

**AGENDA FOR A MEETING OF THE COUNCIL TO BE HELD IN THE CIVIC
CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON WEDNESDAY, 4 MAY 2005 COMMENCING AT 2.00 PM.**

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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the Council by resolution so decides; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Council 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 PETITION

Mayor Bob Harvey has consented to a Petition being presented by the Structure Plan Advocates Network (SPAN). Alan Wagstaff, President, Structure Plan Advocates Network and John Newick, Vice President, Structure Plan Advocates Network, will present the Petition.



4 **WAITAKERE RANGES AND FOOTHILLS PROTECTION PROJECT - GEOGRAPHIC SCOPE, PROPOSED BOUNDARY, AND SOME POLICY ISSUES**

PURPOSE OF THE REPORT

The purpose of this report is to present to the Council a recommended boundary for the Waitakere Ranges and Foothills Protection Project, including in relation to any proposed legislation that might be developed for this area.

Additionally, at the 16 February 2005 meeting of the Council, Councillor Neeson proposed that any legislation should only relate to parkland, and areas of private land voluntarily included. In response to this proposal, the Council resolved that:

"12. That Councillor Neeson's proposals for addressing the protection of the Ranges and/or Foothills be included in the protection work programme."

169/2005

This report discusses and makes recommendations on this option.

Since the Council meeting held on 16 February 2005, the Council has been engaged in a further round of discussions with the community, and this has highlighted a number of issues that relate to the boundary for the project. These are also discussed in this report.

Some policy issues that have arisen out of consideration of the boundary and through consultation with landowners, and some recommendations in relation to this are also presented in this report.

BACKGROUND

On the 16 February 2005, proposed legislation for the Waitakere Ranges and Foothills area was presented to the Council, along with a proposed boundary to delineate the area. In relation to that, the following resolution was passed:

"9. That Council agrees that further work should be undertaken as expeditiously as possible, with a view to reporting back to the Council on progress made in May 2005, before a final decision on whether the draft legislation should be submitted to Parliament by June 2005."

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A report on the proposed legislation will be presented to the Council at a meeting scheduled for 24 May 2005. However, the proposed boundary has been brought to the Council for their consideration at this time in order to preserve the option of pursuing legislation within the above timeframe (i.e. June 2005).

The process for finalising the boundary requires the production of a legally satisfactory plan (by contracted surveyors), and certification of that plan by Land Information New Zealand (LINZ). To date, a plan has been drafted (known as a Graphic Description Plan). However, amendments to this line are recommended in this report. Additionally, the Rodney District Council is expected to make a decision on whether or not parts of the Rodney District are to be covered by the legislation, on 5 May 2005. Any inclusion of areas of Rodney will also necessitate amendment of the draft Graphic Description Plan. This step could take up to a week. At that stage, the plan will need to be submitted to Land Information New Zealand for their certification. Our contracted surveyors have been liaising with Land Information New Zealand officials, and we are confident that certification will be straight forward. We have also had an undertaking from Land Information New Zealand to process the plan with urgency, i.e. in less than the normal 20 working days. Nevertheless, the timeframe will be tight, and in order to ensure that the plan is ready at the same time as the legislation it is desirable to adopt a boundary at this time.

At the February 2005 meeting, the Council resolved to investigate the option put forward by Councillor Neeson that the legislation apply only to parkland and areas of private land which were voluntarily included in a heritage area. As this relates in part to the geographic coverage of the proposed legislation, it is discussed in this report for the reasons advanced above - i.e. to facilitate timely decision making. Clearly, however, this approach raises issues more fundamental than just the geographic area covered by legislation, and the broader implications of this are also discussed.

Alignment of Boundary

The boundary has been identified utilising the following criteria:

1. The boundary must, as far as possible encompass the concentrations of natural, landscape and cultural heritage resources in the Waitakere Ranges.
2. The area is to be contiguous.
3. A 'buffer' area will be applied as appropriate.
4. The boundary should follow property lines and other boundaries well-recognised by the community.
5. The boundary should cross territorial boundaries where the value of the resources dictates.
6. Known Planning Context - in other words, the boundary cannot be proposed in isolation from other strategic initiatives and priorities.

These criteria were discussed in some detail in a report to the Council meeting of 10 November 2004 (and associated appendices).

At the 16 February 2005 Council meeting, a report on the proposed boundary was presented to the Council.

That report's focus was on the results of the Phase II consultation, which included feedback on the location of the proposed boundary, and the geographic scope of the legislation generally. The consultation results presented to the Council on 16 February 2005 indicated that (amongst other things) that there was a majority support from all respondents (~55%) and from landowners within the area (~60%) for the proposed location of the boundary.

Submissions on the consultation could be categorised as those that:

1. Both opposed and supported the inclusion of the foothills.
2. Both opposed and supported inclusion of the Penihana land.
3. Both opposed and supported inclusion of each of the Oratia, Opanuku, Swanson and Anzac Road foothill catchments.
4. Both opposed and supported the inclusion of the Titirangi-Laingholm area.
5. Both opposed and supported the inclusion of Piha.
6. Proposed inclusion of areas currently excluded north of Swanson Road.
7. Proposed inclusion of areas outside the Metropolitan Urban Limits with conventional urban zonings.

A numerical analysis and discussion of the responses in each of these categories was presented to the Council on the 16 February 2005. Overall, the recommendation was that no substantive issues had been raised to warrant the amendment of the boundary, and that the boundary should be kept as proposed.

Councillors are referred to the 16 February 2005 agenda for discussion in relation to these different areas.

Since February 2005, there has been a significant change in the statutory framework applying to the City - namely, the introduction of proposed statutory provisions to give effect to the Local Government (Auckland) Amendment Act 2004 - and in light of this a discussion on the proposed alignment of the boundary in Swanson is presented..

Additionally, a number of anomalies in relation to areas of land proposed for inclusion have come to light which it is considered necessitate some small amendments to the proposed boundary in the Oratia/Henderson Valley area.

Other Issues Arising from Consultation February to May 2005

Over the last 2.5 months, the Council has been engaged in a further round of discussions with the community about the proposed legislation. This has included written feedback from the community, landowner visits and a series of 'drop in' days. During this time, the proposed location of the boundary has not been a huge issue, but nevertheless some feedback on this has been received, particularly through the 'drop in days'.

Issues raised through this round of consultation identified are:

- Concerns at the inclusion of the foothills, and private land generally; and
- Concerns that inclusion of land will hamper development opportunities, including in relation to properties at the boundary with landowners wishing to subdivide more in line with properties adjacent in the urban area ; and
- Penihana (discussed below); and
- Some Titirangi residents remain convinced that the area is not within the Waitakere Ranges; while
- Others consider that more of Titirangi should be included (i.e. areas currently identified as being Living Environment); and
- The fear that exclusion of the rural land north of Swanson Road implies that this area is to be urbanised.

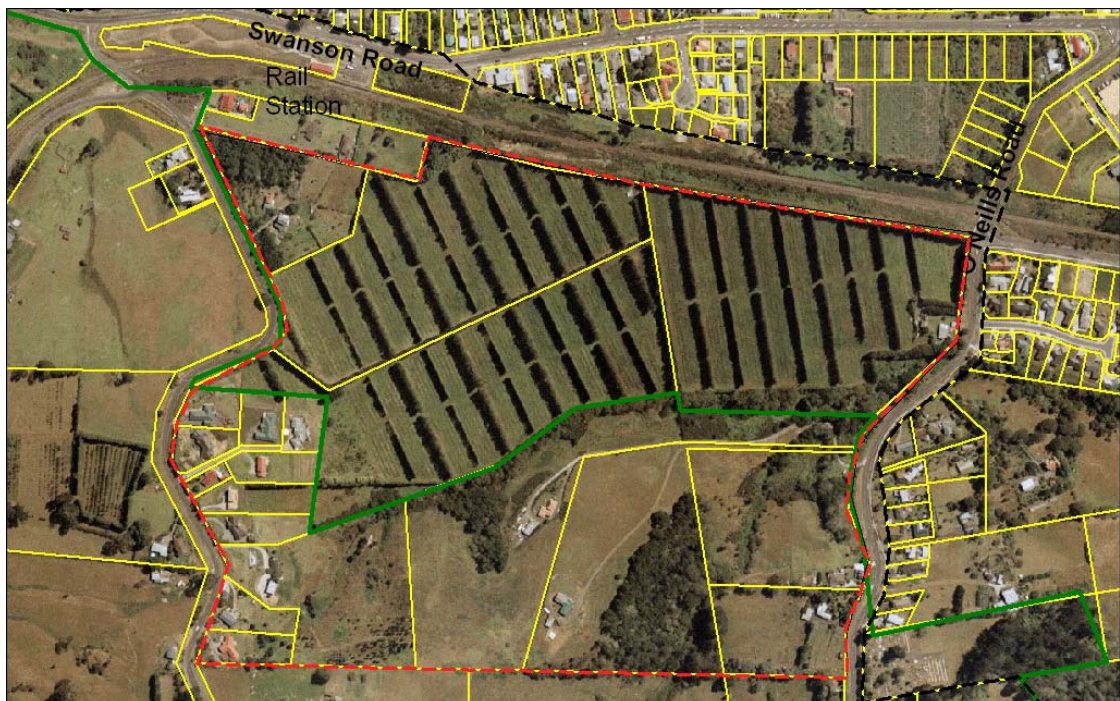
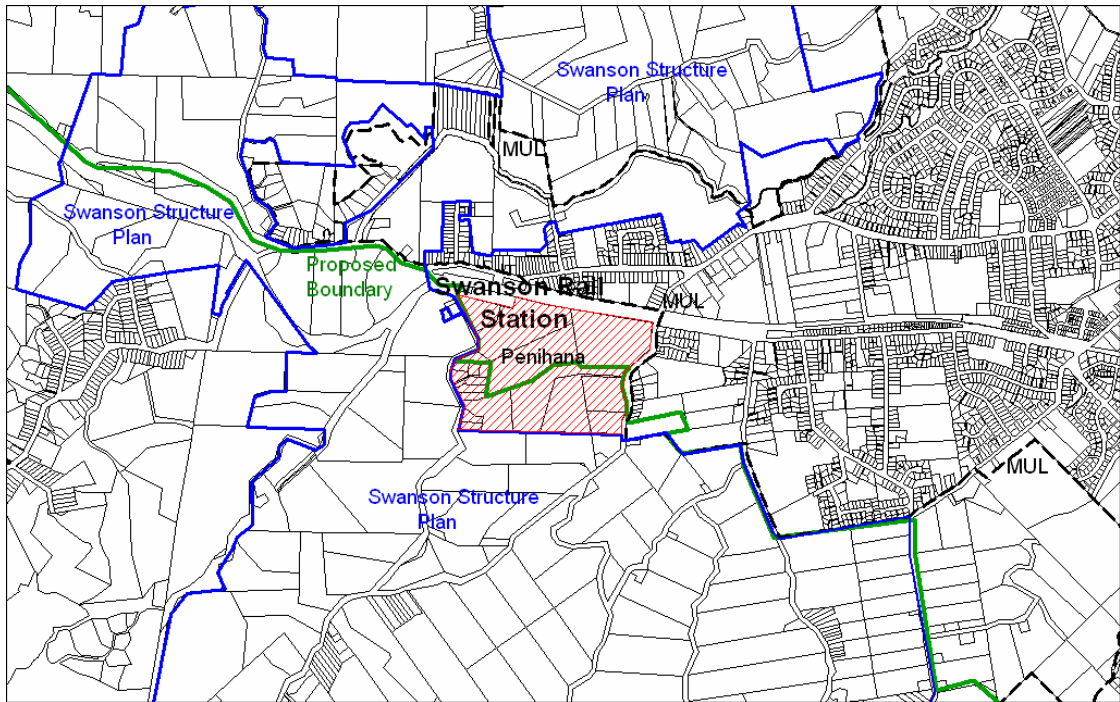
All of these issues were discussed in the report presented to the Council on 16 February 2005.

As regards the boundary, no significant new issues emerged through the latest round of consultation to challenge the proposed alignment. As with the earlier consultation, concerns appear to be more focussed on the implications for property development potential than with any substantive debate about the extent of the Waitakere Ranges and their foothills, with many people expressing the opinion that the District Plan already places significant constraints on subdivision potential.

A verbal update on the consultation can be presented to the Council at the meeting.

Swanson/Penihana

One of the most contentious issues in relation to the proposed boundary relates to the piece of land adjacent to the Swanson Rail Station, known as the Penihana land.



Aerial Photo of Penihana Land With Proposed Boundary Shown in Green.

Penihana occupies a unique position in the City, with its proximity to the Waitakere Ranges, and its location adjacent to the Swanson Rail Station. Debates about the relationship of this area to the urban area, and the Waitakere Ranges have been ongoing for decades, and these debates have intensified since the District Plan was notified in 1995, identifying the land as Foothills Environment. This identification was appealed, and there is still an outstanding appeal which seeks that some intensification of the land is provided for. At one stage, the area was proposed for inclusion with the Swanson Structure Plan development process, and the future land use was considered through the 'Swanson 2000' visioning exercise. This identified a draft concept plan for the area, which would have provided for urban density residential development. There was considerable community concern at the proposed concept plan, and in order to progress the Swanson Structure Plan more quickly, the Penihana land process was separated from the Swanson Structure Plan process. During 2002 and 2003 a mediation process was undertaken in an attempt to reach an agreed outcome (in the form of a concept plan) for the land, but was not successful in achieving this end.

As regards the proposed boundary for the Waitakere Ranges and Foothills Protection Area, there have been two alignments proposed for this land. The first of these, as used for the Phase I and Phase II rounds of consultation, excluded all of the land identified in the District Plan as being within a 500m circle around the rail station. The District Plan identifies for all Rail Stations in the City such circles to indicate those urban areas in which medium density housing is provided for. As this land is not urban, this circle carries no regulatory weight in the District Plan for the Penihana Land. However, it was used as an indication of the area of land which might be appropriately considered for intensification thereby supporting public transport and integrating land use and transport planning.

However, during the Phase III consultation, this alignment was altered so that only the northern, flatter area directly adjacent to the Swanson Rail Station was excluded from the proposed area, as shown above. The reasons for amending the proposed alignment at Penihana (as reported to the 10 November, 2005 Council meeting) were that the land to the west of Christian Road has already been considered through the Swanson Structure Plan, with an average lot size of 1.3ha provided for. This would represent, potentially, a suitable transitional density between any intensification on the Penihana land and the rest of the Swanson Structure Plan. Additionally, the pattern of development set out in the Swanson Structure Plan is appropriate to the environmental constraints of the land in this area. (Note that the Swanson Structure Plan is currently before the Environment Court, and as a consequence may be amended in light of evidence presented through that process).

To the south of the proposed alignment, the land becomes steeper, and has an existing rural lifestyle block character, as compared to the land to the north of the proposed alignment, which was a kiwi fruit orchard, and still has extensive shelterbelts. The landscape report¹ prepared for this Council in August 2004 to inform the discussion on the alignment of the boundary identifies that most of this southern area can be considered as part of a wider landscape unit covering much of the area below Coulter Road. This area may have the potential to support some increase in rural residential density. (Note that this area is also covered by the outstanding District Plan appeal).

¹ *Waitakere Ranges Landscape Study*. (August, 2004). A report prepared for Waitakere City Council by Melean Absolum Landscape Architects Ltd.

The northern part of the Penihana land, in contrast, is not included in the landscape unit discussed above, and the landscape report suggests that it does not have a strong relationship to the Ranges and Foothills. Although this northern area does have a rural character, and any intensification here would detract from that rural character, the character of the area will inevitably change as the extensive shelter belts present die out. The flat nature of the land would also mean that any development here is visible only to a relatively small area.

In short, there are differences between the northern and southern area that do support the proposed boundary for the Waitakere Ranges and Foothills protection area, as shown above. Nevertheless, the most compelling reason for aligning the boundary in this way relates to its location adjacent to the Swanson Rail Station, and the related land use and transport planning integration issue.

On 31 March 2005, the Auckland Regional Council and the Waitakere City Council both notified changes to their statutory documents (the Auckland Regional Policy Statement and the Waitakere City District Plan, respectively), to give effect to the requirements of section 3(b) of the Local Government (Auckland) Amendment Act 2004 that

...local authorities...change the policy statement and plans prepared under the Resource Management Act 1991 to integrate the land transport and land use provisions and make those provisions consistent with the Auckland Regional Growth Strategy

Prior to the introduction of these provisions, guidance on the implementation of the Regional Growth Strategy was primarily through the development of agreements between local authorities for managing growth on a sub-regional, or sector, basis. Waitakere City Council, North Shore City Council, Rodney District Council and the Auckland Regional Council were all parties to the Northern and Western Sectors Agreement, which identified that it was appropriate to include the Penihana land within the Metropolitan Urban Limits, for urbanisation.

Proposed changes to the Waitakere City District Plan notified on 31 March 2005, introduce a 'Growth Chapter' to the District Plan which identifies (amongst other things) that that part of the Penihana land to the north of the Blewitt Gully is appropriately urbanised on a 10-20 year time frame, to help accommodate some of the 17% of urban growth to be accommodated through greenfield development up to 2021. The Growth Chapter identifies that a concept plan for the area would need to be prepared in 2011. However, proposed changes to the Auckland Regional Policy Statement do not similarly identify the Penihana land as an area to be urbanised over this time frame. While the proposed amendments to the Auckland Regional Policy Statement do not definitively state that only that land identified in the schedule can ever be urbanised, it would be beneficial if the Auckland Regional Policy Statement and the District Plan had a clear and unified approach to the future of this land. Treatment of the Penihana land in statutory plans may also affect the decision to upgrade and double track the rail line to Swanson Rail Station, given the requirements of the Local Government (Auckland) Amendment Act 2004 for the integration of land use planning and decisions on transport funding. These issues are appropriately addressed through the statutory submission processes.

The relationship of this land to the Waitakere Ranges and Foothills Protection project and proposed legislation is considered to be as described to the Council on 16 February 2005. That is, to include the land within the proposed boundary would likely preclude its being available for consideration for urban uses in the future. The proposed legislation would have a very strong emphasis on protecting the rural character of the foothills and it is likely that it would be difficult to justify urbanisation of land within the protection area.

Undoubtedly, there is considerable community concern about the future of this land, and its potential for future urban uses, and the recent Swanson 'drop in', held on 13 April 2005 gave several people the opportunity to express their views on this. Any proposal to urbanise this land will need extensive community consultation and would require a statutory consultative process to amend both the District Plan and the Auckland Regional Policy Statement which would provide for community input. Realistically the level of community opposition to urbanisation of this land may mean that such a proposal would not be feasible for some time. Indeed, such a delay may mean that a more appropriate pattern of development could be identified than could be achieved in the short term. Exclusion of the northern part of the Penihana land will not inevitably lead to urbanisation, and it would be possible to include the land within the proposed Heritage Area in the future, if that was identified as possible. Nevertheless, it is considered critical that the potential for urbanising the land is not precluded at this time.

Accordingly, it is recommended that the northern area of the Penihana land be excluded from the proposed protection area.

Oratia/Henderson Valley



The series of site visits undertaken during April 2005, to discuss individual landowners concerns and the potential impact of legislation for these landowners, highlighted an anomaly in the rating and District Plan 'zoning' (Human Environment identification) in relation to some properties in the lower Oratia/Henderson Valley area. Specifically, properties in the City are rated according to whether or not they are in the 'inner' or 'outer' drainage areas - i.e. whether or not their properties can or can't be serviced by the reticulated sewerage system, and consequently the intensity of residential development they can support. Generally, the Metropolitan Urban Limit follows this differentiation, and in turn, the District Plan Foothills Human Environment has been applied only to properties that are not serviced by reticulated sewerage. However, in the area identified above, there are 17 properties that do not follow this general rule in that they are outside the Metropolitan Urban Limit and are identified as Foothills Environment, which means they cannot develop to urban residential densities, yet parts of the property are within the inner drainage area, and consequently attract inner drainage rates - i.e. as if they could be developed to urban densities.

For most of these properties, the implication of being partly rated using the inner drainage rating system is not particularly onerous, as only small parts of the property are affected, or the size of the property means that the difference in rates is not large. For example, there are several properties along West Coast Road and Henderson Valley Road that have their accessways rated as being within the inner drainage area, which has resulted in a rates bill only slightly higher than if they were completely within the outer drainage area.

One of the 17 properties is divided by the Metropolitan Urban Limit, meaning that an urban District Plan zoning already applies to the 'inner' area, and the property has consequently never been proposed for inclusion within the protection area. Four (4) of these properties have been identified for further subdivision through the Oratia Structure Plan meaning a suitable pattern of intensification has already been identified.

However, for some landowners, having properties that are partly rated as being in the inner drainage areas has resulted in an arguably unfair rates burden, in that they are effectively being rated as though they could subdivide to conventional densities when they are in fact precluded from doing so by the location of the Metropolitan Urban Limit and the District Plan provisions.

For example, the landowner of the property at 5-11 Holdens/47-51 Parrs Cross Road (indicated on the right hand side of the above aerial photo) pays six times as much per unit area for the ~2000m² that is within the inner drainage area adjacent to Parrs Cross Road as they do for the ~15,000m² that is in the outer drainage area. This has raised a strong expectation on the part of the landowner that it should be possible to subdivide (at least) the area adjacent to Parrs Cross Road into urban residential properties. In this instance, this could be considered appropriate, given that the area in question has urban residential properties on either side, and could be considered to be part of an urban residential street. However, the open area adjacent to Parrs Cross Road could also be viewed as a visual link to the rural area behind, and to subdivide this area could preclude alternative access into the back rural part of the property ever being developed. In other words, it is by no means clear that subdivision of the area into residential properties is the best use of the land. In this instance, it is not considered appropriate to exclude the inner drainage portion of the land from the proposed protection area.

There are three properties in this area in which an amendment to the proposed boundary (as used in the Phase III consultation) is considered appropriate.

At 254 Henderson Valley Road, the majority of the property is inside the Metropolitan Urban Limit, and is identified in the District Plan as Living Environment (being conventional urban residential). However, as a result of a boundary adjustment between this property and the rural property adjacent, 254 Henderson Valley Road also includes a small area of land outside the Metropolitan Urban Limit, and which is still identified as Foothills in the District Plan, and which consequently has been included within the proposed boundary of the protection area. In this instance, it is recommended that this small area of Foothills Environment is also excluded from the proposed protection area.

At 17A Pine Avenue, there is an essentially conventional urban section of ~900m², with a dwelling, that used to be part of, and functioned as a legal accessway to the rural property at 107 Forest Hill Road. It is outside the Metropolitan Urban Limit, and is identified as Foothills Environment in the District Plan. The property has been subdivided off from 107 Forest Hill Road, and no longer has any legal association with that property. The existing use of the land, and the fact that it no longer has potential to be used as an accessway to the rural property behind, means it is appropriate that it is not included in the proposed protection area.

At 236 Henderson Valley Road, there is a property with similar issues as 17A Pine Avenue - i.e. an ex-accessway that has subsequently been developed as a residential property, with a dwelling present. Although this property has not been subdivided off, and is still part of the large rural block behind, it also has an existing use that appears urban from the road, and which also precludes this area being used as an accessway to this rural property. Accordingly, it is recommended that this area also not be included in the proposed protection area.

Discrepancies with the location of the Metropolitan Urban Limit and District Plan identifications will also need to be addressed at some point, although this is not critical for this project.

In summary, consideration of those properties with both inner and outer drainage rates applies has resulted in some recommended minor amendments to the boundary as used for the Phase II consultation, but has not raised any issues that challenge the basis for identifying the appropriate extent of the proposed protection area.

Nevertheless, consideration of these properties has highlighted that the issue of rates is of great significance to many landowners in the area. During the last round of consultation, which coincided with the Council's issuing an assessment of how rates might change for individual properties given their significant increase in value, it became apparent that many landowners consider the rates they are required to pay act as a disincentive to their protecting their land. Comments to the effect that the Council should be charging less rates than they are were common, even from people who were generally supportive of the introduction of legislation to better protect private land. It would be a useful exercise to undertake a comprehensive assessment of rating in the Waitakere Ranges and Foothills Protection area, and it is suggested that a report be prepared on this subject and brought back to the Council for consideration.

Proposal to include parkland and voluntarily included private land

At the February 2005 meeting, the Council resolved:

"12. That Councillor Neeson's proposals for addressing the protection of the Ranges and/or Foothills be included in the protection work programme."

169/2005

Councillor Neeson had suggested that legislation might appropriately apply only to areas of parkland, and private land that had voluntarily been included by the landowner. This proposal would be in accord with the sentiments of those people who identified through the various rounds of consultation that private land should not be included.

In order to assess if this would be appropriate, it is necessary to look at what the drivers for legislation have been, and what the legislation is intended to achieve.

In December 2003, the Council released a report² which presented a picture of the values and issues in the Waitakere Ranges and Foothills area. This report identified that the key values of the area could be summarised under the headings:

- Landscape;
- Native Forests and Wildlife;
- Clean Water;
- Cultural Heritage;
- Recreational Opportunities/Tourism;
- Attractiveness as a Living Environment.

² *Protection of the Waitakere Ranges Area. Background Paper.* (December, 2003). A report prepared by Waitakere City Council.

All but the last of these values apply to both public and private land, and in most instances, values cross over between the two.

The legislation is intended to address both public and private land, to help facilitate integrated management between the two. This is not to say that such legislation would turn private land into *de facto* parkland. Rather, it would help ensure that those management mechanisms that already apply to both private and public land, such as the Resource Management Act 1991, or the Biossecurity Act 1993, are applied in a more integrated manner. Most importantly, the legislation could influence the funding and other financial and economic policies of local authorities, on private and public land.

However, the December 2003 report clearly identifies that development on private land, including as a result of subdivision, has the potential in particular to degrade landscape and ecological values through earthworks, bush clearance, and location and prominence of structures.

Various landscape assessments undertaken by the Waitakere City Council³ and the Auckland Regional Council⁴ have identified that ongoing development has caused some degradation of the landscape values of the Waitakere Ranges and Foothills. At Piha, for example, several areas are now no longer considered to have outstanding landscape values because of the proliferation of large dwellings and loss of native vegetation.

In 2001 the Parliamentary Commissioner for the Environment published a report entitled "*Managing Change in Paradise: Sustainable Development in Peri-urban Areas*". In his summary he stated that:

"I concluded that the planning processes were leading inextricably to death by a thousand cuts: 100 years from now the freehold parts of the Waitakere Ranges would look like Remuera today".

Clearly, the Parliamentary Commissioner is referring to private land, and his concern is that the intense pressures for subdivision in the area will lead to a significant degradation in values. The Parliamentary Commissioner was referring, in particular, to effects on landscapes of inappropriate subdivision. People have pointed out, quite correctly, that the current District Plan does not provide for the level of subdivision alluded to by the Parliamentary Commissioner. Indeed, many of the subdivision provisions applying to the protection area are quite stringent, in their intent at least. However, it is important to note that the Parliamentary Commissioner was looking out over a long time frame (100 years). Over the course of that time there will be many reviews of the provisions that apply to this area, and the pressures for increased subdivision can reasonably be expected to increase rather than lessening. Development and subdivision pressures apply only to privately owned land in the area, because public land is already safeguarded against such pressures.

³ *Landscape Review of Metropolitan Urban Limits 2001. Redhills to Laingholm* (2001). A report prepared for Waitakere City Council by LA4 Landscape Architects.

⁴ *Delineation of the Outstanding Natural Landscape of the Region*. (June 2003). A report prepared for the Auckland Regional Council by Boffa Miskell

In Phase I of the consultation process, the local community was invited to identify issues threatening protection of the Ranges and Foothills, including gaps in current management. Most people thought that development, especially subdivision, is the major challenge facing the area. Many participants believed that the Resource Management Act provisions do not provide enough certainty or permanence for areas which have high natural and/or landscape values and which are facing significant development pressures. Their concern was that the 'effects' based focus of the Resource Management Act and the District Plan cannot provide enough defence against the cumulative effects of many compromising decisions that are taken over time. In their view, development continues to 'eat away at the edges'.

Legislation has been proposed, in large part, to better manage the use, development and protection of the Waitakere Ranges by providing a clearer policy framework for interpreting the provisions of the Resource Management Act in relation to the area, and by providing a legislative mandate to consider these issues in a much longer timeframe than is easily achieved by relying merely on the Resource Management Act.

As the Parliamentary Commissioner said in 2000 (in response to concerns raised about the Council's management of subdivision in the Waitakere Ranges):

"To put the protection and ongoing development of the Waitakere Ranges onto a more secure footing requires wide 'buy-in' to a long-term strategic vision. The RMA does not, on its own, enable this"

As has been discussed, the research and consultation process have identified that there are concerns about the management of private land. The question then becomes, would the proposal put forward by Cr Neeson address these concerns?

As discussed, the legislation developed to date is intended to inform the implementation of the Resource Management Act. However, it would not over-rule the Resource Management Act, and the requirements of that Act would still apply. In particular, the Resource Management Act puts a requirement on local authorities to establish, implement and review provisions to achieve the integrated management of natural and physical resources under their jurisdiction⁵. The legislation is intended to reinforce this integration. It would be extremely difficult to develop any provisions that applied an integrated management framework when landowners could choose whether or not legislation that attempted to achieve better protection applied to their land. Any dichotomy in statutory plans based on voluntary inclusion or otherwise of land would be extremely complicated and difficult to enforce, and would work against, not for, integrated management by establishing a different management framework for what might be otherwise similar areas. Ultimately, any such provisions would probably not achieve the better outcomes sought by the Council, as landowners who chose to be included are more likely to be already working towards or supportive of the protection of the values of the Ranges and the Foothills. Indeed, it is possible that such an approach would be counterproductive as people could conclude that protection should only apply to areas that had been included, and that consequently areas not included were less in need of such protection, or that these areas were available for further development. Such an approach may even be identified as *ultra vires*, or contrary, to the Resource Management Act.

⁵ Sections 30 and 31 of the Resource Management Act

In this circumstance, the proposed voluntary approach would undermine the effectiveness of the subtle but important improvements to the operation of the Resource Management Act proposed in the draft legislation. How for instance would the local area management plan provisions work in a mosaic of affected/unaffected land? Under a patchwork regime there could be no increased certainty about the long term management framework for private land, and consequently, no increase in the level of certainty about development potential for landowners, or the future character of the area.

The level of protection and certainty afforded by a voluntary approach to inclusion of land could be better achieved by a determined programme of voluntary covenants. Legislation is not necessary to achieve a voluntarily protected patchwork. The Council has an active programme of covenanting, but only a handful of foothills properties have been so protected. In particular, areas with bush cover, rather than farmland or rural character have been volunteered for protection by way of covenant. It is unrealistic to expect that a voluntary approach to protection would ever achieve a better than partial coverage of the foothills. It is likely to be least effective in the areas most subject to landscape change and degradation.

In short, the benefits obtained from a voluntary approach to the protection of land, or its inclusion within the ambit of the proposed Heritage Area Bill would be uncertain, but certainly insufficient to warrant the development or passage of special legislation.

A Bill that merely offered certainty of protection to the Waitakere Ranges Regional Park, would have little merit, and would be unlikely to have the support of the Auckland Regional Council, and would therefore fail. The Draft Bill includes some useful and worthwhile provisions with respect to the Park. They are an essential ingredient in the holistic management of the whole Ranges and Foothills. However if the holistic element, which covers land of all tenures, was lost, the Regional Park objectives could be better met by a bill that addressed the needs of the whole Regional Park network, not just the Waitakere Park.

In summary, a legislative model which addressed only public land and voluntarily included private land is not supported. It would not provide greater certainty about the long term protection of the Waitakere Ranges and Foothills, and consequently, would not address the issues identified in relation to the Ranges and Foothills. The proposal does not meet the Council objectives set for the Waitakere Ranges and Foothills protection project, nor does it meet the needs of the agreed policy for this legislation.

Supporting Appropriate Rural Activities

Field investigations and discussions with foothills landowners have helped clarify that:

- there has been a widespread expectation of urbanisation of some areas. Some of that expectation is founded on previous 'future urban' zonings in former district plans. Many landowners have never imagined any future for their land than residential development. They have rarely been offered or challenged to consider constructive and viable future "rural" uses, or alternatives to urbanisation;
- many former rural land uses in the foothills are now obsolete, or nearly so, because new orchard and crop diseases, costs of production, scale of enterprise, and competition from other areas and other countries have combined to have a particularly negative impact on this area;
- Council policy on restricting subdivision, but to also foster future structure plans have encouraged landowners to retain land in an unproductive state;
- considerable areas of land have been abandoned from active production, or have become derelict, weed infested and run down;

- despite the earlier expectations of urbanisation, there is now a general acceptance of and support for the notion of urban containment and the notion of a metropolitan urban limit.

The central issue emerging is the need to manage a transition from often obsolete rural land uses to future innovative, vibrant, successful rural land uses, which in character, scale and intensity provide a contrast with urban residential areas and protected parkland. The area should have a distinctive “rural” (‘metrorural’) character all of its own.

As matter of policy, draft legislation should seek to promote and protect a rural character for the present rural areas of the foothills. The City should also investigate how it can support the redevelopment of these rural areas through business incentives or other mechanisms.

RECOMMENDATIONS

1. That the Waitakere Ranges and Foothills Protection Project – Geographic Scope, Proposed Boundary, and Some Policy Issues report be received.
2. That a report assessing and discussing the issue of rates in the Waitakere Ranges and Foothills protection area be prepared and brought back to the Council for their consideration.
3. That the Council approve the incorporation in the draft Bill of provisions aimed to promote and protect a future rural character in the foothills.
4. That a report be prepared for the Council on how the City can support the redevelopment and retention of the rural character of rural areas of the foothills.
5. That the Council agrees that the proposal that the legislation should apply only to parkland and voluntarily included private land does not meet the policy objectives of the Council in respect of the Waitakere Ranges and Foothills.
6. That the Council approve the boundary for the Waitakere Ranges and Foothills Protection Area as shown on the map attached at page A1 to the agenda report, including revisions in relation to the properties at 236 and 254 Henderson Valley Road and 17A Pine Avenue, and its incorporation in any legislation that may be developed for this area.

A1

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