

**AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT
COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE,
LINCOLN, WAITAKERE CITY, ON TUESDAY, 13 MAY 2003,
COMMENCING AT 9.30 AM.**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	APOLOGIES	1
2	URGENT BUSINESS	1
3	CONFIRMATION OF MINUTES	1
	PART I - REGULATORY / ENFORCEMENT	2
4	LEGAL UPDATE (AS AT 2 MAY 2003)	2
	PART II - ENVIRONMENTAL MANAGEMENT	8
5	DOG CONTROL - PROPOSED CHANGES TO LEGISLATION	8
6	WAITAKERE RANGES PROTECTION	12

AGENDA FOR AN ORDINARY MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON TUESDAY, 13 MAY 2003, COMMENCING AT 9.30 AM.

1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) and (7A) of the Local Government Official Information Act 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 item is a minor matter; 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, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFIRMATION OF MINUTES

Ordinary - Tuesday, 8 April 2003

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Environmental Management Committee held on Tuesday, 8 April 2003, including the Public Excluded minutes, as circulated, be taken as read and now be confirmed.



PART I - REGULATORY / ENFORCEMENT

4 LEGAL UPDATE (AS AT 2 MAY 2003)

INTRODUCTION

The following is a list of legal actions in respect of matters within the scope of the Environmental Management Committee, which are currently before the Courts and which are ongoing or have been commenced since the date of the preceding report. The list does not include minor prosecutions for dogs, swimming pools, health and litter although advice on any particular such prosecution can be provided to the Committee if it wishes. The dates referred to in the headings are the dates on which appeals, informations or proceedings were first filed in Court.

ENVIRONMENT COURT

Birdwood Structure Plan

Kitewaho Bush Reserve Company Limited & Ors v Waitakere City Council

This was an application by the Council to strike out Kitewaho, Mr Mawhinney and associated entities reference on Variation 87 (Birdwood Structure Plan). The reference had sought that the Birdwood structure plan be extended to allow extensive subdivision rights throughout the entire non-urban parts of Waitakere City, including land holdings owned by Kitewaho et al in the Bethells/Waitakere area. The Court upheld Council's application and has struck out the entire reference by Kitewaho et al on the basis that it is an abuse of process. An application will be made for costs against Kitewaho et al shortly.

APPEALS

Waitakere City Council v Auckland Regional Council (SH16/18) (14 March 2002)

Appeal filed by Waitakere City Council against decision of Auckland Regional Council on earthworks, stormwater and related resource consents sought by Transit for SH16/18.

Several other parties have also filed appeals (namely Transit, John Boyle, Ockleston Family Trust). It now appears that the appeals aside from Waitakere City Council's appeal will soon be settled. Transit has now settled its appeal with Auckland Regional Council, by entering into a consent memorandum that confirms that the total amount to be spent by Transit on mitigatory measures for the entire SH16/18 project is \$768,000. Waitakere City Council is continuing with ongoing settlement negotiations with Transit. Waitakere City Council has recently agreed to resolve that part of its appeal that relates to the Greenhithe side of the motorway project. The basis upon which settlement has been reached is that Transit has agreed to consult with both Waitakere City Council and the North Shore City Council prior to the allocation of the mitigation package of \$768,000. This will ensure that Waitakere City Council has some input into the allocation of the funds. The remainder of Waitakere City Council's appeal remains live.

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

Appeals filed by the applicant Messrs Selak and their neighbours, Messrs Collett & Nye. Both appeals relate to the operation of the Selaks' Go-kart track on their property at Kennedy's Road, Whenuapai. The Selaks have appealed a condition disallowing use of the track on Sundays and public holidays. The Colletts & Nyes have appealed Council's decision to allow the Go-Kart activity. Mr Selak has put forward a new proposal, involving additional mitigation of the noise impacts of the Go-Kart track, which is to be considered by all parties and may result in settlement of these appeals.

Mobil Oil New Zealand Limited v Waitakere City Council (Appeal filed late September/early October 2001)
Henderson Valley Developments Limited v Waitakere City Council (12 October 2001)

Both the above appeals relate to the proposed 264 residential unit development intended for 2-6 Henderson Valley Road. There are on-going negotiations with the applicant/developer and valuations are currently under consideration. The parties reported to the Environment Court on 10 September 2002 that negotiations were continuing and requested that the appeals be set down for the next call-over.

Abacus Developments Limited & Ors v Waitakere City Council (Feb 2000)

This was an appeal by Abacus, Kitewaho and related entities (Mr Mawhinney) against subdivision consent conditions imposed for a subdivision at Bethells/Waitakere. The appeal was to be heard in February 2003 but has been adjourned pending the outcome of the High Court appeal referred to in this report. It is expected to proceed to a hearing in the last quarter of 2003.

Estate Homes Limited v Waitakere City Council (31 August 2001) (Sturges Road)

Estate Homes has appealed the financial reserves contribution assessed as payable for the second stage of its subdivision at 13-15 Sturges Road. A cash bond of the amount of the contribution in dispute has been paid and on that basis Council has consented to an Order allowing the subdivision to proceed. The matter has been adjourned at the request of Estate Homes Limited, which is considering whether to issue further proceedings.

Coastal Environments Limited v Waitakere City Council - Coastal Subdivision at Piha (5 March 2001)

This is an application for subdivision consent lodged by Coastal Environments Limited, which was declined by the Council. The Waitakere Ranges Protection Society and several residents groups are parties to the appeal. A judicial conference took place on 15 April 2003. Coastal confirmed that they intend to present the parties with a re-design of its development proposal. It indicated that it would present the parties with the new plan within six weeks and allow a further four week for the parties to discuss whether it resolves the concerns. The Court required Coastal to file an amended notice of appeal to support its new proposal by 30 May and set the matter down for a judicial conference on 27 June to assess progress.

Spencer v Waitakere City Council - Lone Kauri Road, Karekare (29 August 2000)

This is an appeal by Mr Spencer against a decision of the Council to refuse consent to allow a subdivision of his property located at Lone Kauri Road, Karekare. Both Waitakere Ranges Protection Society and several residents groups are parties to the appeal. An on-site meeting between all parties took place a proposal has been put forward and negotiations are continuing. Mediation took place on 29 March 2003, resulting in an agreement in principle being reached (the agreement will be forwarded for approval by this Committee shortly).

Richmond Eden Limited v Waitakere City Council (4 February 2003)
Waitakere Ranges Protection Society Incorporated v Waitakere City Council and Richmond Eden Limited (3 February 2003)
Pradhir & Others v Waitakere City Council (February 2003)

The above appeals relate to a decision granting resource consent to Richmond Eden Ltd for a 12 Lot subdivision of a site at 39 Landon Road, Titirangi. The Waitakere Ranges Protection Society have opposed the decision, Pradhir and Others have opposed a condition that relates to parks and walkways and Richmond Eden Ltd (the applicant) has appealed a number of the conditions. This matter is awaiting its first call before the Environment Court.

Poll v Waitakere City Council (January 2003)

Vicki Poll has appealed Council's decision refusing an application for a land use consent to operate a café/restaurant and a wedding reception/private function centre from existing building and gardens at 164 Brigham Creek Road, Whenuapai, known as "Surreal Café". A number of surrounding residents have registered an interest in the appeal with the Environment Court as Section 271A parties.

Both Council and the appellant indicated a willingness to enter into mediation but the surrounding residents (Section 271A parties) did not and so a timetable will be set for the exchange of evidence between the parties in anticipation of a hearing either later in the year or early next year.

Cornerstone Limited v Waitakere City Council (February 2003)

Cornerstone Limited has appealed the decision by the Council to refuse an application for a land use consent to develop 6 office units at 120 Titirangi Road, Titirangi. This matter is set down for mediation before an Environment Commissioner on 13 May. As of the 29 April there were 21 parties who had filed Section 271A or Section 274 notices. There is a meeting planned on Friday, 2 May between Council and Cornerstone.

8 Wallace Road Limited v Waitakere City Council (November 2002)

The company has appealed Council's costs and charges in respect of an application that was made for resource consent to develop 31 residential units on land situated at 8 Wallace Road, Ranui. The application was refused. The Court has allocated this matter a back-up fixture date during the week of 9 June and made a timetable for the exchange of evidence leading up to that date. 8 Wallace Road has also made an application for discovery in respect of accounting information lying behind Council's costs and charges. Council is in the process of complying with that order.

Waitakere Ranges Protection Society v Waitakere City Council
R & L Thompson v Waitakere City Council

These proceedings involve two references, concerning subdivision, filed in relation to Variation 87 of the Waitakere City Council Proposed Plan. The reporting date to the Court on this matter is 2 May 2003. A further month has been requested for reporting to allow Council to complete discussions is presently holding with the parties concerned, including the Juderon Family Trust a Section 271A party to the Waitakere Ranges Protection Society appeal. It is hoped that the Thompson matter can be resolved by consent. When preparing consent documentation Council determined that there were irregularities with the Thompsons' original appeal. In response to this an application was made by the Thompsons for waiver of these irregularities. This has now been granted and directions given for further service of their appeal. The Thompsons are attending to this. Once this is completed it is hoped resolution of the matter can be completed.

Bay Olympic Sports & Soccer Association v. Waitakere City Council (March 2003)
Friends of Crum Park Incorporated v. Waitakere City Council (March 2003)

These are two appeals relating to Council's decision to partially grant consent to night light fields at Crum Park, Green Bay subject to conditions. Bay Olympic have appealed the restrictions imposed by Council and Friends of Crum Park have contested the lack of further restrictions. The appeal is relatively new and has been allocated a preliminary Court reporting date of 30 May 2003.

HIGH COURT APPEALS

Waitakere City Council v Kitewaho Bush Reserve Company Limited & Ors (Filed 22 January 2002)
Kitewaho Bush Reserve Company Limited & Ors v Waitakere City Council (February 2002)

These proceedings involve applications for declarations and enforcement orders by Kitewaho and associated companies relating to eight different subdivision applications and related applications for certificates of compliance. On 18 October 2001 Judge Treadwell released an interim decision rejecting Kitewaho et al's declaration and enforcement applications, and essentially finding in Council's favour.

In December 2001 the Court released its final decision. In that decision the Court found that the proceedings issued by Kitewaho and related companies were an abuse of process and largely misconceived. Costs were reserved. In other words, Council was successful in its defence of all aspects of these proceedings (other than certain findings by the Court in relation to Section 91 and Section 92 RMA).

At a meeting of Council on 19 December 2001, it was resolved that an appeal should be lodged to the High Court to clarify the Court's decision in relation to matters of interpretation of the Resource Management Act. That appeal was filed on 22 January 2002 and has been served on the other parties involved (ie. Kitewaho and related entities and the Auckland Regional Council). Kitewaho and related entities served its own appeal on Council which was voluminous.

Separate to the above High Court appeals, both Waitakere City Council and the Auckland Regional Council have applied to the Environment Court for substantial costs against Kitewaho and related entities. The Court has deferred any decision on the costs application pending the outcome of the above High Court appeals.

The appeals were reviewed in the High Court on 9 September 2002 and Kitewaho were been directed to file an amended appeal. On 14 January 2003, outside the time allowed, Kitewaho filed its further amended points on appeal. Again this too was voluminous. Council made an application to strike out the appeal and this was heard on 18 March 2003 before Justice Randerson. His Honour has ultimately decided not to strike out the points on appeal but this process was useful as it allowed further narrowing of the ambit of Kitewaho's broad reaching appeal to a point where it is more coherent and will take less time to ultimately determine. The strike out application was also helpful in that it introduced Justice Randerson to this matter and he has indicated he will take the matter through to hearing.

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

Appeal against consent conditions imposed for proposed subdivision at Ranui Station Road. The appeal primarily relates to financial contribution conditions imposed, as well as certain conditions relating to the provision of infrastructure (water mains and roading). The parties have been involved in negotiations over the appeal, but have not resolved matters. The matter is now to be set down for hearing.

ENFORCEMENT ORDERS

Waitakere City Council v Borrett - Sunnyvale Road, Red Hills

Application for Enforcement Orders in relation to an alleged illegal landfill site in Sunnyvale Road. A search warrant and an Order to inspect the property were obtained from the Court in September 2001 and Council officers have since inspected the property. As a result of that inspection, amendments to the Enforcement Orders being sought were made. Mediation was held on 1 May before an Environment Commissioner. There were still some significant issues to resolve but progress was made in the vast majority of these. A further mediation on site is planned to resolve outstanding issues.

PROSECUTIONS

Barry Cargill - 58A Rauhuia Crescent, Huia (17 May 2001)

Informations have been laid against Mr Cargill under CRN Nos.1090017265 & 66 in relation to the clearance of bush in the Coastal Natural Area. The matter was set down for a depositions hearing on 14 June 2002, at which time the defendant conceded that he had a case to answer and he was committed for trial. The defendant's representatives and Council are finalising a replanting plan to remedy the damage caused on the property. Mr Cargill has pleaded guilty. Sentencing submissions had been made and the hearing adjourned to 30 April 2003 for a remediation to be progressed. The remediation package includes the gifting of land to the Auckland Regional Council that requires a subdivision consent, that has been granted by the Waitakere City Council and then a 224c certificate. Mr Cargill has had not progressed his subdivision plan due to difficulties with his waste water disposal and so the Crown Prosecutor advise that sentencing has been further adjourned until 28 May 2003.

Graham Gordon - 202 Shaw Road, Titirangi (16 November 2001)

A number of informations were served on Mr Gordon in relation to breaches of the Resource Management Act for allowing car bodies to be stored on his property and allowing multiple household units to be established. Council alleges that these activities are contrary to the District Plan and to Enforcement Orders made against Mr Gordon by the Court in 1993. Mr Gordon has intimated a not guilty plea to all charges. The matter was adjourned to depositions hearing on 27 November 2002 for a one-day hearing but this did not proceed as Mr Gordon claimed to be unprepared. The matter was set down for a depositions hearing on 26 and 27 March 2003.

After initial complications with Mr Gordon's availability, he conceded that there was a case to answer and the Court committed him for trial. An indictment was been filed by the Crown prosecutor. The matter had been set down for a pre-trial conference on 30 April 2003 but the presiding Judge has indicated that he has reservations about Mr Gordon's absence at the depositions hearing and this call over was postponed. The Crown prosecutor is currently seeking a new call-over date.

Borrett Prosecution - 49 Sunnyvale Road, Red Hills (3 June 2002)

Breach of alleged vegetation clearance, earthworks and interim enforcement orders. The Borretts have entered a plea of not guilty and requested trial by jury. The Borretts have been committed to a jury trial, following depositions in February 2003.

Lorenzen Prosecution - 91 Kaurilands Road, Swanson (27 November 2003)

Informations have been laid against Mr Lorenzen in relation to the clearance of bush in the Riparian Margin and General Natural Area. The matter was set down for a first call on 29 November 2002 but adjourned to enable Mr Lorenzen to seek legal advice, with a further date of 28 March 2003. Mr Lorenzen has entered a plea of not guilty and requested trial by jury. Depositions are set down for 14 May 2003.

Kearney - 6 Dawnhaven Drive, Te Atatu (January 2003)

Information has been laid against Mr Kearney in relation to breaches of the Building Act. Council alleges that unauthorised building work occurred on the Property. Building consent was granted for the construction of an additional dwelling and a double garage on the property and Code Compliance Certificate issued for that completed work. It was subsequently found that three dwellings and a carport instead of the two dwellings and the garage had been developed. The matter is to be called on 28 March 2003 but has been adjourned to enable Mr Kearney to obtain legal advice.

HIGH COURT/APPEAL COURT - APPEALS FROM PROSECUTIONS

Aik Law & Kim Lai - 34 Rathgar Road, Henderson (21 August 2001)

These defendants rented an unsanitary building, previously a garage, to a family of six for a period of four years and three months. On 25 May 2001, they were convicted in the Waitakere District Court pursuant to CRN Nos.0090028151 & 52 and sentenced to total fines of \$40,500. The defendants subsequently appealed the conviction and sentence and were granted leave by the High Court to produce a significant amount of new evidence during the course of the appeal. Council also produced evidence in response to this at the hearing, which took place in the Auckland High Court over three days from 24 to 26 July 2002.

On 16 August 2002 Justice Harrison gave a decision in Council's favour, and he dismissed the appeal both in relation to conviction and sentence. The High Court found that the new evidence did not affect the fact that the building was unsanitary for the time that it was occupied, and that those conditions must have been obvious to the owners of the property. Accordingly, the High Court upheld the full level of the sentence that had been imposed in the lower Court, even though it was and remains the highest imposed under the Building Act.

At a hearing in the Auckland High Court on 20 September 2002, before Justice Harrison, the defendants were refused leave to appeal to the Court of Appeal on sentence. Subsequently three more applications have been made as follows:

- (a) An application to the Court of Appeal for further leave to appeal against the substantive decision of Justice Harrison;
- (b) An application to the High Court for leave to appeal against the order for costs;
- (c) An application to the High Court to suspend the order for costs pending determination of the ongoing appeals.

The applications were heard in the High Court in December 2002. Justice Harrison ordered that memorandums be filed as to means and an amended application for leave to appeal against costs. The matter went before the High Court on 20 February 2003 and Justice Harrison refused leave to appeal. Subsequently, an application has been made to the Court of Appeal for further leave to appeal against the order for costs.

The Court of Appeal is to sit in Auckland on 30 April 2003 to hear first the requests for leave to appeal and then should leave be granted the substantive hearing would follow immediately.

RECOMMENDATION

That the information be received.

Report prepared by: Catherine Knight, Contract Solicitor.



PART II - ENVIRONMENTAL MANAGEMENT

5 DOG CONTROL - PROPOSED CHANGES TO LEGISLATION

PURPOSE OF THE REPORT

To update Council in relation to the Central Government initiatives in relation to dog control.

BACKGROUND

Lobbying to Central Government for stricter dog laws has occurred as a consequence of a severe attack on a child - Carolina Anderson - in February 2003 in Auckland City.

Central Government has responded by undertaking a nation wide survey of all Territorial Authorities in order to gauge the effectiveness of current legislation. The interim results of the survey of territorial authorities along with other detailed information relating to dog issues are available on the Department of Internal Affairs website: www.dia.govt.nz. The statistical information may be treated with caution due to the variations in which differing Territorial Authorities record and interpret their own information.

Cabinet has instructed the Department of Internal Affairs to establish a "Dog Control Working Party" which has occurred. The Working Party is made up of representatives from Department of Internal Affairs, the Society of Local Government Managers, *Local Government New Zealand* and the New Zealand Institute of Animal Control Officers. In conjunction with Department of Internal Affairs "Local Government New Zealand" has set up a "Local Government Dog Control Project Team" comprising of representatives from a fifteen Territorial Authorities nationwide and including Waitakere City.

The Terms of Reference for the Working Party and its Local Government sub team are to:

- identify the need for, facilitate the development of and assist with the implementation of best practice documents and programmes in relation to the implementation and enforcement of the Dog Control Act (both current and future amendments), including the making and enforcement of bylaws;
- provide local government sector input into the development of proposed amendments to the Dog Control Act;
- develop and recommend proposals for joint/complementary public education campaigns concerning dog ownership and public safety.

CURRENT SITUATION

The Department of Internal Affairs Working Party and the Local Government New Zealand Dog Control Project Team are currently working through the detail of proposed legislation in accordance with the terms of reference provided. At the time of writing this report the timing of the Select Committee submission process is yet to be determined.

The proposed reforms to the dog control legislation are as follows:

Leashing

By 1 July 2004, all city and district councils will be required to review their dog control policies and bylaws having regard to a strengthened set of criteria weighted towards public safety. These new criteria will require councils to make provision in their dog control policies for:

- The need to avoid dangers inherent in allowing dogs uncontrolled access to places frequented by children; and
- The importance of enabling the public to use streets, playgrounds, and other public amenities without fear of attack or intimidation.

In setting their new policies and bylaws, the presumption is that councils will generally require that dogs in areas such as streets, playgrounds, etc be leashed.

Muzzling

Territorial authorities will have the power to require a dog whose behaviour poses a threat to people, animals, or protected wildlife, to be muzzled in public. In such circumstances, the territorial authority will be able to take into account any characteristics typically associated with the type of dog. All American Pit Bull Terriers, Dogo Argentinos, Japanese Tosas, and Brazilian Filas will also be required to be muzzled in public.

Fencing

By 1 July 2006 all dogs, other than working dogs, will be required to be kept within a securely fenced or similarly contained portion of their owner's property that allows visitors access unimpeded by the dog to at least one external door.

Powers to seize dogs on private property

The powers of entry for dog control officers will be clarified and extended to enable them to enter private properties to remove certain dogs. The dogs referred to are those that:

- have attacked or rushed at people or vehicles; or
- have roamed; or
- have free access to the street and are not under control; or
- are unregistered.

With the exception of cases where a dog has attacked or rushed, these powers will not extend to entry to houses.

Micro-chipping

From 1 July 2006, all dogs being registered for the first time will be required to be implanted with an identifying micro-chip.

Penalties

The penalty for owning a dog that causes serious injury will rise to up to 3 years imprisonment and/or a maximum \$20,000 fine (currently three months and/or \$5000 fine). Owning a dog that attacks, without causing serious injury, or rushes at persons or animals will bring a maximum fine of \$3,000 (currently \$1,500). Most other penalties in the Act will also be substantially increased.

Infringement fees, ie. spot fines, will increase by 150% to a maximum of \$1,000. Infringement offences can be given for such things as failing to keep a dog under control, or keeping an unregistered dog.

Probationary and Disqualified Dog Owners

The category of probationary dog owner will be removed. Those committing serious dog related offences, or three infringement offences within two years, may be disqualified by a council from owning a dog for up to five years.

Breed-specific Legislation

There will be no prohibition on specific breeds already in New Zealand. However, the importation of the American Pit Bull Terrier, the Dogo Argentino, the Japanese Tosa, or the Brazilian Fila will be banned. Dogs already in New Zealand belonging to those breeds will be required to be muzzled when in public.

There will be provision for additional breeds and cross-breeds to be added to the list of banned breeds.

Other Proposals

Supporting these proposed changes to the Dog Control Act are:

- (a) the development and implementation of a public education campaign to provide information about basic dog control and the obligations of owners under the Dog Control Act;
- (b) the Department of Internal Affairs, who with input from relevant organisations, is developing recommendations for the establishment of a national database to record dog attacks, offences, dog registration information, etc; and
- (c) the Department of Internal Affairs, who with the local government sector is working to develop and promote a programme of good practice in relation to dog control.

COMMENTARY

Firstly, The purpose of the reforms appears sound. The objective to increase public safety in relation to dogs can only be applauded. However, the issue arises as to whether or not the changes can be effective in meeting the objective. There is much detail to be worked through on many of the proposals. To this purpose, working groups with cross representation have been put in place by Department of Internal Affairs to accommodate this.

Commentary within this report is qualified by saying that detail is yet to be decided. However, at face value the proposed changes appear to be a "mixed bag" and highlight the absence of meaningful nationwide research in the area of dog control within New Zealand. It also highlights the symptomatic nature of the dog issue and that significant social change is needed in order for some people to behave more wisely in relation to dogs and each other.

Some of the proposed amendments appear to be controversial, impractical and ill conceived such as muzzling of select breeds in public. This measure will have no significant impact on reducing the number of bites. Overseas experience has demonstrated that such measures are counter productive and do not assist in reducing the number of dog attacks and lead to greater difficulties in enforcement. In addition, research strongly indicates that most attacks occur on or near private property and that these select breeds are no more likely to attack than any other breed of dog. Likewise there needs to be some caution surrounding increased restrictions of dogs in parks as it is rare for attacks on people to occur in parks. If new laws are not well balanced then all they may succeed in doing is in forcing normally responsible dog owners to break the law. The Carolina Anderson case in which a severe attack to Carolina occurred in a park appears to be very much an exception and it appears that the exact circumstances surrounding the actual attack are largely unknown and therefore difficult to research.

Fencing provisions will be protested against by those who rely heavily on the dog for security and by those who feel that their personal rights are being violated. They may also be unaffordable by some. However, under existing legislation a dog is not legally allowed to bite, so the proposal to fence dogs in such a way that access to a door is available simply reinforces existing provisions and may assist in reducing the number of attacks - many of which appear to be due to territorial aggression. The fencing proposal does attempt to address a common problem. Perhaps a modification of this proposal through the Department of Internal Affairs working group can still be effective.

Powers to seize uncontrolled dogs returning to a property will undoubtedly have benefits in specific problem situations and assist in promoting a safer community and perceived safety.

Micro-chipping of all dogs is arguably going overboard and raises the questions: If irresponsible owners do not register their dogs usually then are they likely to have them micro-chipped? Who will pay? Will a dual registration system work? Why not just give TAs the power to micro-chip any dog involved in an offence so these dogs can be traced when "hidden" and found elsewhere? - Chipping all dogs may tar all owners with the same brush when the irresponsible owners to be targeted by this proposed measure are the least likely to participate in the proposed chipping program. So will it succeed in addressing the problem to any useful extent?

Increasing penalties may have some deterrent effect - but does any research bear this out? Overseas experience shows that increasing penalties has not reduced numbers of attacks. On the other hand increasing penalties may send a message to the courts to impose higher penalties. Many Territorial Authorities perceive low level penalties as a problem with imposed fine levels currently being well below the maximum provisions. The benefit of appropriate penalty levels may be more in the message and stance it sends to the community regarding the seriousness with which the matter is considered as opposed to actually achieving significant change in dog owner behaviour.

The proposal to develop and implement a public education campaign at national level is already being developed. This is an excellent proposal because it has the potential to address the most common shortfall in the entire safety around dogs issue. It is the understanding of dogs and their behaviour and how to successfully interact with dogs coupled with an awareness of individual and social responsibilities that can provide much light to address the problem. Currently we are receiving information in which responsible dog owners are being verbally and physically abused when walking their dogs. Foul comments, stones being thrown, avoidance of people walking dogs, fear and anger are occurring and are of concern. This issue has divided some people in the community and has been highlighted due to many people having their fears fuelled by the media reports of "dangerous breeds" and "dangerous dogs". A well balanced public education campaign in which people's understanding and awareness of how to live in harmony with dogs in the community appears sorely needed and has the potential to reap sustainable benefits for both dog owners and the general public - provided it is ongoing.

The arguments in the commentary above are typical of what is being worked through within the Department of Internal Affairs and Local Government New Zealand working groups. Once again, the debate over the reforms is not assisted by the lack of New Zealand based research into the issue. This indicates the need for a national coordinating body to oversee and monitor dog control activities in order to achieve consistency in implementation of sound legislation based on substantial research into the problem. The amendments also do not appear to address the issue of specifically targeted dog owner education - such as compulsory education as a condition for owning a dog. Nor do they address the problem of uncontrolled dog breeding which places little value on dogs and results in a situation where dogs are too easy to acquire and too easily "thrown away". The "throw away" component of modern society means that along with other areas of concern, dogs are undervalued and therefore without targeted measures to address the situation these dogs become part of the problem - both in terms of resources wasted on processing and often euthanasing surplus dogs and also in terms of the impact on social responsibility and how dog owners (mis)manage their dogs.

CONCLUSION

Lobbying of Central Government has resulted in the development and release of proposed reforms to the Dog Control Act 1996. Department of Internal Affairs and Local Government New Zealand are working in conjunction with Territorial Authorities to shape the proposed reforms into a practical format. Public submissions through a Select Committee process will also be called for in due course. The proposed reforms are a mixed bag with some appearing counterproductive (breed specific restrictions) and others appearing very sensible (public education campaign). The proposed reforms will be shaped as a result of the Government appointed working groups and the Select Committee public submission process. Lacking from the proposed amendments are three measures that could have significantly positive impacts:

1. Compulsory dog owner education as a prerequisite of owning a dog.
2. Establishment of a National Urban Animal Management Council to spearhead Territorial Authorities activities on a national basis and undertake research and provide recommendations to Central and Local Government.
3. Introduction of the requirement of a breeding permit to breed any dog.

RECOMMENDATIONS

1. That the information be received.
2. That a submission to the government select committee on the proposed amendments to the Dog Control Act 1996 be prepared based on the agenda report and feedback from the Committee and presented to the Environmental Management Committee for consideration in time for submission to the Select Committee process.

Report prepared by: Tom Didovich, Animal Welfare Services Manager.



6 WAITAKERE RANGES PROTECTION

PURPOSE OF THE REPORT

This report provides an update on the project to date, seeks a decision from the Committee on the extent of the Waitakere Ranges Protection project, and agreement to Waitakere City participating in the Environmental Defence Society's Issues and Options Paper on New Zealand Landscape and Heritage Protection, as one of the four case study areas.

BACKGROUND

A number of reports on the Waitakere Ranges Protection project have been brought to this Committee, including a background report in September 2002, and two reports on issues and status, and process, in April 2003.

The Committee passed the following resolution at its meeting of 8 April:

“That the Environmental Management Committee approves the establishment of the Political Liaison Group and the Staff Advisory Group.

That Crs Presland, Hulse, Yates and Mayor Bob Harvey be appointed to attend the Political Liaison Group, on a voluntary basis.

That the Environmental Management Committee approves the structure and process for community engagement on the Waitakere Ranges Protection project.

That Waitakere City Council make a request to the Auckland Regional Council’s Strategic Policy Committee for the Environmental Management Committee Chairperson and Deputy Chairperson to attend the next meeting of the Strategic Policy Committee on Tuesday, 15 April 2003 to discuss with the Committee the process around the protection of the Waitakere Ranges.”

469/2003

STRATEGIC CONTEXT

In 1993, Waitakere City was declared an eco city, on a pathway to sustainability. In 1996, the Council’s first strategic plan, the Greenprint, recognised the central importance of the West Coast, Waitakere Ranges and their foothills, and emphasised Waitakere’s clear responsibility as a community to protect and restore the environment and ensure that its values are available for future generations. The importance of community involvement in protecting and restoring their environment was acknowledged.

A major strategic theme in protection of the Ranges is the setting of a Metropolitan Urban Limit to combat runaway consumption of foothills land for urban uses, and the related provisions for higher housing densities within the existing urban area to accommodate expected population growth, and creation of vibrant urban spaces that are attractive living areas. These themes are confirmed through the Regional Growth Strategy and the new draft Strategic Plan. The ‘Green Network’ draft strategic platform contains a vision that would see streams and forests full of life, the Waitakere Ranges permanently protected and a Green Network in place linking the Ranges to the sea, connecting the everyday lives of the people of Waitakere with the natural world.

Council policy and plans that help protect the Waitakere Ranges include the Weeds Strategy, the Stormwater Strategy, and the Council’s District Plan, which sets out objectives, policies and rules aimed at sustainable management of the City’s natural and physical resources. In particular, the District Plan sets out to protect significant vegetation and fauna habitat, valued landscapes, water quality and quantity, heritage and the mauri of land, forest and water.

Relevant community - based plans include the Karekare Community Management Plan and the West Coast Plan, a strategic plan for the west coast beaches and Waitakere Ranges, which was developed through an intensive community process from 1997 -2001. This plan sets out a vision, guiding principles, priorities, responsibilities and actions. Strategic Actions in the West Coast Plan include:

1. *Investigate ways to improve the co-ordinated management and protection of the Waitakere Ranges.*
2. *Continue to provide opportunities for debate on the different aspirations of stakeholders for both private and public land in the Waitakere Ranges and West Coast.*
3. *Encourage the further identification of the Waitakere Ranges as an area of national significance.*
4. *Encourage all relevant local and national agencies and authorities to investigate strategies to limit local and regional population growth pressures on the West Coast.*

In addition, Council's commitment to Agenda 21 and the Community Interaction Policy commits the Council to helping the city's diverse communities to contribute to the development of an eco-city, acting in partnership with the community to give voice to community hopes and aspirations, listening to the community and mediating between conflicting interests for the public good.

The Council has indicated a strong commitment to achieving resolution on the issue of protection of the Ranges, while recognising that there are many different values that need to be protected, the tools for protection are likely to be many and varied, and the community views diverse. A robust process is critical to achieving community understanding of, and long-term commitment to involvement in, solutions arising from the process.

ISSUES

Political Liaison

Councillors Hulse and Yates, supported by Council Officers, attended the Auckland Regional Council Strategic Policy Committee's April meeting to discuss the Ranges Protection project and the framework that Waitakere City intends to set up to involve other government agencies and the community in the project. In particular, the presentation discussed the intention to set up a Political Liaison Group to include ARC elected members, and an Officers Advisory Group, to include Auckland Regional Council staff. The Strategic Policy Committee resolved to work alongside Waitakere City Council on this project. The Auckland Regional Council representatives are to be appointed at the May meeting of the Committee.

Approaches have also been made to iwi to ensure appropriate representation at a political as well as a staff level, and to local Members of Parliament. The date for the first meeting of the Political Liaison Group is to be confirmed, but will be as soon as possible following confirmation of the representatives.

Officers Advisory Group

Auckland Regional Council, Watercare Services Limited, Department of Conservation, Ministry of the Environment and Rodney District Council have been approached for membership on this group. A meeting is being organised for 15 May 2003. This group will provide a comprehensive basis for staff of government agencies with an interest in the Ranges to discuss issues and current management tools and identify gaps and potential options for better coordination.

Community Process Group

The intention of this group is to consult members on the most effective way of talking to their communities about Waitakere Ranges protection issues. The outcomes of this group will be the basis for the consultation programme. The first meeting of the Community Process Group will take place following the first meeting of the Political Liaison Group, likely towards the end of May.

The Local Government Act, District Plans, Structure Plans and Non-regulatory Methods

The Local Government Act 2002 requires consultation with the community in the development of the Long Term Community Council Plan, and in the development of any significant policy. The Long Term Council Community Plan has gone out to public consultation together with the Annual Plan, and will set Council's strategic direction for the next ten years.

District Plans, including Structure Plans (in the Foothills of the Ranges), are the Council's most important regulatory tools for managing land use in the Waitakere Ranges. The Waitakere City Council's District Plan became operative on 27 March 2003, save for some provisions that remain subject to unresolved references. Many of these relate to issues in the Ranges and Foothills. Structure Plans have been prepared for Oratia, Birdwood, Swanson, Waiarohia and Pakanui catchments. The Oratia Structure Plan is operative, while the others are at various stages in the process.

In addition, Council uses a significant number of non-regulatory tools to help achieve the environmental outcomes, objectives and policy set out in the City's Strategic and District Plans.

Data and information on these tools, both regulatory and non-regulatory, and their effectiveness will be presented to the Committee at the workshop associated with the May meeting. This information is intended to provide the Committee with a picture of the 'status quo' management regime for the Waitakere Ranges. 'Status quo' does not mean that management would remain static, exactly as it is today, but that the existing regulatory framework and resourcing mechanisms would remain the fundamental management tools.

Extent of the Waitakere Ranges

At this stage in the project, a clear picture is needed of the boundary of the Waitakere Ranges Protection project area. Maps and information will be brought to the workshop associated with the meeting, to assist the Committee in making this decision.

Environmental Defence Society Issues and Options Paper - New Zealand Landscape and Heritage Protection

The Environmental Defence Society (EDS) is commencing a study, funded by the Ministry for the Environment and the Department of Conservation, to research issues and options around landscape and heritage protection in New Zealand. The objective of the paper is to inform government policy development in the area of landscape and heritage protection encompassing privately owned land, including:

- Scoping the nature of the problem.
- Obtaining a better understanding of the practice of landscape protection in New Zealand through closer examination of four districts where development pressure is threatening significant landscapes.
- Drawing on best practice in landscape management internationally.
- Suggesting possible solutions.
- Recommending a way forward.

As part of this paper, Environmental Defence Society is seeking four suitable Territorial Authorities as case studies. The intention would be to undertake structured interviews with key staff and elected members, focussing on identification of outstanding landscapes, pressures, management responses, effectiveness of those responses and options for strengthening management tools to protect these landscapes.

It is considered that this paper would provide information for the Council's project, and therefore it is recommended that Waitakere City Council participate in this research as one of the case studies. The intention of the Council would be to have the Environmental Defence Society paper peer reviewed following its completion in June.

RESOURCES

The peer review of the Environmental Defence Society's paper on New Zealand Landscape and Heritage Protection would be funded from the existing Waitakere Ranges budget.

CONCLUSION

The participatory processes around the Waitakere Ranges Protection project, including other governmental organisations, non-government organisation and the community, are currently being put in place and will be under way in May. Fundamental decisions are now needed around the extent of the Ranges Protection project.

RECOMMENDATIONS

1. That the information be received.
2. That the meeting be adjourned for one hour to enable the Committee to hold a workshop to discuss the extent of the boundaries of the Waitakere Ranges Protection project and the regulatory and non-regulatory tools for achieving Council's environmental objectives.
3. That the Committee provides a definition of the boundaries of the Waitakere Ranges Protection project.
4. That Waitakere City Council participate in the research by the Environmental Defence Society as one of the case studies
5. That the Waitakere City Council funds a peer review of the Environmental Defence Society paper.

Report prepared by: Jenny Macdonald, Strategic Leader.

