now arguing that any claim against it is statute barred. If that argument succeeds the Council will be facing the claim alone. There are several technical defences available to the Council. (Some of the claimants appear to have purchased the units knowing that there were problems). This claim (at least to the extent that it is brought by interests associated with the Livi Family Trust) will be vigorously defended by the Council's insurers (Riskpool has accepted that this claim falls into the 2005/2006 fund year).

Report prepared by: Mary Davenport, Contract Solicitor.



PART D - DISTRICT PLAN / STRUCTURE PLANS

7 PROPOSED PLAN CHANGE 27: RE-IDENTIFICATION OF THE HUMAN ENVIRONMENT OF EIGHT SITES

GLOSSARY

Resource Management Act 1991 (the Act)

EXECUTIVE SUMMARY

The purpose of this report is to seek the Planning and Regulatory Committee's approval of Proposed Plan Change 27. Proposed Plan Change 27 seeks to re-identify the existing Human Environment identification for eight properties.

The 'Background Report and Section 32 Analysis' for Proposed Plan Change 27 sets out the statutory requirements under the Resource Management Act 1991 (the Act) and the policy framework. It also addresses Section 32 requirements, and includes copies of the changes to the Planning Maps. This report was available at the time of notification of the Proposed Plan Change 27.

No submissions were received for Proposed Plan Change 27.

RECOMMENDATIONS

It is recommended that the Planning and Regulatory Committee resolve to:

1. **Receive** the Proposed Plan Change 27: Re-Identification of the Human Environment of Eight Sites report.
2. **Agree** that pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991, the Planning and Regulatory Committee approves Proposed Plan Change 27 to the Waitakere City District Plan to re-identify eight sites as detailed in the following table:

Site	Legal Description	Proposed Human Environment
14 Bordeaux Parade, Te Atatu South	Lot 100 DP 369723	Open Space Environment
164 Te Atatu Road (Te Atatu South Park)	Lot 21 DP 53436 & Pt Lot 7 DP 19451	Living Environment
578 Te Atatu Road, Te Atatu Peninsula	Pt Lot 46 DP 40799	Community Environment
40A Royal Road, Massey	Lot 2 DP 378439	Living Environment
Northern end of Riverlea Road, Whenuapai	Section 1 SO 382376	Open Space Environment
Eastern end of Scott Road, Hobsonville	Section 1 SO 383760	Open Space Environment
7 Beauchamp Drive (Royal Reserve)	Section 1 SO 383078	Open Space Environment
Eastern end of Harbour View Road, Te Atatu Peninsula	Section 1 SO 383145	Open Space Environment

3. **Agree** that a decision notice stating approval of Plan Change 27 shall be publicly advertised on or about 15 September 2008.
4. **Agree** that Plan Change 27 shall be publicly notified on or about 19 September 2008 to become operative.

BACKGROUND

1. Proposed Plan Change 27 seeks to re-identify the Human Environment of eight sites as shown in the table below. The current identifications for the sites are no longer appropriate due to land purchase, an error on the District Plan maps, the swapping of privately owned land with land owned by the Council's Parks Assets Section, and the conversion of formed and unformed roads to reserves.
2. The proposed Human Environment identifications for the sites will essentially correct current discrepancies in the District Plan due to land being purchased for another use, swapped with other land or converted to another use.

Site	District Plan Map:	Existing Human Environment:	Proposed Human Environment:
14 Bordeaux Parade, Te Atatu South	E9	Living Environment	Open Space Environment
164 Te Atatu Road (Te Atatu South Park)	E9	Open Space Environment	Living Environment
578 Te Atatu Road, Te Atatu Peninsula	D9	Open Space Environment	Community Environment
40A Royal Road, Massey	C8	Open Space Environment	Living Environment
Northern end of Riverlea Road, Whenuapai	A8	Transport Environment	Open Space Environment
Eastern end of Scott Road, Hobsonville	B10	Transport Environment	Open Space Environment
7 Beauchamp Drive (Royal Reserve)	C8	Transport Environment	Open Space Environment
Eastern end of Harbour View Road, Te Atatu Peninsula	D10	Transport Environment	Open Space Environment

3. The Planning and Regulatory Committee resolved at its 10 June 2008 meeting to:

1. *Receive the Proposed Plan Change 27: Re-Identification of the Human Environment of Eight Sites report.*
2. *Agree that pursuant to the First Schedule to the Resource Management Act 1991, the Proposed Plan Change 27: Re-Identification of the Human Environment of Eight Sites be publicly notified*".

936/2008

4. The Council notified Proposed Plan Change 27 in the New Zealand Herald on 18 June 2008 and received no submissions. As no submissions were received, further submissions were not called for.

DECISION MAKING

Issues

5. Proposed Plan Change 27 does not seek to amend any Objectives, Policies or Rules of the District Plan. However, re-identifying the sites will align the current land use in all cases with the District Plan's Objectives, Policies and Rules relating to Living, Open Space, Community and Transport Environments where relevant.

Resource Management Act 1991

6. The Act provides for changes to the District Plan. The 'Background Report and Section 32 Analysis' for Proposed Plan Change 27 clearly identifies the relevant sections of the Act, and other statutory documents, that must be taken into account when notifying a Proposed Plan Change. This report was available at the time of notification of Proposed Plan Change 27.

STRATEGIC CONTEXT

7. The Long Term Council Community Plan has nine pathways that set out the Council's goals and actions for managing the social, economic and environmental wellbeing of the City. The urban and rural villages pathway identifies that the Council will need to review its planning processes to support integrated planning. Proposed Plan Change 27 will ensure that the District Plan, as a statutory and strategic document, is accurate and based on the most up to date information available to the Council.
8. The existing Human Environment identifications for the eight sites are now at odds with the range of activities and effects that the community would expect of development associated with these areas of land. It is considered that Proposed Plan Change 27 is the most appropriate way to achieve the purpose of the Act. Re-identifying the eight sites will reflect the existing and future land use of each property.

CONSULTATION

9. Proposed Plan Change 27 was publicly notified on 18 June 2008 and submissions closed on 21 July 2008. No submissions were received as part of this notification process.

RESOURCES

10. No specialist reports are required for Proposed Plan Change 27. Processing the Proposed Plan Change through the statutory process can be adequately resourced and completed from existing budgets. No additional staff funding or resources are required.

IMPLEMENTATION ISSUES

11. There are no implementation issues associated with this report.

Report prepared by: Nicholas Lau: Planner, Policy Implementation.



PART E - ENVIRONMENTAL MANAGEMENT

8 SUBMISSION TO PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR ON-SITE WASTEWATER SYSTEMS

GLOSSARY

Proposed National Environmental Standard for On-site Wastewater Systems	(the Proposed Standard)
National Environmental Standard	(NES)
Resource Management Act 1991	(RMA)
Warrant of Fitness	(WOFs)
Waitakere Ranges Heritage Area Act 2008	(WRHAA)

EXECUTIVE SUMMARY

The purpose of this report is to:

- Inform the Planning and Regulatory Committee of the Proposed National Environmental Standard for On-Site Wastewater Systems (the Proposed Standard) discussion document; and
- Request the Planning and Regulatory Committee's approval to lodge a submission to the Ministry for the Environment on this matter.

The Proposed Standard aims to improve the management and environmental performance of domestic on-site wastewater systems around New Zealand. It is recommended that the Council make a submission supporting the development of the Proposed Standard but outlining suggestions for improvement to the proposed content.

Due to the timeframes involved and ongoing consultation across the Council, a proposed submission for discussion will be presented to the Planning and Regulatory Committee at the meeting.

RECOMMENDATIONS

It is recommended that the Planning and Regulatory Committee resolve to:

1. **Receive** the Submission to Proposed National Environmental Standard for On-Site Wastewater Systems report.
2. **Agree** that delegated authority be given to the Chairman of the Planning and Regulatory Committee to approve the lodgement of a Waitakere City Council submission to the Proposed National Environmental Standard for On-Site Wastewater Systems.

BACKGROUND

A4-A70

1. The Minister for the Environment has given notice of the Government's intention to develop the Proposed Standard. The process for developing a National Environmental Standard (NES) allows public submissions on the subject matter of the Proposed Standard. These submissions are then reported back to the Minister for the Environment and the final wording of the NES is drafted before becoming regulation. The discussion document on the Proposed Standard is attached at pages A4 to A70 of the agenda. Submissions close on 26 September 2008.
2. A NES is a legally enforceable regulation, developed under the Resource Management Act 1991 (RMA). It supercedes any existing controls in a District or Regional Plan. A rule or resource consent may be more stringent than a NES if the standard says it may be; but may not be more lenient than a NES.

3. The aim of the Proposed Standard is to improve the management and environmental performance of domestic on-site wastewater systems. Property owners with on-site wastewater systems, in specific locations identified by a regional council, would be required to hold a current warrant of fitness that confirms their on-site system is functioning properly and is being maintained to an appropriate standard.
4. Due to timeframes involved, and ongoing consultation across the Council, a proposed submission will be presented to the Planning and Regulatory Committee for discussion at the meeting.

DECISION MAKING

Issues

On-site Wastewater Systems

5. On-site wastewater systems provide treatment of domestic wastewater and return it to the environment within the boundaries of the property of origin. There are a number of different types of on-site systems, and they are designed to treat household wastewater to varying levels before it is released back into the environment. Septic tanks are a common example of a basic or 'primary' treatment system while secondary and tertiary systems involve biological process and further treat the wastewater. All systems release the treated wastewater to an effluent disposal field, such as soakage trenches or subsurface drip irrigation.
6. The Ministry for the Environment has identified that a large number of on-site systems in New Zealand are not performing in a way that provides an acceptable level of treatment. This occurs because of a range of factors including poor maintenance, sensitive receiving environments, high density residential areas, shallow groundwater and unsuitable soil types. Failing systems can contribute to:
 - risks to human health through direct contact with overflowing or ponding effluent;
 - contamination of groundwater and surface water; and
 - lakes, rivers, estuaries and beaches becoming unfit for swimming, gathering seafood and marine farming.

The Current Situation

7. On-site systems are currently controlled by a range of legislation including:
 - the Building Act 2004: specific requirements covering design and installation of systems;
 - the Health Act 1956: powers that can be invoked if an existing system is creating a nuisance or public health risk;
 - the RMA: controls the environmental effects of discharges from on-site systems; and
 - the Local Government Act 2002: bylaws, sanitary surveys.
8. In Auckland, the Proposed Auckland Regional Plan: Air, Land and Water, June 2005, contains rules for on-site domestic wastewater systems. Should it become operative, section 5.5.20 would allow for the discharge of domestic wastewater from one dwelling to land within the same lot as a permitted activity provided that a range of conditions are met. One of these conditions is that a programmed maintenance contract would be required for the wastewater system and records of inspections must be kept should they be requested by the regional council.

The Proposed Standard

9. The discussion document outlines the purpose of the Proposed Standard as being that:

“Owners of properties with on-site wastewater systems in locations identified by the regional council will be required to hold a current warrant of fitness that confirms their on-site system is functioning properly and being maintained to an appropriate standard.”

10. The Proposed Standard would apply only to domestic on-site systems that are operated as permitted activities under rules in a Regional Plan.
11. Warrant of Fitness (WOFs) would be issued by qualified inspectors every three years. The inspector would inspect the system, following defined criteria as shown in Appendix 7 of the discussion document, and if problems were identified would give time for the owner to rectify these. The owner would be responsible for all aspects of system management and maintenance. If the problem was not remedied enforcement action could be undertaken under the RMA.
12. Administration of the Proposed Standard would be the responsibility of regional councils although this function could be transferred to a territorial authority under section 33 of the RMA if the territorial authority agrees.

Waitakere City Council and On-site Wastewater

13. The Council currently checks household wastewater systems which provide primary treatment such as septic tanks, and provides a pump out approximately every three years, which is paid for by the rural sewage charge in land rates. The owner is responsible for efficient operation of their system to a safe and satisfactory standard and to upgrade, repair and replace the system if any problems occur.
14. Approximately 6,000-7,000 properties in Waitakere have on-site wastewater systems. The City has a number of sensitive areas which have water quality issues. These include Piha, Huia, Karekare, Bethells, Waitakere Village, Opanuku/Henderson Valley and Whenuapai.
15. The Council facilitates the Wastewater Agenda Group which is made up of local groups in Waitakere communities. This Wastewater Agenda Group has indicated they are in support of the Proposed Standard and are planning to make their own submission relating to it.

Waitakere City Council Submission

A4-A70

16. It is recommended that Council make a submission in support of the Proposed Standard. Due to the timeframes involved and ongoing consultation across the Council, a proposed submission for the Planning and Regulatory Committee's discussion will be presented at the meeting. A copy of the Proposed National Environmental Standard for On-Site Wastewater Systems discussion document is attached at pages A4 to A70 of the agenda.
17. It is recommended that the Council support the Proposed Standard as it promotes a similar system to the one Council already has in place for managing on-site wastewater systems in the City. Due to the number of sensitive areas in Waitakere this is an important matter for the Council and one which officers have been looking to address. A recent Water and Sanitary Assessment recommended that WOFs are an appropriate way to manage on-site wastewater systems.

A69

18. While Council officers recommend the Council support the Proposed Standard, it is also recommended that the following matters be included in the Council's submission:

- The Proposed Standard should be for all on-site wastewater systems including those approved by resource consents. This will create a level playing field for all owners. While Council does inspect septic tanks, other more advanced treatment systems, including those with resource consents, are the responsibility of the regional council. An on-going maintenance inspection for these systems is important and does not always occur which can mean that the systems fail. If all systems require a WOF this will ensure all are inspected, maintained and working properly.
- Under the Proposed Standard administration would be the responsibility of regional councils unless transferred to a territorial authority under section 33 of the RMA if the territorial authority agrees. Waitakere is already pumping out and inspecting septic tanks and would want to ensure this continues to occur. Costs can continue to be covered by a rating charge or other cost recovery mechanisms are available. Council officer's recommend that where territorial authorities are already undertaking this role it continue.
- The Proposed Standard recommends a WOF being issued every three years. While officers agree that this is appropriate for standard systems, more complicated systems require more regular inspection. Records of these inspections should be sent to the Council.
- The Proposed Standard includes a proposed critical components checklist (Appendix 7 of the discussion document attached at page A69 of the agenda). Officers are supportive of this checklist for standard systems however a different checklist would be appropriate for tertiary systems.
- The Proposed Standard should prescribe a minimum level of treatment for each approved type of system eg: septic tank, sand filter etc. It should not ban septic tanks as their use is appropriate in some situations depending on the location and environment.
- The Proposed Standard recommends that only on-site wastewater systems in sensitive areas, as identified by the regional council, require WOFs. Council officers recommend that all on-site wastewater systems across New Zealand should require a WOF. This is equal and fair for all owners. Often maintenance is not occurring for other systems and this could then be managed to ensure all systems are working correctly.
- One option in the Proposed Standard is to use WasteTRACK (or a similar model) to track the status of individual systems. This will be essential for monitoring of the process. WasteTRACK is a Ministry for the Environment supported tracking system that is used to track the movement and disposal of liquid wastes. For Waitakere this would be a significant change from the current system as it requires that the wastewater is managed from pick up through to disposal. The current system relies on trust that private waste disposal companies dispose of the wastewater at approved and consented points.
- As a precautionary approach Council officers recommend that the Proposed Standard include a clause allowing local rules and resource consents to be more stringent than the Proposed Standard. This is because officers do not know the exact wording that will be contained within the Proposed Standard and want to ensure that our current systems for managing septic tanks are not undermined.
- Council officers recommend that the submission advises the Ministry for the Environment of the need to consider the features and objectives of the Waitakere Ranges Heritage Area Act 2008 (WRHAA) in development of the Proposed Standard.

STRATEGIC CONTEXT

19. The Proposed Standard has implications across a range of Strategic Platforms and Community Outcomes.

20. The Strategic Platforms most relevant are:
- Urban and Rural Villages: seeks to deliver growth and economic development with minimal environmental impacts;
 - Strong Communities: supports the health and wellbeing of the city's residents;
 - Green Network: looks at caring for natural areas; and
 - Three Waters: outlines Waitakere taking an innovative approach to management of wastewater.
21. The Community Outcomes most relevant are:
- Green Network: seeks to manage growth and minimise ecological threats;
 - Sustainable Environment: which seeks access to good quality water and responsible management of waste;
 - Urban and Rural Villages: seeks homes that are healthy and environmentally responsible; and
 - Waiora: seeks respect and appreciation of the City's natural taonga.
22. Keeping waterways clean is a Council priority. EcoWater is committed to manage wastewater in a way which will:
- Protect public health
 - Enhance environmental values; and
 - Use financial resources wisely.

23. The Proposed Standard supports these commitments.

Protecting, restoring and enhancing water quality and aquatic ecosystems is consistent with the objectives of the WRHAA (Objectives 8(a) and 8(h)) and the purpose of the RMA.

CONSULTATION

24. This matter has been discussed with City Services officers in preparing this report and in developing the matters addressed in the proposed submission.

RESOURCES

25. Preparation of the submission to the Ministry for the Environment will involve internal staff resources and forms part of the budgeted general work programme of the Sustainable Management Team.

IMPLEMENTATION ISSUES

26. Implementing the recommended decision will allow Council officers to finalise a submission to the discussion document on the Proposed Standard. Depending on the outcome of the Proposed Standard there may be on-going implementation issues for the Council. At this stage these are unpredictable as the wording of the Proposed Standard has not been drafted. Examples are that the Council may no longer be required to pump out septic tanks or the Council may face added administration costs in implementing the proposed system.

Report prepared by: Tegan Brown, Strategic Advisor: Sustainable Management.



9 RAIL ELECTRIFICATION PLANNING

GLOSSARY

Auckland Regional Transport Authority	(ARTA)
Auckland Metro Rail Network Electrification Proposed Planning Strategy	(the Strategy)
Territorial Authorities	(TAs)
Electric Multiple Units	(EMUs)
Assessment of Environmental Effects	(AEE)
Outline Plan of Works	(OPW)
Resource Management Act 1991	(RMA)
Notice of Requirement	(NOR)
Henderson Heritage Trust	(HHT)
Developing Auckland's Rail Transport	(DART)
Electro Magnetic Radiation	(EMR)

EXECUTIVE SUMMARY

The Government announced in the 2007 Budget that \$600 million would be spent over six years on upgrading rail infrastructure in Auckland and Wellington. In Auckland, this money will largely be spent to build the electrification infrastructure for the Auckland urban rail network.

In addition, the Government has given regions the ability to raise a regional fuel tax. The Auckland Regional Council's case for a regional fuel tax is currently with the Government for its consideration. If approved, it will provide a funding stream to allow the Auckland Regional Transport Authority (ARTA) to acquire electric locomotives to haul carriage trains and self-propelled electric multiple units.

Barker & Associates have prepared, on behalf of ONTRACK, a draft planning strategy for the electrification of the Auckland urban rail network, called the Auckland Metro Rail Network Electrification Proposed Planning Strategy (the Strategy). Comment has been invited from the territorial authorities (TAs) in the area covered by the electrification project and this report proposes a Council position for consideration by Elected Members as the basis of a submission to ONTRACK.

It is clear from the Strategy that there are far fewer implementation issues with rail electrification in Waitakere when compared with the other TAs within the future electrified network. The work done to date on the double-tracking of the western rail line, now about three-quarters complete, has been "electrification-aware," which will significantly simplify and facilitate the electrification of the line within Waitakere.

The report canvasses key issues for the Council in the rail electrification project. It proposes that the Council take a facilitative approach towards this project, subject to the Council identifying up-front issues for consideration by ONTRACK, and ONTRACK and its planning consultants being as responsive as possible to those issues.

RECOMMENDATIONS

It is recommended that the Planning and Regulatory Committee resolve to:

1. **Receive** the Rail Electrification Planning report.
2. **Agree** that the Chairman of the Planning and Regulatory Committee sign off on a submission to ONTRACK on the Auckland Metro Rail Network Electrification Proposed Planning Strategy, to be prepared in response to the issues raised in the Rail Electrification Planning report and feedback from the Planning and Regulatory Committee.

BACKGROUND

1. The funding announced by the Government in the 2007 Budget will cover the electrification of the eastern and southern lines to Papakura, the Manukau Spur to Manukau City Centre; the western line as far as Swanson and the Onehunga Branch Line. There will be no electrification between Swanson and Waitakere, partly due to the extensive (and expensive) work that would be required to enlarge the Swanson tunnel, but also as Swanson is the final station within the Metropolitan Urban Limit.
2. To support this, ARTA is planning to acquire a fleet of Electric Multiple Units (EMUs) and electric locomotives to haul carriage trains. ARTA has developed an indicative rolling stock fleet composition of 33 four-car EMUs and 12 electric locomotives to haul 12 six-car carriage trains.
3. The electrification of the urban rail network, along with the Central Business District Loop Tunnel, are the keys to unlocking the latent capacity of passenger rail, with ARTA forecasting that patronage could increase from the current 6.7 million passengers per annum to 30 million passengers by 2030. At that point, ARTA estimates that rail will take 20 per cent of the region's passenger transport trips and 40 per cent of the passenger kilometres travelled.
4. The City Development Committee received a report on Rail Electrification at its meeting on 6 September 2007. This report outlined the electrification project and raised a number of key issues that the Council wished to see addressed by ONTRACK. These issues include visual impacts of electrification infrastructure; landscaping and the treatment of electrification shields on pedestrian and road overbridges.
5. A further report on rail electrification was received by the Infrastructure and Works Committee at its meeting on 2 April 2008 which explored in more detail the number of interfaces between the Council and ONTRACK in relation to the electrification project.
6. In summary, the scope of the electrification project is:
 - To electrify the southern, eastern and western rail lines between Swanson and Papakura as well as the Onehunga branch line and the future Manukau branch line. This encompasses 175 track kilometres;
 - Two new substations, possibly at Penrose and Southdown in Auckland City;
 - Approximately 12 autotransformer stations, to be located throughout the rail network;
 - A new maintenance depot, most likely to be at Otahuhu (there are no plans for a maintenance depot on the western line);
 - Stabling sites for electric trains and EMUs. ARTA's decision on a preferred rail stabling site for the western line is due to be made public in September 2008. This will also be the stabling site post-electrification;
 - A completely new signalling system as the current signalling system is not electrification-compliant; and
 - Various enabling works such as construction access roads and improvements to bridge clearances.

7. The Government requires that the electrification project be completed by the end of 2013. Some enabling works have already taken place (between Christmas 2007 and early January 2008) such as the lowering of tracks in Newmarket at the Broadway and Remuera Road rail overbridges. Further work is planned to take place during a planned three-week shutdown of the southern and western lines between Christmas 2008 and early January 2009. This will include the lowering of tracks below the Blockhouse Bay Road overbridge in Avondale and from there to Saint Jude Street, the future location of Avondale Station. Work will also progress on lowering the track beneath bridges in Grafton at Park Road and Khyber Pass Road during this period.
8. By December 2008, ONTRACK expects to have completed the bulk of the following information:
 1. Location and design of the planned substations and autotransformer stations.
 2. Indicative information about the types of poles and masts to be used and their spacing.
 3. Road and pedestrian bridges that need to be raised or otherwise altered to achieve the required track clearance.
9. By July 2009, it is expected that the following information will be available:
 - Detailed drawings showing the type of poles and masts to be used and their approximate spacing; and
 - Drawings, with sufficient detail for resource consent purposes, of any road and pedestrian bridges that need to be raised or otherwise altered to achieve the required track clearance.
10. Electrification physical works will need to commence in the second half of 2009 in order to achieve the deadline for completion of the project by the end of 2013.

DECISION MAKING

11. The rail corridor in Waitakere is designated for “general railway purposes” in the District Plan. The following restrictions and conditions apply to the designation:
 1. *The works will be in accordance with the District Plan objectives and policies.*
 2. *An Assessment of Environmental Effects (AEE) will be prepared for any Outline Plan of Works (OPW).*
 3. *Appropriate sedimentation and erosion control measures shall be employed for any works on the site.*
12. The railway corridor is designated for railway purposes, and the electrification of the railway clearly fits within this definition. Any electrification works will require an OPW to be lodged with the Council, in accordance with section 176 of the Resource Management Act 1991 (RMA), outlining the proposed works and detailing measures to remedy, mitigate or avoid any adverse environmental effects. There is no public involvement process for the consideration of OPWs.

13. The RMA gives the Council 20 working days to process an OPW with the ability to request conditions of the requiring authority, in this case ONTRACK. However, there is no obligation on the requiring authority, in this case ONTRACK, to accept any conditions requested. If ONTRACK were to refuse to accept any (or all) conditions requested by the Council, the Council's only legal recourse would be to appeal to the Environment Court. This would put the Council in the unusual position of having to appeal its own conditions in an attempt to make them legally enforceable. There is a major risk of delay with this option, which may threaten the ability to deliver the electrification project to the tight timeline required by the Government as a condition of its funding. There is also limited chance of success as case law has tended to favour the requiring authority in such cases.
14. Previous experience with OPWs submitted to the Council by ONTRACK and ARTA is that those agencies treat any conditions requested by the Council and agreed by themselves to have the same effect as if they were a condition of a resource consent. This includes remedying any non-compliance with OPW conditions identified by the Council's environmental monitoring staff.
15. While the RMA provides a very tight 20-day timetable for processing OPWs, ONTRACK has made it clear in the Strategy that they will seek to reach agreement with Councils on conditions, even if this means agreeing to extensions in the processing time or even resubmitting OPWs to address concerns raised. However, it would be much better for the Council to continue making its issues known upfront, in order to reduce the risk of delay at the OPW processing stage.
16. The Strategy has identified three anomalies in the rail corridor within Waitakere, at the Glenview Road and Fruitvale Road level crossings and the Titirangi Road rail overbridge. In the past, the Council has processed OPWs for stages seven and eight of the Developing Auckland's Rail Transport (DART) project, (namely the double-tracking between Titirangi Road and Mount Lebanon Lane and Mount Lebanon Lane to Christian Road respectively), as considering the rail corridor in Waitakere as continuous. This has included works on the Fruitvale Road and Glenview Road level crossings and the duplication of the Titirangi Road rail overbridge.
17. While this has not caused any issues to date, the Strategy considers that it would be useful to have these anomalies addressed. Officers concur with this view, as not resolving these designations could lead to the situation of ONTRACK being required to apply for resource consents under the District Plan's transport environment rules for works at these points. These applications would be subject to the tests for public notification under sections 93 and 94 of the RMA. As the environmental effects of the application are unlikely to be "no more than minor," it is very possible that public notification would be required, with the significant risk of major delay to the project and the possibility that ONTRACK may choose to electrify other parts of the rail network earlier while the resource consent process was running its course.

18. ONTRACK is planning to submit a Notice of Requirement (NOR) to the Council in September 2008 to resolve these designation anomalies. Officers concur that it makes sense to resolve these anomalies now, subject to any Council issues being addressed. One of these issues is the treatment of situations where road passes over rail (for example Sturges Road) and where rail passes over road (for example Titirangi Road). Designations in other parts of the region are layered, which limits the rail designation in height, in order to protect any air rights granted above the rail corridor or to deal with situations where different pieces of transport infrastructure cross above or below each other. This layering applies to the Britomart Transport Centre, the Britomart tunnel and the air rights granted by ONTRACK above the Newmarket Triangle. It could equally well work for the Titirangi Road rail overbridge. If this layering is not applied, there is a risk that any road works that the Council wished to undertake under the rail overbridge would not be able to take place as it would, at least in theory, frustrate the intention of the rail designation at this point. This raises a wider issue around other grade separated road rail crossings in Waitakere which are currently considered part of the rail corridor.
19. Officers are proposing to treat the NOR for resolving the designation anomalies under section 181 (3) of the RMA. This could enable the NOR to be dealt with on a non-notified basis through a relatively simple process to make minor changes to an existing designation. Section 181 (3) of the RMA states:
- “A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if–*
- (a) The alteration -*
- (i) Involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
- (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
- (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
- (c) Both the territorial authority and the requiring authority agree with the alteration-*
- and sections 168 to 179 shall not apply to any such alteration.”*
20. Provided that the proposed alteration complies with the matters set out in section 181(3) (a), (b) and (c), the designation in the District Plan can be amended without further formality.
21. Any NOR for the resolution of designation anomalies will be processed by the Resource Management team and reported to the Planning and Regulatory Committee for its approval at the appropriate time.

22. The Strategy has identified that the works for the electrification project can largely be contained within the rail corridor. However, there is a requirement for two substations and approximately 12 autotransformer stations along the electrified network. It is likely that several of the autotransformer stations and possibly one substation will need to be located in Waitakere. Officers consider it vital that ONTRACK definitively determines the footprint of the rail electrification project at the earliest possible opportunity. In the case of any electrification infrastructure being outside the current designation, officers consider that the Council should favourably consider any NOR from ONTRACK for a minor alteration of the rail designation and process it under section 181 (3) of the RMA.

Issues

23. **Overview:** The Council very strongly supports the electrification of the urban rail network in the Auckland region and wishes to facilitate the project to the maximum extent possible. The *quid pro quo* for this support is that the Council will work to identify issues upfront and expects ONTRACK to work collaboratively with the Council to achieve mutually acceptable outcomes to these issues.
24. Council officers have appreciated the early engagement by ONTRACK and its planning consultants with the Council. This has enabled the Council to signal some key issues in relation to the electrification project. The Strategy gives the Council a further opportunity to provide formal feedback to ONTRACK and its planning consultants to facilitate the project which will be based on the contents of this report and feedback from the Planning and Regulatory Committee.
25. **Staging:** An earlier version of the Strategy, presented to TA officers at a workshop, had a sequenced indicative staging of the electrification project. This sequencing was as follows:
- 1st stage. Britomart to Otahuhu via Newmarket and Britomart to Morningside (in time for the Rugby World Cup in 2011);
 - 2nd stage. Penrose to Onehunga (as a test track for the whole project);
 - 3rd stage. Morningside to Swanson;
 - 4th stage. Otahuhu to Manukau;
 - 5th stage. Puhinui to Papakura;
 - 6th stage. Britomart to Westfield via Sylvia Park.
26. However, any mention of the sequencing of the project, apart from reference to the probability of the Britomart to Otahuhu phase being completed first (in order to provide access to the existing maintenance yards at Westfield, the proposed new substations at Penrose and Southdown, and to Britomart), has been dropped from the Strategy. The region has a shared aspiration to have rail electrification as far as Morningside completed in time for the Rugby World Cup. As the double-tracking of the western line has been “electrification aware” and the fact that there are considerably fewer implementation issues on the western line, it is the view of officers that it is logical to stick with the earlier proposed sequencing and complete the western line first.
27. **Heritage Stations.** The Henderson Heritage Trust (HHT) has been working closely with the Council over a number of years in order to achieve both organisations’ shared aspirations for an adaptive reuse of the heritage station building. However, a key barrier to this future restoration and reuse of the Henderson heritage station was the refusal by ONTRACK to enter into a long-term lease arrangement with HHT, which would give the security of tenure vital to being able to receiving funding from a range of charitable sources, such as the ASB Trust and the Waitakere Licensing Trust.

28. The Planning Commissioner's report in 2005, rejecting the proposed relocation of the heritage station to Corban Estate, contained a caveat that the station canopy could be cut back by up to 1.3 metres to accommodate future electrification infrastructure without affecting the building's integrity. Officers believe that this is sufficient to accommodate the clearance requirements of electrification, taking into account the fact that electrification masts are placed at intervals of 50 to 60 metres.
29. ONTRACK has since advised the Council that the electrification standards work was completed in early June 2008. This means that ONTRACK is in a position to do some design work to assess the impact of these standards on the Henderson heritage station. This will in turn determine any lease conditions in relation to building modifications. ONTRACK has re-engaged with the HHT and the Council on this issue and progressing a long-term lease for the Henderson heritage station.
30. The Council believes that ONTRACK should engage soon with the Council and the Glen Eden Station Heritage Trust and the Swanson Station Trust to work through any similar issues with the heritage stations in Glen Eden and Swanson. A heritage assessment for the Swanson Railway Station is being completed that will enable the station to be listed as a heritage building in the District Plan.
31. **Electrification Masts.** Building consents staff have confirmed that the masts and poles for the electrification project fall under the list of exempt building work contained in Schedule 1 (b) of the Building Act 2004 and are therefore exempt from the requirement for building consent. There are fairly strict technical requirements about their siting. Generally, they are placed 50 to 60 metres apart and more closely on the inside of curves. This is in order to maintain the appropriate level of tension on the hotwire. However, these poles and masts will be a significant visual impact of the project and their location will need to be carefully planned, within the above-mentioned constraints, to minimise the visual impact, especially in sensitive locations such as heritage stations and town centres. An example of such a treatment was the Mounts Bay section of the recently opened Southern Suburbs Railway in Perth, where the poles in that section are a pale blue colour to fit better with its surrounding context.
32. **Non-compliant overbridges.** There are two overbridges noted as being non-compliant in Waitakere for electrification: the Sturges Road overbridge and the Hickory Avenue pedestrian overbridge in Henderson. Work is already well progressed on the replacement of the Sturges Road overbridge to achieve electrification compliance. The replacement of the Hickory Avenue overbridge in Henderson is tied in with a range of issues around access across the rail corridor in Henderson. As a result of the DART project trespass initiative, ONTRACK has developed a concept design and estimated costs for a pedestrian rail overbridge linking the end of Smythe Road with Edsel Street at the south end of Henderson Station. This is a significant rail trespass site across the rail corridor. This bridge would also provide access between the proposed Henderson park and ride facility and the Henderson Station platform. Any additional pedestrian access to the south end of Henderson Station would significantly increase the number of jobs and people within walking distance of Henderson Station. The proposal is still under consideration by ONTRACK and will depend on its feasibility; the costs involved; and the extent to which lower cost measures such as fencing, signage and impediments to entering the rail corridor are effective in addressing the trespass issue; and a possible Council contribution to its costs.

33. There are a variety of considerations for access across the rail corridor in Henderson for pedestrians and vehicles:
- The possible visual impact of an overbridge between Smythe Road and Edsel Street on the Henderson heritage station;
 - The range of issues of bulk, scale and visual impact of a pedestrian rail overbridge;
 - The need for any overbridge to fit with its context, taking into account Henderson's role as the Central Business District of Waitakere;
 - Future-proofing Henderson Station for future expansion to accommodate eight-car trains;
 - Future ideas for an additional road and pedestrian crossing of the rail corridor in the vicinity of Hickory Avenue;
 - Consideration of key pedestrian desire lines for key user groups such as Henderson High School students and residents of the Wilsher Village housing for older adults;
 - The relative roles of the airbridge and any second rail pedestrian crossing; and
 - Consideration of an at-grade pedestrian crossing, controlled by electronic gates, as has been implemented at Sturges Road and Ranui Station in place of earlier proposals for grade-separated pedestrian overbridges. This would provide an alternative access route for people with disabilities in case of a lift outage on the station platform. It would also provide for universal access whereas the ONTRACK proposal is for stair access only.
34. Council officers are working to progress these issues in order to fit in with the timelines of the electrification project. A key piece of work to inform this process would be an understanding of pedestrian desire lines across the rail corridor in Henderson. It is likely that ONTRACK would offer to fund a like-for-like replacement of the Hickory Avenue overbridge that was Building Code compliant for such matters as disability access. This could mean ramps similar to those at Glen Eden Station. Any financial implications from this work would be reported to the appropriate committee of the Council for decision.
35. **Glen Eden.** Council officers are concerned that the recently constructed Glen Eden pedestrian rail overbridge is considered marginally non-compliant for electrification in terms of vertical clearance. There are a significant range of issues relating to the ramps from this overbridge which have been the cause of considerable community and elected member discomfort. The Council wishes to urgently progress removal of the ramps from this overbridge and needs to understand the implications of the substandard bridge clearance. Advice from the Transport Assets team is that due to the proximity to the Glenview Rd rail level crossing, this could be a difficult issue to resolve technically. This is because the hotwire will need to climb reasonably steeply in the short distance between the overbridge and the Glenview Road level crossing, in order to give a safe clearance for vehicles at the level crossing.
36. Council officers are currently in the early stages of concept design work for the Glen Eden town centre. Officers are of the view that the outcomes of this work should inform the Council's position in relation to this overbridge. The electrification project is an opportunity to address the range of concerns relating to this overbridge. There are lessons to be learned from this experience, in terms of the value of early and full engagement, that can be applied to the electrification project.

37. **Electro Magnetic Radiation (EMR).** ONTRACK has engaged Dr. David Black of the University of Auckland, a recognised expert in EMR, to provide scientific and technical advice on EMR to the rail electrification project. In addition, it is proposed to establish a forum including TA officers to come up with a regional approach to the EMR issue.
38. Council officers are aware of concern in the Titirangi community about the proposed location of a Vector transformer in the Titirangi town centre near a kindergarten and the Council's library. While there is a scientific consensus that EMR for the voltages planned for the electrification hotwire (25 kilovolts alternating current) and for the autotransformer stations do not have harmful effects on human health, officers would strongly urge ONTRACK to site any autotransformer stations planned within Waitakere to less sensitive locations due to their visual impact and to reduce any perceived impacts on health of these facilities.
39. **Trespass, track walking and route crime.** The Council welcomes ONTRACK engagement with the Council on the issues of trespass, track walking and route crime. Officers are working collaboratively with ONTRACK staff to progress a range of engineering, enforcement and education actions to address these issues. The Council wishes to see this work continued and expanded by the electrification project. An electrified network presents significantly more trespass risks, with the risk of death by electrification from coming in contact with, or close to, the hotwire. Track walking is common in Waitakere and electric trains are quieter and faster, increasing the risk to the lives of track walkers. The Council is willing to consider property acquisitions to facilitate legitimate walking and cycling routes a safe distance from trains. Some of this work is already in progress as part of the DART trespass project. The Council is also willing to consider a resource consent application or change of designation that would allow a walk/cycleway alongside the rail corridor. The Council believes that fencing the rail corridor is an essential part of the rail electrification project, building on the increased level of fencing being provided by the DART trespass project.
40. A major contributor to trespass in the rail corridors is from taggers. Given the increased safety risks of electrification mentioned above, the Council believes this issue needs to be more seriously addressed by ONTRACK. The New Lynn rail trench is the most significant potential future issue with taggers - both from a safety point of view and in terms of the Council's aspiration for a more vibrant, mixed-use subregional centre in New Lynn.
41. **Rail corridor cycleway.** Once the planning work for the electrification project is further progressed, officers will be in a position to assess the potential impacts of the electrification project on plans to develop a rail corridor cycleway. The priority stretch of corridor for early implementation of such a cycleway is between Sunnyvale and Glen Eden stations. This stretch links up unconnected sections of the Twin Streams Cycleways and would lead to a continuous cycleway route from:
 - Newton Road near the Auckland Central Business District, via the North-western Cycleway to Te Atatu;
 - then via the Henderson Creek Cycleway to Henderson;
 - then via the Oratia Stream Cycleway to Sunnyvale Station;
 - then via the rail corridor to Glen Eden;
 - then via the Upper Waikumete Cycleway to Ceramco Park.
42. The Council sees the legitimate walking routes proposed by ONTRACK as part of the DART trespass project as being initial steps in the future rail corridor cycleway and are compatible with the Council's plans for such a cycleway.

43. **Overbridge barriers.** One of the impacts of electrification is the necessity to place barriers on road and pedestrian overbridges to reduce the danger of inadvertent contact with the electrified hot wire. In Wellington, where the rail network was electrified 50-70 years ago, these barriers are generally of wire or metal mesh and are not particularly attractive. The Council's arts team is prepared to investigate the possibility of having an arts treatment, in accordance with Waitakere's arts bridge policy, that provides both aesthetic enhancement and addresses the safety requirement that bridges be screened. There have been discussions with ONTRACK that the pedestrian rail overbridge planned for Swanson Station could be designed for future inclusion of such a screening treatment – either as a vertical or horizontal screen – as an integral part of the bridge design and as a model for a screen that could be rolled out across Waitakere or across the entire Auckland urban rail network.
44. **Landscaping.** The Council has agreed to the deferral of significant amounts of landscaping for the section of double-tracking between Titirangi Road and Mount Lebanon Lane and for no landscaping between Mount Lebanon Lane and Christian Road in Swanson on the basis that this work would be done as part of the electrification project. The planned landscaping between Titirangi Road and Mount Lebanon Lane may need to be modified to address the visual impacts of electrification infrastructure, especially in sensitive areas.
45. The New Zealand Transport Strategy sets a target to "increase the area of Crown transport land covered with indigenous vegetation." The Council sees the electrification project as a good candidate project which may well address some of the chronic graffiti issues in the corridor by using planting as screening.
46. The Council has a policy of eco-sourced plantings in Waitakere and sees the rail corridor as a future green corridor, rather than its current condition of graffiti and significant weed infestation. The Council has collaborated closely with ONTRACK and ARTA on landscaping works for the section of double-tracking between Titirangi Road and Mount Lebanon Lane and done some landscaping ourselves to support the project (e.g. Singer Park, Mason Park). The Council should strongly request ONTRACK to do the landscaping planning for the electrification project in close partnership and collaboration with Council officers as they have extensive expertise in this area.

Consideration of Community Views

47. As noted above, it is likely that the rail electrification project will be the subject of OPWs, which provide no opportunity for public input. However, the Council's strategic platforms and the community outcomes desired by residents give strong support to the electrification project. In addition, ONTRACK is proposing a collaborative, problem-solving approach to the project and to work closely with Council officers on addressing any issues prior to lodging any OPW.

STRATEGIC CONTEXT

48. Waitakere is strongly committed to the building of a world-class passenger transport system with the urban rail network being the spine of the rapid transit network for the region (except the North Shore where the Northern Busway will be the rapid transit spine). Waitakere has focussed its urban planning for well over a decade on supporting the intensification of areas around the rail corridor. This is clearly evidenced by the level of public sector investment that has gone into the revitalisation of Henderson and the New Lynn Transit Oriented Development project. The rail electrification project will assist this intensification by providing for a faster, more environmentally-sustainable and neighbourhood-friendly rail service with no emissions at source, much-reduced noise levels and no pollution at source. The electrification of the urban rail network will deliver on the following Waitakere strategic platforms:

Integrated transport and communication, Te Whakaurunga Waka Te Whakawhiti korero

49. The electrification of rail will enable faster, more frequent train services, improving Waitakere resident's ability to access work, shopping, social service and leisure services.

Urban and rural villages, Nga kainga taone, tuawhenua

50. Rail electrification supports town centres that are thriving places, providing exciting options for people to live, work and play, by being a better neighbour to intensifying areas than diesel-run trains through lower noise levels.

Strong innovative economy, He tupuranga kaha ihi wana

51. Rail electrification will support Waitakere as an even more attractive place to live, work and play by improving residents' access to employment and retail centres near the rail corridor.

Strong Communities, He iwi kaha

52. Public transport is a strong tool for community cohesion and development. It provides critical access to jobs, housing, retail, health, welfare, leisure and social opportunities for people who, whether by choice or not, do not have access to a car.

Sustainable energy and clean air, He kaha motuhake. He hau ora pai

53. Rail electrification means that, for the vast majority of rail services in the City – except for some freight services and passenger services to Waitakere and Helensville - there will be no pollution and no carbon dioxide emissions at source. However, depending on the source of power generation, there may be some power generation using fossil fuels, especially at peak-load times.

CONSULTATION

54. The responsibility for any public consultation, including consultation with Maori, for the rail electrification projects falls with ONTRACK. Internal consultation took place for the preparation of this report with the Consent Services; Resource Management; Sustainable Management; Transport Assets; Transport Strategy; Urban Design and Development; Safe Waitakere; Parks Planning; Parks Assets and Arts teams as well as with the Principal Advisor: Heritage. The contents of this report reflect a "whole of Council" view of officers.

RESOURCES

55. No resources other than staff time are required. OPW and building consent staff time for the rail electrification project would be recovered from the applicant.

IMPLEMENTATION ISSUES

56. The implementation of this project is the responsibility of ONTRACK.

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