



## NOTICE OF MEETING

# ENVIRONMENTAL MANAGEMENT COMMITTEE

I hereby give notice that an Ordinary Meeting of the Environmental Management Committee will be held on:-

**DATE:**        **Tuesday,        10 February 2004**        **TIME:**        **9.30 am**

**VENUE:**        **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

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

4 February 2004

Owena Schuster  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8864

### **MEMBERSHIP:**

Councillors	PA	Hulse (Chairperson)
	DA	Yates, JP (Deputy Chairperson)
	DQ	Battersby, JP
	BA	Brady, JP
	JM	Clews, QSO, JP
	RP	Dallow, QPM, JP
	AC	Fenton
	OE	Hoskin, MNZM, JP
	JP	Lawley
	GE	Nash, QSM, JP
	VS	Neeson, JP
	GB	Presland
	GW	Russell, JP
	CA	Stone

Mayor, Bob Harvey, QSO, JP (ex officio)

(Quorum 5 members)

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

# WAITAKERE CITY COUNCIL



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, 10 FEBRUARY 2004, COMMENCING AT 9.30 AM.

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## TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	APOLOGIES	1
2	URGENT BUSINESS	1
3	CONFIRMATION OF MINUTES	1
	<u>PART I - PRESENTATION</u>	2
4	BIG CLEAN UP - WAY TO GO! CAMPAIGN	2
	<u>PART II - PETITION</u>	2
5	LIQUOR BAN IN GLEN EDEN	2
	<u>PART III - REGULATORY / ENFORCEMENT</u>	3
6	LEGAL UPDATE (AS AT 15 JANUARY 2004)	3
7	DRAFT GAMBLING VENUE POLICY	9
	<u>PART IV - DISTRICT PLAN / STRUCTURE PLANS</u>	15
8	BABICH CONCEPT PLAN - APPLICATION TO AUCKLAND REGIONAL COUNCIL TO AMEND THE LOCATION OF THE METROPOLITAN URBAN LIMIT, AND PROPOSED DISTRICT PLAN PROVISIONS	15
9	DISTRICT PLAN - PENIHANA APPEAL RMA 710/98	21
	<u>PART V - ENVIRONMENTAL MANAGEMENT</u>	24
10	PAINTED APPLE MOTH UPDATE REPORT	24
11	AGENDA REPORT FOR HEARING FOR PROPOSED PLAN CHANGE 9 - RE-IDENTIFICATION OF 335 WEST COAST ROAD IN GLEN EDEN FROM OPEN SPACE ENVIRONMENT TO WORKING ENVIRONMENT	27
12	UPDATE ON 1 RANGIWAI ROAD, TITIRANGI	29
13	CAR PARKING IN TOWN CENTRES	39
14	ALTERATION OF STATE HIGHWAY 16 DESIGNATION - KEDGELY DRIVE	41
15	REGIONAL LANDSCAPE ASSESSMENT PROJECT	45
	<u>PART VI - CONFIDENTIAL ITEM</u>	47
16	NEW LYNN COMMUNITY ENVIRONMENT ZONING	47
	PROCEDURAL MOTION TO EXCLUDE THE PUBLIC	47

**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, 10 FEBRUARY 2004, COMMENCING AT 9.30 AM.**

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**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, 9 December 2003  
Reconvened - Tuesday, 16 December 2003  
Ordinary - Tuesday, 16 December 2003

**RECOMMENDATION**

That the minutes of the Ordinary Meeting of the Environmental Management Committee held on Tuesday, 9 December 2003 including the Public Excluded minutes and the Reconvened Meeting held on Tuesday, 16 December 2003 and the Ordinary Meeting held on Tuesday, 16 December 2003, as circulated, be taken as read and now be confirmed.



**PART I - PRESENTATION**

**4 BIG CLEAN UP - WAY TO GO! CAMPAIGN**

Anna Percy from the Auckland Regional Council will make a presentation about the Big Clean Up - Way to Go! Campaign, which has been running in New Lynn, Kelston and Glen Eden for the last four months.



**PART II - PETITION**

**5 LIQUOR BAN IN GLEN EDEN**

A135-A138

The Chairperson has approved the receipt of a petition containing 85 signatures from Sid Walker, Glen Eden resident on behalf of the Glen Eden Community in regards to a Liquor Ban in Glen Eden, as attached at pages A135 to A138. The prayer of the petition reads as follows:

*"In an endeavour to make Glen Eden a more desirable and secure shopping centre, we the undersigned request the Waitakere City Council to pass a bylaw to prohibit the consumption of liquor in the Glen Eden Shopping Centre and it's precincts\*, except on the premises of those businesses who hold a current liquor license.*

*\* The areas to be included includes:*

- 1 West Coast Road from Janet Clews' Place to Glendale Road (both sides).*
- 2 Bowers Road, Wilson Road and Oates Road (both sides).*
- 3 All of Glen Mall*
- 4 Captain Scott Road (between West Coast Road and the roundabout)."*

For guidance of Councillors, Standing Orders has the following provision in regard to petitions:

1. The petition shall comprise less than 500 works and shall not be disrespectful, nor use offensive language or make statements made with malice.
2. A limit of five minutes shall be permitted for the person to present the petition.



### **PART III - REGULATORY / ENFORCEMENT**

#### **6 LEGAL UPDATE (AS AT 15 JANUARY 2004)**

##### **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**

###### **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. The meeting to resolve this was held on 25 November 2003. Negotiation discussions at this meeting resulted in seeking an extension from the Court as to a report back date. The Court has given the parties until 1 March 2004 to carry out further landscaping proposals.

###### **Abacus Developments Limited & Ors v Waitakere City Council (February 2000)**

This was an appeal by Abacus, Kitewaho and related entities (associated with 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 below in this report. It is expected to proceed to a hearing in 2004.

**Peat v Waitakere City Council (10 April 2002)**

An appeal by Mr and Mrs Peat against Council decision to decline subdivision consent application seeking a non-complying 3 lot subdivision in 26 Awhiorangi Road. The subdivision would, if granted, 'jump the gun' by proceeding prior to resolution of both the Swanson Structure Plan references and the current global review by Council of structure planning, and Council's evidence is being prepared on this basis. The matter was part heard in the Environment Court on Friday, 17 October 2003. The hearing will recommence in the week of 16 February when the same Court sits again. The hearing did not commence at the scheduled date due to the case before it running over time. The order for boundary adjustment sought by the Peats was non-contentious and has been approved by the Court.

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

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. Estate Homes Limited has issued High Court proceedings relating to a contested reserves contribution assessment in respect of the first stage of its Sturges Road subdivision. Council is in the process of completing its preliminary disclosure obligations in respect of these proceedings.

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

An appeal against consent conditions imposed for a proposed subdivision at Ranui Station Road. The matter was argued in the Environment Court on 25-27 August 2003. The appeal in respect of the reserve fund contribution was abandoned leaving Council's contribution to the road as the only matter in dispute. The Court's decision was issued on 17 September, upholding the aspect of the appeal regarding road widening. All other contribution issues had been resolved by agreement. This matter has now been appealed by the Council to the High Court. Initial conference with High Court scheduled for 5 February 2004.

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

Appeal by Mr Spencer against Council's decision declining consent for subdivision of a property located at Lone Kauri Road, Karekare. Both the Waitakere Ranges Protection Society and several residents' groups are parties to the appeal. An on-site meeting between all parties took place along with mediation, resulting in an agreement in principle being reached, with the details still to be finalised. Consent documentation for the Environment Court now being finalised to be submitted to the Court by early February 2004.

**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)**

**Singh & 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 Landing Road, Titirangi. The Waitakere Ranges Protection Society had opposed the decision; Singh & Others have opposed a condition that relates to the walkway and Richmond Eden Limited (the applicant) has appealed a number of the conditions. Formal mediation took place on 3 September and 7 October 2003. Agreement was reached on the basis of a revised walkway alignment and a staging of the development. The Court issued consent documentation just prior to Christmas 2003. This matter is now resolved.

### **Cornerstone Limited v Waitakere City Council (February 2003)**

Cornerstone Limited has appealed the Council's decision to refuse an application for land use consent to develop 6 office units at 120 South Titirangi Road, Titirangi. As of 29 April 2003 there were 21 parties who had filed Section 271A or Section 274 notices. Cornerstone has provided its initial evidence and Council has filed evidence in reply. A hearing was scheduled for the week of 17 November 2003.

However due to the Court's concern as to the validity of a 1971 Planning Consent the matter has been adjourned until the validity of this consent can be resolved. The parties reported back to the Court on 2 December 2003 and requested that more time be granted to consider the complexity of issues revised by the 1971 consent. This matter has been set down for hearing in the week of 2 February 2004.

### **Waitakere Ranges Protection Society v Waitakere City Council R & L Thompson v Waitakere City Council Kitewaho Bush Reserve Co Limited v Waitakere City Council**

These proceedings involve two references concerning subdivision, filed in relation to Variation 87 of the Proposed District Plan. Waitakere Ranges Protection Society are a party to the Thompson reference. This reference seeks site specific relief in respect of the Thompson's property. The Waitakere Ranges Protection Society reference is more a general reference appeal. It is likely the site specific Thompson appeal will be resolved by agreement. The Juderon Family Trust is a section 271A party to that appeal. Mr and Mrs Vaughan are section 274 parties to that appeal.

Meetings have taken place between all parties. An impasse has been reached between the parties. An alternative solution has been proposed but at this point this does not appear satisfactory to all parties. If an agreement cannot be reached in respect of Waitakere Ranges Protection Society's reference then the matter will be set down for hearing.

A part of Kitewaho Bush Reserve Company Limited's general reference has been annexed to these proceedings by a previous Environment Court decision. It has been determined that it would be appropriate to await the hearing of the High Court appeal before proceeding further.

### **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 has appealed the restrictions imposed by Council, and Friends of Crum Park have contested the lack of further restrictions.

Bay Olympic and Friends of Crum Park have been involved in ongoing discussions in an attempt to reach agreement as between themselves. This has continued over a number of months. Late last year Bay Olympic put forward a revised proposal for development, which was considered by New Lynn Community Board on 1 December 2003. In response to this proposal the New Lynn Community Board approved the installation of flood lights for Field Numbers 1 and 2, subject to a final meeting between Bay Olympic and Friends of Crum Park to determine details of the final proposal and subject to details and resource consents being granted for this specific proposal. Council understands that the parties accept this as a basis for settlement and that the Environment Court appeal can be resolved by agreement.

### **Waitakere Ranges Protection Society Incorporated v Waitakere City Council and Brand Housing Limited**

This is an application by Brand Housing Limited for effectively what will be a rehearing for Brand's subdivision and land use consent application for a property located in Rimutaka Place, Titirangi. Originally, Brand (and its director, Rick Eggink) sought approval for a 14-lot subdivision. A modified proposal is now being floated for the Court's consideration. This was last before the Court in 2000, when the Court issued an interim decision declining Brand's application. Brand has filed an application requesting a further hearing, and a judicial conference was held on 9 September 2003. The application was to be heard on 18 November 2003 but the Court determined they would decide the matter on the papers. The Court found that the Decision given in 2000 was a final decision and the words interim decision was a clerical error. The application for continuation of the original hearing was therefore declined.

### **Prema Trust v Waitakere City Council & Auckland Regional Council (July 2003)**

An appeal against a joint Waitakere City Council/Auckland Regional Council decision refusing consent for an alternative healing centre at 34-36 Grassmere Road. Waitakere City Council and Auckland Regional Council have filed their respective replies to the appeals with the Environment Court, and 13 parties have filed Section 271A or Section 274 notices. The Court has invited the parties to participate in mediation and only 3 of the interested parties agreed. Prema has advised that it wishes to continue with its appeal. This matter will be set down for hearing in 2004, with exchange of evidence to occur in February/March 2004.

## **HIGH COURT**

### **Waitakere City Council v Kitewaho Bush Reserve Company Limited & Ors (Appeal filed 22 January 2002)**

### **Kitewaho Bush Reserve Company Limited & Ors v Waitakere City Council (February 2002)**

These proceedings involve applications by Kitewaho and associated companies for declarations and enforcement orders relating to 8 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. This meant 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.

On 19 December 2001, Council resolved that an appeal should be lodged to the High Court to clarify the Court's decision in relation to matters of interpretation of s91 and s92 Resource Management Act. That appeal was filed on 22 January 2002. Kitewaho and related entities served its own (voluminous) appeal on Council.

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 deferred decision on the costs application pending the outcome of the High Court appeals.

Leading up to the appeal hearing there have been a number of preliminary steps required in these proceedings to address the voluminousness and imprecision of Kitewaho's points on appeal. This has resulted in a number of re-pleadings.

His Honour Justice Randerson heard both appeals in the week beginning 8 December 2003. Both parties had filed written submissions in advance of the hearing.

The Court first hearing Councils appeal in relation to Section 91 and Section 92 matters, a relatively confined point, which took approximately half a day to hear. The Court then proceeded to hear Kitewaho's appeal over the remainder of the week. Kitewaho's case essentially challenged the Environment Court's refusal to make the declarations it sought in respect of the status and processing of its various subdivision consent applications.

His Honour Justice Randerson reserved his judgment but did indicate that his thinking at that point was not to delve substantially into the substance of the questions raised by Kitewaho.

Although no clear indication was given by the Court, a decision is expected in the first quarter of 2004.

### **Bible College (NZ) Inc & Ors v Waitakere City Council (17 July 2003)**

Bible College (NZ) Inc filed a notice of proceedings for an application for judicial review of Council's decision granting consent (non-notified) for development of a Pak N' Save, Mitre 10, etc on the Lincoln Park site. Evidence was been exchanged but discussions continue to settle this matter. These discussions were ultimately successful with the proceedings being discontinued by agreement.

### **ENFORCEMENT ORDERS**

#### **Waitakere City Council v Covich - 40 Sunnyvale Road, Massey**

An application for Enforcement Orders in relation to an alleged illegal cleanfill site and unauthorised earthworks at the property was filed in Court on 17 October 2003, requiring that all unauthorised works cease immediately and remediation of the site.

After some delays in getting a hearing of the application the matter was set down for hearing on 11 & 12 December 2003. Affidavit evidence from both parties had been filed with the Court in advance of this date.

During the course of the hearing the Council questioned the need for a hearing in circumstances where the Covich's evidence did not appear to disclose a viable defence to the applications. After some discussion between the parties the Covichs agreed to consent to orders being made against them to cease landfill activities and to provide a remediation plan for the site.

### **PROSECUTIONS**

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

A number of charges were brought against Mr Gordon in relation to Resource Management Act breaches 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 entered not guilty pleas to all charges and elected trial by jury. The trial took place during the week of 3 November 2003.

Mr Gordon was found guilty by the jury in respect of 15 of the 23 charges he faced. The charges he was acquitted on related to the presence of motor vehicles on one of his two properties. He was found guilty in respect of the presence of motor vehicles on the other and in respect of the presence of additional household unit on both properties.

The Court has provisionally indicated it did not consider that imprisonment is appropriate in this case. Sentencing was scheduled for 18 December 2003. On 17 December Council officers undertook a site visit to determine compliance in advance of the sentencing further car bodies had been removed. While evidence was found of increased residential activity including the presence of house trucks on adjacent land not owned by Mr Gordon but owned by the extended family members.

Council has received communication that this was not authorised by these family members. This was conveyed to the Court which responded by adjourning the sentencing to 22 March 2004 to allow Mr Gordon to remove the offending car bodies and dwellings. The Court warned Mr Gordon that although it had initially indicated that it would not imprison him it would review this position in March if he did not comply with the Enforcement Orders.

#### **Susan and Andrew Borrett - 49 Sunnyvale Road, Massey (3 June 2002)**

Informations were laid for Resource Management Act offences for unauthorised vegetation clearance, earthworks and breaches of interim enforcement orders. The Borretts entered a plea of not guilty and requested trial by jury. The trial took place during the week commencing 8 September 2003. Mr Borrett was found guilty on 5 out of 6 charges and Mrs Borrett 4 out of 7 charges. Sentencing occurred on 29 October 2003: Mr Borrett was sentenced to 20 weeks imprisonment and ordered to pay \$5,000 in prosecution costs; Mrs Borrett was fined \$9,000 and ordered to pay \$3,500 in prosecution costs. The Borretts appealed this sentence and the appeal was heard by the Court of Appeal. The Court of Appeal reduced the period of imprisonment to 12 weeks and quashed costs order against Mr Borrett (the sentence against Mrs Borrett was not challenged and therefore stands).

#### **Lorenzen - 91 Kaurilands Road, Titirangi (November 2002)**

Charges were laid against Mr Lorenzen in relation to the clearance of bush in the Riparian Margin and General Natural Area when developing the site for subdivision. Mr Lorenzen has entered a plea of not guilty and requested trial by jury. The jury trial took place in the week beginning 15 December 2003.

The trial took 5 days and concentrated on Mr Lorenzen's culpability in circumstances where he hired contractors to undertake permitted felling work on the property owned by a company which he was the sole director and shareholder of.

Ultimately the jury found Mr Lorenzen guilty of 2 charges of permitting the clearance of nature vegetation (both in the General Natural Area and in the Riparian Margin). He was acquitted in respect of undertaking or being a party to undertaking the clearance and of undertaking clearance of 2 exotic trees.

His Honour Justice McElrea sentenced the defendant to 170 hours community work but did not make any order as to costs due to the low level of any costs award able to be made and the fact that Mr Lorenzen was an undischarged bankrupt.

#### **Ivan and Alona Covich - 40 Sunnyvale Road, Massey (May 2003)**

Charges were laid against Mr and Mrs Covich alleging that the Covich's operated a cleanfill in contravention of an abatement notice requiring them to cease this activity. Mr & Mrs Covich pleaded not guilty and elected trial by jury. A depositions hearing took place on 11 November 2003, with counsel for the Covichs conceding that there was a case to answer. A pre-trial conference is scheduled for 22 January 2004.

## **COURT OF APPEAL - 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 6 for a period of 4 years and 3 months. On 25 May 2001, they were convicted in the Waitakere District Court 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 from 24 to 26 July 2002.

Following the High Court's (Harrison J) refusal to grant leave to appeal to Law and Lai, an application was made to the Court of Appeal for further leave to appeal against the order for costs. The Court of Appeal granted special leave to Law & Lai to appeal to the Court of Appeal against the convictions, sentences and the order for costs made by the High Court. Negotiations to settle these appeals and reduce the cost of what threatened to be further protracted litigation resulted in a joint memorandum to the Court on what would be an acceptable outcome for the Council. However, in late December 2003, the Court of Appeal issued its decision upholding the original sentence and orders for costs imposed by the District Court.

### **RECOMMENDATION**

That the Legal Update report be received.

Report prepared by: Brigid McDonald, Contract Solicitor.



## **7 DRAFT GAMBLING VENUE POLICY**

### **PURPOSE OF THE REPORT**

A6-A23

The purpose of this report is to provide background information on the Gambling Act 2003 and to present a draft Gambling Venue Policy to be approved for public consultation to the Environmental Management Committee. The draft Policy is attached at pages A6 to A23. The report includes a proposed submission to the Department of Internal Affairs for Council consideration.

### **BACKGROUND**

The Gambling Act 2003 (the Act) came into force on the 18 September 2003. Under the Act, Waitakere City Council is required to adopt a policy on Class 4 gambling venues for the city, and must have regard to the social impact of gambling in developing this policy. This policy only applies to gambling venues licensed after 17 October 2001, or to venues licensed prior to this if they wish to increase the existing number of electronic gambling machines. Under the Act the following statutory limits on numbers of gambling machines apply:

- For premises with a licence on or before 17 October 2001- a maximum of 18 machines.
- For premises licensed between 18 October 2001 and before 22 September 2003- a maximum of 9 machines.
- For premises licensed after 22 September- a maximum of 9 machines.

In its policy, Council is able to further reduce the number of machines allowed to be operated at gambling outlets but these will only apply to premises licensed after 18 October 2001, or when premises licensed before 18 October 2001 apply to increase their machine numbers. The policy must be reviewed at least once every three years, which means that the next policy review will be in 2007.

The Act also amended the Racing Act 2003 to require that Council adopt a Board Venue policy for the city. A board venue is a stand alone venue owned or leased by the New Zealand Racing Board (TAB) where race and sports betting is carried out. The Board Venue Policy must specify whether new Board venues may be established in the city, and if so, where they may be located. Currently there are 6 standalone TABs within Waitakere, but none of these operate electronic gambling machines. The draft policy covers both Class 4 (Gambling or Pokie Machine) gambling venues and New Zealand Racing Board (TAB or Board) venues.

Within Waitakere, there are 34 class 4 gambling outlets. 5 of these were licensed after 17 October 2001. With 450 machines Waitakere has a gambling machine to population ratio of 1 to 375. Waitakere has the lowest number of machines per person in the Auckland region.

Between 31 December 2002 and 31 December 2003, the number of machines increased by 26%. These figures indicate that while Waitakere has a low number of machines these could increase rapidly if Council chose not to regulate gambling beyond the requirements of the Act.

Council only has the ability to control the location of premises licensed after October 2001, or before this if existing premises wish to increase the number of machines they operate.

### **CONSULTATION**

A23

A public workshop with key stakeholders (industry, social services and community groups) was undertaken in November to discuss the social impact of gambling in Waitakere City and to inform the development of the draft policy. A list of attendees is attached at page A23. Additional consultation was undertaken with TAB representatives, the Waitakere and Portage Licensing Trusts and representatives of the Asian community.

On 2 February 2004, a further workshop on the social impact of gambling on the community and policy options was undertaken with Councillors, Community Board Chairs and members of Te Tamata Runanga and the Pacific Island Advisory Board on Monday, 2 February 2004. Due to internal deadlines, this report and the proposed policy were drafted prior to this 2 February workshop. Any amendments to the draft policy recommended by workshop attendees will be taken into account by officers in the presentation of this report at the Committee meeting.

### **REGIONAL APPROACH AND SOCIAL IMPACT ASSESSMENT**

A1-A5

Officers from the councils of the region formed a regional group to ensure a consistent regional approach to developing policies. A joint Social Impact Assessment on the effects of gambling was commissioned by this group to ensure that this research was carried out in a cost efficient manner. This assessment draws on existing national, regional and local information on the impact of gambling. A copy of this report, prepared by researchers from the University of Auckland, is available in the Councillors Lounge. A summary of the social impact assessment prepared by the University and additional research by officers, as attached at pages A4 to A5. Practical policy options were put forward by the regional group for assessment by their respective Councils. An analysis of these policy options assessed against various criteria is provided for Councillor information, as attached at pages A1 to A3.

## STRATEGIC CONTEXT

In developing the draft Policy, officers had regard to Council's strategic objectives and other related projects. The draft Policy proposes a citywide cap which will retain the current number of gambling machines and supports voluntary best practice measures, such as a host responsibility policy and the disclosure of gambling fund distribution to Council. The draft Policy's harm prevention approach is consistent with Council's strategic objectives in the areas of Sustainable Development, First Call for Children and Strong Communities. The policy has also been developed with regard to the Liquor Licensing policy, as there are strong links between liquor licensing and gambling and there are benefits in creating a consistent regulatory environment. A citywide alcohol strategy will be developed in 2004 which will take into account the policy and issues that have arisen from the social impact assessment undertaken for this draft Gambling Venue Policy.

## TIMEFRAMES

The Act requires Council to adopt a policy by the 18 March 2004. The policy must be consulted on through a Special Consultative Procedure, which requires at least one month's public consultation. The regional work group considered that it would be difficult to meet the timeframes of the Act, given that meaningful consultation cannot be carried out throughout December or January. The regional group recommended extending the timeframe for the adoption of a policy until May, and the Auckland Chief Executive Officer forum endorsed this approach in September and reaffirmed its stance in November.

It is anticipated that if the committee approve the draft policy, it will be consulted on as part of the draft Annual Plan 2004/2005 to be adopted in March 2004, and consulted on from 13 April to 13 May 2004. Following this, submitters will have an opportunity to be heard through Annual Plan hearings. The policy will be adopted in June 2004 as part of the Annual Plan.

## RECOMMENDED APPROACH

### 1. Citywide Cap on Machine Numbers

The use of a citywide cap on the number of machines is recommended in the draft policy. This policy would keep the existing number of machines at 450 and would apply to both class 4 gambling venues and TABs with gambling machines. This option is consistent with the preferences of stakeholders and the findings of the Social Impact Assessment. The objective of such a policy is to prevent further harm associated with gambling from occurring, but not attempting to prevent venues licensed from October 2001 from operating. This option is also consistent with a precautionary approach as it aims to prevent additional harm from occurring, while further information can be gathered about the impact of gambling on the community. This information can be taken into account during the policy review required in 2007.

### 2. Venues Able to Operate up to 9 Machines, Except when Existing Operators Merge

Under the Act gambling venues licensed before October 2001 may operate up to 18 machines, while venues licensed after October 2001 may operate up to 9 machines. The draft Policy proposes that all venues should be able to operate up to 9 machines, subject to meeting the Citywide cap on machine numbers. The effect of this would be that venues which were licensed prior to October 2001 and operating more 9 machines would be able to continue to operate the same number of machines, but Council would not consent to additional machines.

If existing gambling venues merge they may operate up to 30 machines, subject to obtaining Council consent and Ministerial approval. The draft policy proposes that where 2 or more existing gambling venues propose to merge, they will be able to operate either the same number of machines they were operating prior to their merger, or 18 machines, whichever is the lesser.

### **3. Current Location Supported**

Under the Gambling Act 2003, Council may have regard to the location of kindergartens, early childhood centres, schools, places of worship and other community facilities when developing its policy. Council may also consider the characteristics of the district, or particular parts of the district and how close a gambling venue should be permitted to be in relation to another gambling venue.

It is recommended that requirements regarding the proximity of venue to other outlets or other sensitive areas (schools, churches and so on) not be included in the policy. While community and social service groups indicated at the workshop that they did not want gambling outlets locating near schools or shopping centres, this requirement would be difficult to implement. An initial analysis of the location of 12 existing venues indicates that 8 out of the 12 venues were within 200 metres of a school or another outlet. This suggests that if proximity rules were included in the policy it may be difficult for new outlets to find a suitable location.

Existing district plan requirements will ensure that gambling outlets are not able to locate in areas that are incompatible with their use. It should also be noted that if Council endorses the use of a citywide cap on machine numbers, new venues will only rarely have the opportunity to establish.

### **4. Voluntary Best Practice Requirements**

The regional group also supported requirements regarding the development of host responsibility policies and disclosure of gambling fund distribution to Council. Feedback from stakeholders at the public workshop also supported these measures. These requirements may not be within the scope of the policy, but it is recommended that voluntary best practice guidelines regarding host responsibility requirements and the provision of information regarding funding distribution be included as an appendix to the policy. This information is intended to assist gambling operators and cannot be taken into account when issuing Council consents.

It is recommended that these guidelines be incorporated into the Citywide Alcohol Strategy, as almost all current gambling venues have a liquor licence. Further work could be undertaken as part of the strategy to develop systems and resources that support responsible gambling operations.

### **5. Requirement for Gambling Venues to Hold a Liquor Licence**

Feedback was obtained from all stakeholder groups who participated in the Public workshop that gambling venues should be required to hold a liquor licence. Legal advice is being sought on whether this requirement is within the scope of the Policy.

All current class 4 gambling venues, except one, hold a liquor licence. The gambling venue which does not hold a liquor licence received a gambling license prior to October 2001 so would not be affected by this requirement unless it was wished to increase its number of machines.

Stakeholder groups and the regional work party considered that requiring a liquor licence would enable better monitoring of premises, and would help ensure that underage patrons were not able to access gambling machines.

However, it could be considered that by requiring a liquor licence as a condition of consent, Council is usurping a function of the Department of Internal Affairs, which has the ability to make regulations regarding which types of venues are suitable for class 4 gambling. It could also be undesirable to link gambling and drinking within venues.

Unlike class 4 gambling venues, TAB venues do not necessarily hold liquor licenses, and are regulated under the Racing Act 2003. This Act contains provisions for monitoring underage access, which suggests that TABs may not need to hold a liquor license to ensure that age restrictions are complied with.

Issues relating to liquor licences held by gambling venues have been discussed at the workshop with elected members held on Monday, 2 February 2004. The recommendation of workshop members as to whether gambling venues should be required to hold a liquor licence will be taken into account in the draft Policy and in the presentation of this report.

### **SUBMISSION TO THE DEPARTMENT OF INTERNAL AFFAIRS**

The Department of Internal Affairs has the ability to develop regulations covering (among other matters):

- harm minimisation and host responsibility requirements;
- types of venues that are not suitable for class 4 gambling;
- the provision of information regarding gambling funding distribution.

The Department is carrying out consultation until 27 February 2004 on whether it should impose requirements in these areas. Council has an opportunity to make a submission on these requirements. It is recommended that Council make a submission which supports the voluntary best practice guidelines included in the draft Waitakere City Council Gambling Venue Policy.

An additional submission point could be on whether liquor licenses should be required by gambling venues, and whether some types of venues are not suitable as gambling venues.

### **RESOURCES**

Should Council endorse the draft Policy the additional resources associated with processing consents is likely to be minimal, as the number of gambling machines are restricted to their current levels. 5 premises were licensed after 18 October 2001 and will need to obtain Council consent after the adoption of the policy.

### **CONCLUSION**

The draft Gambling Venue Policy has been developed with regard to the social impact of gambling on the community, the wishes of key stakeholders and Council's strategic objectives. It is recommended that Council endorse the use of a citywide cap as an effective means of preventing further growth in gaming machine numbers and the other requirements set out in the policy.

**RECOMMENDATIONS**

1. That the information be received.
2. That the Environmental Management Committee endorse the draft Gambling Venue Policy as outlined for public consultation during Annual Plan 2004/2005 consultation, including:
  - a citywide cap on existing machine numbers;
  - voluntary best practice guidelines for operators;
  - the requirement that Class 4 gambling venues hold a liquor license; or
  - that Class 4 gambling venues are not required to hold a liquor license.
3. That Council forward a submission to the Department of Internal Affairs supporting the following requirements:
  - the requirement for venues to develop host responsibility and harm minimisation policies as a condition of licence;
  - that certain types of venues only are suitable to hold a venue licence;
  - that systems should be supported which make information regarding the distribution of gambling funds freely available and accessible to the public and local authorities.

Report prepared by: Annika Lane, Senior Analyst: Social Policy, and Allannah Jarman, Social Policy Researcher.



## **PART IV - DISTRICT PLAN / STRUCTURE PLANS**

### **8 BABICH CONCEPT PLAN - APPLICATION TO AUCKLAND REGIONAL COUNCIL TO AMEND THE LOCATION OF THE METROPOLITAN URBAN LIMIT, AND PROPOSED DISTRICT PLAN PROVISIONS**

#### **PURPOSE OF REPORT**

This report sets out the substantive arguments that will be used to justify an application to the Auckland Regional Council to initiate a plan change to the Regional Policy Statement. The intent is to amend the location of the Metropolitan Urban Limit to accommodate development in the Babich Concept Plan area. A summary of the District Plan Provisions proposed for the area is also included.

#### **BACKGROUND**

At its November 2003 meeting, this Committee resolved:

- “1. *That the information be received.*
3. *That upon completion of the additional technical investigations and any necessary amendments to the Babich Concept Plan, the Concept Plan, associated District Plan provisions, and the proposed application to move the Metropolitan Urban Limit be brought back to the Environmental Management Committee for approval.”*

4135/2003

Some of the technical information necessary to complete the application is still not available at the time of preparing this report - namely some of the final stormwater work. However, this work is expected to be completed by the middle of February 2004. It is hoped that an application can be lodged with the Auckland Regional Council for the Metropolitan Urban Limits movement as soon as is practicable after this meeting. The Committee is asked to approve the content of this application through this agenda report, and give delegated authority to the Committee Chair to give final sign off on the application. As set out in the November 2003 agenda item, if the application to move the Metropolitan Urban Limits is successful, then the outstanding district plan appeals can be settled through consent order.

#### **LEGAL AND STRATEGIC CONTEXT**

Section 32 of the Resource Management Act 1991 requires decision makers to consider alternatives and assess benefits and costs before adopting any objective, policy rule or method in a regional policy statement, or plan. The Committee will be aware that the Metropolitan Urban Limits is a key regional initiative contained in the Regional Policy Statement, integral to the development of a sustainable urban form for the Auckland region, and that the Waitakere City Council has long been a proponent of urban intensification within the Metropolitan Urban Limits. The Auckland Regional Council will need to be satisfied that the proposed amendment to the location of the Metropolitan Urban Limits is appropriate in the regional strategic context, and will provide for an appropriate pattern of development, with the overarching requirement of the Resource Management Act for sustainable management. Accordingly, the Waitakere City Council must provide an assessment of the proposal against the strategic regional issues associated with the location of the Metropolitan Urban Limits and urbanisation of 'greenfields' areas.

## STRATEGIC CRITERIA

The strategic issues that need to be considered are embodied in the requirements and provisions of the Regional Policy Statement, the Regional Growth Strategy and those issues identified in the Northern and Western Sector Agreement. These strategic issues have been developed into strategic criteria (based on those included in a report prepared for the Auckland Regional Council), and are summarised below:

### Urban Form and Growth Management:

- Maintenance of the integrity of the Metropolitan Urban Limits;
- Encouraging urban intensification;
- Providing for higher densities in areas of new development;
- Making provisions for accommodating the region's growth and for additional urban capacity in response to identified growth and development requirements;
- Does not give rise to incompatible land uses.
- Avoids, remedies or mitigates adverse effects on the environment.

### Transport:

- Promoting transport efficiency, including improving the western rail service;
- Reducing travel demand and improving energy efficiency of the urban form.

### Environment:

- Protect intrinsic values of natural resources;
- Protects riparian margins;
- Maintains or enhances water quality;
- Protects resources, amenity and landscape values from regionally significant effects;
- Achieve high standards of amenity in areas of new development, and in particular the use of open space as buffers to rural character and for improving urban amenity;
- Maintain and enhance overall environmental quality.

### Community:

- Kaitiaki involvement in the management of natural and physical resources;
- Affected parties consulted appropriately;
- Certainty of outcomes;
- Provision of appropriate community services and facilities, including open space.

## DUTY TO CONSIDER ALTERNATIVES

In order to satisfy the requirement of S32 to consider alternatives, a decision needs to be made on what these potential alternative(s) are. An assessment of the costs and benefits of moving the Metropolitan Urban Limits, and alternative approaches, needs to consider the future land use that will arise, so it is necessary to identify the appropriate alternative land use(s) for comparison. The development of the Babich Concept Plan involved extensive analysis of the appropriate land use pattern in the subject area, including considering a number of alternatives ranging from large lots to intensive residential settlement. Accordingly, the pattern of land use set out in the final version of the Babich Concept Plan is considered to strike an appropriate balance between the need to provide for residential development and the environmental constraints and opportunities of the site.

The S32 analysis thus is based on a comparison between the effects of the Babich Concept Plan, and the alternative of not moving the Metropolitan Urban Limits with no change to the District Plan provisions i.e. the status quo. It is important to note that maintenance of the status quo planning situation may still result in land use changes provided for under the current provisions.

## **DISCUSSION OF EVALUATION**

A24-A29

Tables setting out the assessment of these two alternatives are attached at pages A24 to A29. A summary of the conclusions drawn from this analysis is presented here.

The most critical issues associated with movement of the Metropolitan Urban Limits for the Auckland Regional Council are likely to be those to do with the integrity of the Metropolitan Urban Limits as a planning tool to contain urban growth and encourage intensification, and the density of residential development that results.

## **URBAN FORM AND GROWTH MANAGEMENT**

### **Integrity of the Metropolitan Urban Limits and Encouraging Intensification**

#### Babich Concept Plan area included within the Metropolitan Urban Limits

The conclusion in the analysis is that moving the Metropolitan Urban Limits to accommodate the development set out in the Babich Concept Plan would not undermine the effectiveness of the Metropolitan Urban Limits. Inclusion of the subject area within the Metropolitan Urban Limits has been signalled as appropriate in the Northern and Western Sector Agreement since 2001, and thus could not be said to be outside the strategic context. Moreover, urbanisation of this area has been identified as potentially appropriate for a number of years, and parts of the subject area have been within the urban area in the past. Indeed, there is a strong expectation in the community that this area will be urbanised, and the Waitakere City Council is not aware of any opposition to this prospect. It is not considered necessary to assess the entire length of the Metropolitan Urban Limits in the west in order to justify this rather small movement in the Metropolitan Urban Limits.

While the proposal would provide for development of a greenfields site, as opposed to intensifying residential development within the existing urban area, the regional approach envisages a combination of intensification and the development of greenfields sites. The area has been identified as being suitable for urbanisation, and plays an important role in Waitakere City realising its greenfield development targets outlined in the sector agreement.

Another potential issue identified by Auckland Regional Council staff is the proposed location of the Metropolitan Urban Limits at Tasman Avenue. While this location would mean that the majority of the remainder of the Paremuka catchment would be within the Metropolitan Urban Limits, an area of approximately 40ha would remain outside the urban area. The concern expressed by Auckland Regional Council staff is that there may be a further application to move the Metropolitan Urban Limits to accommodate this area in the future, and that the statutory process for this to happen could open up the Metropolitan Urban Limits to further challenge. This area is covered by two of the outstanding appeals to the District Plan, but was not considered for inclusion in the Babich Concept Plan. A decision to exclude this area was made with the signing of the Memorandum of Understanding between all parties to the appeal (including the Auckland Regional Council) in 2000, which specifically identified that the area north of Tasman Ave only was to be considered for development via the Babich Concept Plan.

This decision was made partly on the basis of the interest of the landowner parties to the appeal (who all own land north of Tasman Avenue), and partly because of historic concerns about geotechnical issues. Subsequent investigation has identified that there are indeed some geotechnical issues, particularly towards the top of the catchment, and also that there are likely to be some stormwater management issues that would make more intensive development in this area problematic. There are potentially arguments in favour of its inclusion, particularly around landscape, and the desirability of considering catchments on a holistic basis. However, extensive studies would be needed before a decision on this could be made, and the Waitakere City Council has not done sufficient investigation to identify conclusively whether or not this area should also be within the Metropolitan Urban Limits. It is not considered necessary or desirable to hold up progressing the development indicated in the Babich Concept Plan while these further investigations are carried out.

#### Babich Concept Plan area not included within the Metropolitan Urban Limits

While maintenance of the status quo would not expose the Metropolitan Urban Limits to any immediate pressure, it is considered that in the long term the developed nature of the rest of the catchment would lead to significant pressure for non-complying subdivisions at densities not appropriate outside the urban limits. This in itself could potentially undermine the integrity of the Metropolitan Urban Limits.

#### **Density of Residential Development**

#### Babich Concept Plan area included within the Metropolitan Urban Limits

Increasing the density of residential areas is a key feature of regional growth management strategies, and the Auckland Regional Policy Statement specifically identifies the need for higher densities in areas of new development (Policy 2.6.1.2(ii)), where this is consistent with sustainable management. The Babich Concept Plan as it is to be incorporated into the District Plan provides for a range of densities ranging from conventional residential up to large lot residential. Higher densities are not proposed, in part because of the legal scope of the District Plan appeals for which these provisions have been developed, but mainly because of the environmental constraints of the site, and in particular the potential for adverse effects on the streams in the area. These include the only remaining first and second order streams in all of the Paremuka catchment above the Paremuka Pond, which are known to be important habitats for the native fish that are found here. Sustainable management of the natural and physical resources of the area is the overarching requirement of any development. It is considered that the mix of lot sizes proposed strike an appropriate balance between facilitating development, and avoiding, remedying or mitigating adverse environmental effects. Further studies may identify that higher densities may be able to be achieved on some of the flatter land away from streams, and this is provided for as a Discretionary Activity (as provided for under the District Plan Living Environment Rules).

#### Babich Concept Plan area not included within the Metropolitan Urban Limits

If the Metropolitan Urban Limits is not moved, the densities achieved will be determined by the 4ha minimum lot size provisions of the Foothills Environment - ie. little provision for accommodating further growth. Potentially, the area could be included within the Metropolitan Urban Limits in the future. It is possible that some of the environmental constraints associated with the area, such as stormwater, could be overcome through the use of technologies not yet available, meaning that a higher density could be achieved. However, it is unlikely that higher densities would be possible without significant impacts on the ecological and amenity values of the streams. As discussed above, the Waitakere City Council considers the stream protection focus embodied in the concept plan to be the appropriate approach to sustainable management of the area.

## TRANSPORT

### Babich Concept Plan area included within the Metropolitan Urban Limits

The analysis identifies that development of the Babich Concept Plan area would support the western rail line, as well as providing a more efficient roading network, and new pedestrian linkages. The conclusion drawn is that the proposal would promote sustainable transport patterns, in line with the regional strategic approach.

### Babich Concept Plan area not included within the Metropolitan Urban Limits

No progress towards sustainable transport modes, as the pattern of settlement resulting will be of low density, with subdivision occurring in an ad hoc way.

## ENVIRONMENT

### Babich Concept Plan area included within the Metropolitan Urban Limits

The conclusion drawn from the analysis of the proposal against strategic environmental concerns is that it would not give rise to significant adverse effects, and would promote the restoration and enhancement of natural resources as well as achieving high standards of amenity. Although part of the Foothills Environment, the current landscape and amenity values of the area have been identified as generally low, and from a landscape perspective, at least, movement of the Metropolitan Urban Limits to Simpson Road is considered appropriate. The Waitakere City Council considers the Paremuka catchment above the Paremuka Pond to be a key Green Network area, and protection and enhancement of the ecological and amenity values here is a focus of the Babich Concept Plan. This protection and enhancement is unlikely to arise without significant development here (or indeed if higher densities were achieved).

### Babich Concept Plan area not included within the Metropolitan Urban Limits

No significant improvement in ecological or amenity values.

## COMMUNITY

### Babich Concept Plan area included within the Metropolitan Urban Limits

The Babich Concept Plan has been developed in conjunction with Te Kawerau a Maki and Ngati Whatua, and there has been extensive public consultation around the Babich Concept Plan. The Waitakere City Council is not aware of any opposition to including the area within the Metropolitan Urban Limits, and is confident it has consulted widely enough to be assured that none is likely to arise. The Babich Concept Plan has been in existence since 2000, and there is good understanding as to the nature of development likely to arise. Moreover, the existence of the Babich Concept Plan gives a high certainty of outcome as to the nature of the development that will occur should the area come within the Metropolitan Urban Limits.

The Waitakere City Council has also consulted extensively residents and school children in the area as to what community services and facilities would be needed to support it. One of the outcomes of this consultation was a commitment by the Waitakere City Council to establish a new community house in the nearby Summerlands area, construction of which is likely to start around March 2005. The Babich Concept Plan also provides for extension of the Paremuka Esplanade Reserve, as well as several local reserves, and reserves around the remaining streams.

### Babich Concept Plan area not included within the Metropolitan Urban Limits

As indicated, there is support for the Babich Concept Plan from both iwi with manuwhenua here, as well as amongst the wider community. To not proceed is not consistent with this support. While the Summerlands Community House is likely to proceed regardless of the outcomes in the Babich Concept Plan area, none of the reserves would be achieved. There will be no certainty as to the nature of future development of the area.

### **CONCLUSIONS OF SECTION 32 ANALYSIS**

It is considered that the Section 32 analysis outlined above has demonstrated that movement of the Metropolitan Urban Limits to accommodate development of the Babich Concept Plan can be supported within the regional strategic context as a measure that will promote strategic objectives. An analysis of the most viable alternative - retention of the status quo - identifies that to not proceed with the proposal at this stage will have neutral to negative effects on the regional strategic objectives around growth management, transport, the environment, and the community.

### **PROPOSED DISTRICT PLAN PROVISIONS**

Implementation of the Babich Concept Plan involves the development of a number of District Plan provisions, summarised as follows:

- New policy under Objective 1 - Water identifying the Paremuka Stream as a key Green Network area, and setting out that all new developments must have a stream protection focus, and in particular the inappropriateness of any stream piping;
- Addition of comments to the explanation of Policies 5.3 and 5.4 regarding the promotion of ecological linkages in the Green Network and on public land. (Objective 5 - Ecosystem Stability);
- Addition of comments to the explanation of Policy 10.19 regarding the management of contaminated sites in the Babich Concept Plan Area. (Objective 10 - Health and Safety);
- In Part 6 Explanation of the Strategic Direction under 6.2.2 Peripheral Urban Growth, under a new Babich Concept Plan heading discussion of the strategic and local context of the Babich Concept Plan, and setting out the stream protection focus here;
- Identification of appropriate Living Environments and associated provisions;
- 50m esplanade reserve along Paremuka Stream, and 20 metre riparian margins on all remaining water courses;
- A number of local reserves;
- Registration of contaminated sites on Council's databases (completed) and amendment of assessment criteria 2(b) of the Contaminated Sites Rule 2 to reflect the remediation requirements of the Auckland Regional Council;
- Inclusion in the Special Area rules new rules for each special area (Winery and Outdoor Health Club Special Areas);
- All necessary amendments to the Human Environment and Natural Area maps to reflect above;
- Inclusion of a Babich Concept Plan Map setting out all relevant features, such as areas to be included in reserves (including proposed 50m esplanade reserves through the special areas, in anticipation of future urbanisation here) and identified roading requirements.

These provisions can be incorporated into the District Plan via a consent order when/if the movement of the Metropolitan Urban Limits has occurred.

## RESOURCES

The application to the Auckland Regional Council to move the Metropolitan Urban Limits and the settling of the District Plan Appeals are resourced in the current financial year.

## CONCLUSION

The substance of a section 32 analysis supporting movement of the Metropolitan Urban Limits to include the Babich Concept Plan area within the Metropolitan Urban Limits is presented, and the conclusion drawn is that the move can be appropriately supported through this analysis. A summary of the District Plan provisions required to implement the Babich Concept Plan is also presented.

## RECOMMENDATIONS

1. That the information be received.
2. That the Environmental Management Committee approve in principal the contents of an application to the Auckland Regional Council to amend the Regional Policy Statement by moving the Metropolitan Urban Limits to accommodate the Babich Concept Plan area within the urban limits, as outlined in this report.
3. That the Environmental Management Committee approve in principal the District Plan provisions required to give effect to the Babich Concept Plan, as outlined in this report.
4. That the Environmental Management Committee give delegated authority to the Committee chairperson to give final approval of the application to the Auckland Regional Council to amend the Regional Policy Statement by moving the Metropolitan Urban Limits to accommodate the Babich Concept Plan within the urban limits.

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



## 9 DISTRICT PLAN - PENIHANA APPEAL RMA 710/98

### PURPOSE OF THE REPORT

This report updates the Committee on the District Plan Appeal concerning the Penihana issue.

### BACKGROUND

This matter concerns the Penihana district plan appeal seeking the reidentification of land at Swanson from Foothills Environment to Living Environment or Rural Villages Environment. The appellant is the owner of about half of the land concerned, Neil Construction Limited.

The Committee will recall that in September 2003 the Penihana mediation ended without an agreement being reached between the parties. Subsequent to a Judicial Conference before the Environment Court it was considered there may be some possibility of allowing the appeals to be adjourned for a period of two years to allow Council to conduct a number of strategic studies. Council initially supported this position. However an adjournment was not supported by other parties to the appeals.

It had become evident throughout the process that all of the Swanson community groups, even though having sometimes different perspectives on the best processes, had a common concern about achieving best possible outcomes for the future of this important part of Swanson. There was a real concern amongst all community groups that the appeals should not be adjourned as it was felt this would place undue pressure on the outcomes and timing of the strategic studies required. Some of those studies could take longer than two years and there is no guarantee that the outcome would result in any early change to allow urban development on the Penihana land. This is important, as it is Council's position that a change to the Metropolitan Urban Limit line in the Auckland Regional Policy Statement would be necessary to accommodate urban development at Penihana.

This issue was considered again at a Special Meeting of this Committee on 22 October 2003. The Committee resolved as follows:

- "2. *That Council inform the Environment Court and all other parties that, after reconsidering the Penihana appeal issues, it has been concluded that it is not appropriate for Council to be bound by time constraints relating to future planning for the land. The reasons for this are:*
- *The Penihana land is in a very sensitive position geographically having regard to the threat of short term processes leading to urban development, which may affect the integrity of the foothills and Waitakere Ranges. The future resource management framework for the Penihana land therefore needs to be considered subsequent to firm conclusions being reached on future planning for the foothills and Ranges as a whole.*
  - *Council's urban growth planning is very much focussed on consolidating development within current urban boundaries. While possible future urban growth development areas have been identified, not all of those areas will be developed at once. Some areas may be better deferred until much later than previously indicated.*
  - *While Council's planning processes cannot be dictated by any particular viewpoint, there is a level of community concern regarding development of the Penihana land which indicates, in the least, that the time may not be right for development of this land for urban purposes. The land is not needed to accommodate the city's growth in the short term, and a better outcome may be achieved by deferring further consideration until later in the planning period.*
  - *Strategic studies will continue, and will firm up Council's intentions in respect of the Penihana land. That may result in further plan changes being initiated. However, in the meantime it is considered preferable not to allow those planning processes to be compromised by outstanding references (appeals).*
  - *These are issues of such significance that Council considers it should not be bound to even a two year timeframe.*
3. *That Council now seek a Court determination that the Penihana references are not able to be pursued to a substantive hearing, insofar as they seek urban development contrary to the metropolitan urban limit provisions of the Auckland Regional Policy Statement."*

3030/2003

It was understood that, as Council was not willing to be bound by any particular timeframe, the option of adjourning the appeals for a defined period was not available. This raised the issue of whether the appeals could in fact be pursued if there was no change to the Metropolitan Urban Limit. The expectation of Council was that this would be a legal issue that would need to be determined by the Court.

A30-A31 Following the Committee resolution all of the appeal parties were advised of Council's position and a memorandum was filed with the Court. That memorandum is attached at pages A30 to A31. It requests that the Court determine the jurisdictional issue relating to the Metropolitan Urban Limits.

The appellant was concerned about Council's change of position and requested a further Judicial Conference. That Conference was held on 19 January 2004 before Judge Whiting.

A32-A34 A Minute of the Court, dated 21 January, was then issued, and is attached at pages A32 to A34.

The Minute did not agree to Council's request for a jurisdictional hearing. It adjourned the appeals sine die (ie. not for any definite time), but gave the Council or any other party a seven day opportunity to apply for a strike out.

### **ISSUES**

It was the clear intention of the Committee's October resolution that the appeal seeking Living Environment or Rural Villages Environment should not be adjourned. As the only other option given in the Court Minute is an application for strike out, that is the only option available to achieve Council's wishes. After discussion with the Committee Chair, an application for strike out of appeal RMA 710/98 was prepared, and filed on January 27 2004. The strike out application has been made on the basis that the type of development possible under the requested Living or Rural Villages Environment would be "urban development", which is not permitted by the Auckland Regional Policy Statement outside the Metropolitan Urban Limits. As the Resource Management Act does not allow a district plan to conflict with a regional policy statement the appeal could not legally be allowed and should therefore be struck out.

The Court Minute advises that, if a strike out application was to be made, then it would be heard on 23 February 2004. Council will present submissions in support for its position for strike out at that time.

So that Council's position is quite clear, a resolution is sought from this Committee confirming the request for a strike out of the appeal.

### **CONCLUSION**

The Environment Court has indicated that it will adjourn the Neil Construction Limited appeal which seeks a Living Environment or Rural Villages Environment for the Penihana land at Swanson. The Committee resolved in October 2003 that an adjournment was not appropriate. An application has therefore been made within the time limit set by the Court, for Appeal RMA 710/98 to be struck out.

### **RECOMMENDATIONS**

1. That the information be received.
2. That the Committee confirm the application to the Environment Court to strike out the Neil Construction reference RMA 710/98.

Report prepared by: Peter Reaburn, District Plan Co-ordinator (Acting).



## **PART V - ENVIRONMENTAL MANAGEMENT**

### **10 PAINTED APPLE MOTH UPDATE REPORT**

#### **PURPOSE OF THE REPORT**

A35 The purpose of this report is to present the twenty first of the monthly Painted Apple Moth update reports from the Ministry of Agriculture and Forestry, as requested by the Council at its meeting of 17 August 2001. The Ministry of Agriculture and Forestry report is attached at page A35. Additional information on the painted apple moth eradication programme is also presented here.

#### **BACKGROUND**

Nine targeted aerial sprays against painted apple moth were completed over the period January to September 2002. A combination of a fixed wing aircraft and a helicopter sprayed up to 900 hectares.

Eleven expanded aerial spray rounds were completed over the period from October 2002 to May 2003. Three aircraft - a Fokker Friendship, an air tractor and a helicopter - have been used to spray up to 10,300 hectares.

The winter operation, from June to September 2003, has included targeted aerial spraying over five known hotspot areas; Ranui/Swanson, Riverpark, Waikumete Cemetery, Hobsonville and Meola Creek. The air tractor or air tractor plus helicopter were used to cover the 892 hectares of the aerial spray operation.

The spring operation involved two expanded aerial spray rounds of 6,500 hectares. Three aircraft - a Fokker Friendship, an air tractor and a helicopter - were used on 21 to 22 October and the second aerial spray round which was split over 11 and 19 November 2003. Aircraft have suspended spraying at 8.00 am - 9.00 am, 12.15 pm - 1.00 pm and 3.00 pm - 4.00 pm when children were walking to and from school and eating lunch, except over the school holiday period.

#### **STRATEGIC CONTEXT**

The Ministry of Agriculture and Forestry has an obligation to do all that is required in terms of its legal responsibilities under the Biosecurity Act 1993. Council has encouraged and facilitated this where possible.

Council has an obligation to protect native ecosystems, native flora and fauna habitat and the ecological processes associated with these systems both under the Resource Management Act 1991 and under the District Plan issues 5.2 and 5.5. Equally, Council has an obligation to protect and represent the residents of Waitakere City.

#### **ISSUES**

##### **Current Aerial Spray Programme**

A36-A37 The summer operation commenced on 1 December 2003 and involves a 21 day aerial spraying cycle of 892 hectares over Waikumete Cemetery, Hobsonville, Ranui/Swanson and Riverpark in Waitakere City and Meola Creek in Auckland City, as attached at pages A36 to A37 for the aerial spray zones). The air tractor and the helicopter has been used for these operations whilst the use of the Fokker Friendship is no longer required.

Riverpark and Ranui/Swanson will receive a 10 day targeted helicopter aerial spray of 56 hectares between each scheduled 21 day aerial spray cycle.

Aircraft will continue to suspend spraying at 8.00 am - 9.00 am, 12.15 pm - 1.00 pm and 3.00 pm - 4.00 pm when children are walking to and from school and eating lunch, except over the school holiday period. In addition, the Ministry of Agriculture and Forestry has undertaken not to aerially spray on the following dates; 25 and 26 December 2003, 1 to 3 January, 26 January and 6 February 2004.

The next targeted helicopter operation of 56 hectares is scheduled for 10 February and the next general aerial operation is scheduled for 18 February 2004, weather permitting.

### **Moth Trap Catches**

One feral male painted apple moth was caught in January 2004 in Mt Eden. This is the first wild moth trapped since May 2003. Additional traps have been set up in the area to determine whether a population exists and a ground survey has been initiated.

The trapping grid will continue for two years after the last wild male moth is caught.

### **Sterile Male Moths**

Releases of sterile male moths at three hotspot sites continue as part of the eradication programme. The frequency of releases has increased from weekly to twice weekly releases.

### **Contents of the Aerial Spray Foray 48b**

Previous attempts by Council and the community to have the ingredients of the aerial spray, Foray 48b, released to the public have been denied by the Ministry of Agriculture and Forestry on the basis of commercial sensitivity of the product.

Council has requested the release of the ingredients to nominated health professionals and Council staff in order for Council to discharge its statutory duty under the Health Act. To date the Ombudsman's office has not yet made a final recommendation. The Ombudsman is communicating with the manufacturer, Valent Biosciences, in the United States of America to have the ingredients released to a Council nominated health professional.

### **Wellington School of Medicine Health Study**

The Ministry of Health has contracted the Wellington School of Medicine to undertake a review of health issues related to the aerial spraying of Foray 48b in Auckland. The review includes:

- An analysis of existing scientific information about the potential health effects of the spray;
- A summary of consultation with stakeholders and members of the public; and
- Recommendations for further study.

A draft focus group report has been prepared. At the time this report was written no date for the release of the final report had been provided to Council.

### **Pheromone Testing**

Dr John Clearwater has developed a pheromone for painted apple moth. Dr Clearwater and his team went to Australia in December 2003 to test the pheromone on wild moths and have reported extremely successful trials. Dr Clearwater and Vigil, part of Forest Research, are currently putting a collaborative proposal together to present to the Ministry of Agriculture and Forestry.

HortResearch have also developed a pheromone and have various trials underway.

### **Future Operations**

The Scientific and Technical Advisory Group is scheduled to meet at the end of February 2004 to discuss the next steps in the painted apple moth eradication programme including the cessation of part, or all, of the aerial spray programme.

### **RESOURCES**

It is not expected that Council will put any additional financial resources into the eradication operation as it is a matter of national biosecurity and is under the jurisdiction of the Ministry of Agriculture and Forestry through the Biosecurity Act 1993. Council has made provisions in the 2003/2004 Annual Plan for some revegetation of Council land where host removal work has been undertaken by the Ministry of Agriculture and Forestry.

### **CONCLUSION**

The aerial spray programme has been reduced to a 10 day targeted helicopter aerial spray of 56 hectares between each scheduled 21 day aerial spray cycle over 892 hectares. Sterile male moths continue to be released as part of the eradication programme. A single wild male moth was caught in Mt Eden in January 2004. Additional traps have been put out and a ground survey initiated. Pheromone development is progressing well.

### **RECOMMENDATION**

That the Painted Apple Moth Update report be received.

Report prepared by: Kerry Bodmin, Parks Ecology and Policy Co-ordinator.



11 **AGENDA REPORT FOR HEARING FOR PROPOSED PLAN CHANGE 9 -  
RE-IDENTIFICATION OF 335 WEST COAST ROAD IN GLEN EDEN FROM OPEN  
SPACE ENVIRONMENT TO WORKING ENVIRONMENT**

**PURPOSE OF THE REPORT**

A38-A53

The purpose of this report is to seek the Environmental Management Committee's approval of Proposed Plan Change 9. This Proposed Plan Change relates to the site at 335 West Coast Road, Glen Eden (legally described as Lot 1 DP 20028 comprising 1.6061ha and Lot 1 DP 199170 comprising 6063m<sup>2</sup>) from Open Space Environment to Working Environment and to remove the Restoration Natural Area and replace it with General Natural Area. The Proposed Plan Change involves a change to the Human Environments and Natural Areas, a full report and maps are attached at pages A38 to A53. (The Proposed Plan Change affects Map 215 Parrs Park and Map 32 Sunnyvale.)

The Proposed Plan Change has arisen as the subject land was mistakenly identified as Open Space Environment at the time the District Plan was first notified in 1995. The Open Space Environment only applies to publicly owned land that is vested as reserve or held as a reserve in accordance with provisions such as the Reserves Act 1977 or the Centennial Memorial Park (Auckland Regional Council Parkland). The incorrect classification of the land came to the Council's attention about two years ago. However, the re-identification was postponed until after the District Plan was made operative in March 2003.

A supplementary report sets out the statutory requirements under the Resource Management Act 1991 and the policy framework. Furthermore, the supplementary report addresses Section 32 requirements. No submissions were received to the Proposed Plan Change.

**BACKGROUND**

The land legally described as Lot 1 DP 20028 and Lot 1 DP 199170 lies at the end of Waikaukau Road, Glen Eden between the northern bank of the Waikumete Stream and the rail corridor. It is undeveloped, and largely cleared as a result clearance by the Ministry of Agricultural and Forestry as part of the Painted Apple Moth Campaign. The southern portion of the land adjacent to the Waikumete Stream is subject to flooding. A footbridge over the Waikumete Stream connects the property to Waikaukau Road and there is also a narrow right of way on West Coast Road servicing the site.

The Committee resolved at its April 2003 meeting:

*"That the Environmental Management Committee approve the preparation of a plan change to change the Open Space Environment identification on the property to a Working Environment identification."*

782/2003

Council notified Proposed Plan Change 9 in the New Zealand Herald on 3 November 2003 and received no submissions. Therefore, further submissions were not called for.

## **STRATEGIC CONTEXT**

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 well being of the City. The Long Term Council Community Plan states that the District Plan is a strategic document and as such it should be based on the most accurate information available. In this instance, the Open Space classification of the land and Restoration Natural Area were not appropriate given that the site is privately owned and the extensive clearance that took place by Ministry of Agricultural and Forestry as part of the Painted Apple Moth Campaign.

## **ISSUES**

Changing the identification of the subject site is consistent with the policies and objectives of the District Plan and would ensure that the District Plan maps accurately reflect an appropriate Human and Natural Areas identification of the land.

The Proposed Plan Change will enable the land to be used efficiently. Given its current Open Space classification any activity apart from restoration planting or constructing tracks and trails would require resource consent. This means that the landowner would be unlikely to develop the site without a Plan Change due to the costs of compliance in obtaining resource consents. The Working Environment status would enable the site to be used for industrial purposes as of right or to be developed for residential use subject to a resource consent application.

A38-A53

A full discussion is attached in the Hearing report of statutory requirements and discussion, as attached at pages A38 to A53.

## **RESOURCES**

No additional resources are required as staff preparation and processing time and associated advertising costs to complete the Proposed Plan Change are covered in the existing budget.

## **CONCLUSION**

The Proposed Plan Change seeks to re-identify land at 335 West Coast Road from Open Space Environment to Working Environment and to change the Restoration natural Area to General Natural Area, this reflecting the large scale clearance that has occurred. The changes to the District Plan only involve the Human Environment and Natural Areas Maps.

The Proposed Plan Change would enable the Council to manage its land resources efficiently by providing opportunities for local employment and industry to consolidate Glen Eden. The Proposed Plan Change meets the purpose of the Act by allowing sustainable management of natural and physical resources. The Proposed Plan Change is consistent with regional planning documents and the policies and objectives of this City's District Plan.

### **RECOMMENDATIONS**

- A38-A53
1. That the information be received.
  2. That pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee approve Proposed Plan Change 9 to the Waitakere City District Plan to re-identify 335 West Coast Road, Glen Eden (legally described as Lot 1 DP 20028 and Lot 1 DP 199170) from Open Space Environment to Working Environment and to replace the Restoration Natural Area with General Natural Area as attached at pages A38 to A53.
  3. That a decision notice stating approval of Plan Change 9 be publicly advertised on or about Monday, 16 February 2004.
  4. That, Plan Change 9 be publicly advertised as being fully operative on or about Monday, 16 February 2004.

Report prepared by: Alina Hughes, Planner: Policy Implementation.



## **12 UPDATE ON 1 RANGIWAI ROAD, TITIRANGI**

### **PURPOSE OF THE REPORT**

The purpose of this report is to seek approval to notify a proposed Plan Change to re-identify 1 Rangiwai Road, legally described as Lot 4 DP 191856 from Open Space to Bush Living Environment and to list the dwelling as a Category II heritage item in the District Plan.

### **BACKGROUND**

The Environmental Management Committee considered a report on 1 Rangiwai Road, Titirangi in September 2003, which coincided with a report prepared for the City Development Committee on parking options for Titirangi.

- “1. That the information be received.
2. That the proposed plan change to re-identify 1 Rangiwai Road be put on hold until the Chief Executive has reported back to the City Development Committee on future options for the land.”

1886/2003

In February 1999, as part of the 1999-2000 Annual Plan process, Council passed the following resolution:

- “2. That funding of \$12,500 be added to the 1999/2000 Annual Plan to progress the relocation of the Titirangi Community House operations and that it be funded from the sale of the house.”

1585/99

As the building is no longer used as a community facility, it is, now surplus to the Council's requirements.

*“That the City Development Committee approves the following resolution of the New Lynn Community Board, reproduced as follows:*

*“That the information and proposed recommendations be referred to the City Development Committee for its consideration along with answers by Mr Hill to the questions raised by the Titirangi Village Business Association representatives:*

1. *That approval be given to apply for resource consents required to establish 6 additional parking spaces in the Titirangi War Memorial car park subject to the City Development Committee's approval of this proposal.*
2. *That the recommendations a) to e) below be endorsed for consideration and resolution by the City Development Committee:*
  - a) *That the Chief Executive be authorised to negotiate and execute agreement with Mrs Rotondo for the provision of and operation of parking within her proposed development of the sites on the south-eastern corner of the Titirangi Road/South Titirangi Road intersection, with the objective of achieving at least 20 extra public parking spaces, these being in addition to the 18 public and other private parking spaces required for planning consent, and 20 parking spaces required by the existing development.*
  - b) *That consideration be given in the 2004/2005 Annual Plan to providing for the net cost to Council of the additional 20 public parking spaces referred to in (a) above.*
  - c) *That consideration be given in the 2004/2005 Annual Plan to providing \$55,000 for the development of 6 additional parking spaces within the War Memorial car Park at ground level and abutting the South Titirangi Road boundary just north of the existing entrance.*
  - d) *That the consideration be given to the next Long Term Council Community Plan review to providing \$250,000 for traffic management improvements in Titirangi Village.*
  - e) ***That before the implementation of Council Resolution 1585/199 and 2068/2002(2) the Chief Executive urgently report back to the City Development Committee on whether 1 Rangiwai Road should be land-banked for future resale or for future public car parking including park-and-ride commuter parking, and if 1 Rangiwai Road is to be land-banked, whether the zoning of the site should be changed from 'Open Space' to 'Bush Living'.***

1576/2003

The City Development Committee later considered an item on future land use options for the site at its December meeting last year. The Committee resolved:

1. *That the information be received.*
2. *That the Council resolve that the option of “landbanking” the property at 1 Rangiwai Road with a view to developing a future car parking building on it, is not an appropriate use of the land and should not be pursued.*
3. *That a report be prepared for the February 2004 meeting of the Environmental Management Committee on the merits of re-identifying the site as Bush Living Environment and listing the dwelling as a Category II heritage item in the District Plan with a view to notifying a proposed plan change in March/April 2004.”*

4264/2003

*“That options for the future use for 1 Rangiwai Road be further investigated and a report be brought back to the draft Annual Plan 2004/2005.”*

4264/2003

## STRATEGIC CONTEXT

The Long Term Council Community Plan seeks to protect and celebrate the City's cultural diversity and heritage by working in partnership with the many cultures of the City. The District Plan aims to protect all kinds of heritage in the City. Buildings and other structures are vulnerable to complete removal as landowners seek to release sites for other uses. Within Waitakere City there is some impact from expansion of commercial and retail activities around the town centres, as older, mainly residential buildings are replaced by new commercial ventures. The Long Term Council Community Plan also seeks to encourage social, economic and cultural vibrancy in our town centres.

## ISSUES

### District Plan Policy Framework and Rules

The site is a corner parcel of land of 2,530m<sup>2</sup> and has a small area of lawn but is largely native bush. The site was zoned Recreation 4 Zone (Community Purpose) under the Waitemata District Plan and that zoning was characterised by typically small sites with community facilities. A wide range of social, service and welfare uses were permitted in Recreation 4 zones, including marae and certain educational type institutions. It appears that the site was later identified as Open Space Environment under the Proposed District Plan as this was the nearest equivalent. However, the subject land does not meet the requirements of the Policies of the District Plan relating to Open Space.

Policy 10.7 relating to the Open Space Environment states:

*“New public and semi-public spaces should be designed in a way that ensures the safety of all users and, in particular, should provide for:*

- *Overlooking (surveillance) of public and semi-public spaces from surrounding buildings during the day and where possible at night;*
- *Direct and efficient movement routes through such spaces;*
- *Adequate signage indicating connections with other routes, and the location of the space within the surrounding area for public reserves, walkways, and within Community Environments;*
- *Adequate lighting;*
- *Integration of pedestrian systems with vehicle routes;*
- *The minimisation of any physical barrier to the reasonable movement of people within any public space.”*

The District Plan describes the Open Space Environment as “areas of publicly owned open space ranging from the large park areas in the Waitakere Ranges to the small local parks in the urban area.” The site has a house located on it up a steep driveway and does not function effectively as an area of public open space. The site layout does not fulfil many of the design criteria outlined in policy 10.7 particularly with regard to direct and efficient movement routes through such spaces, overlooking, and integration of pedestrian systems with vehicle routes. The rules in the Open Space Environment have been designed to reflect the City's recreation strategies and Reserve Management Plans. Where there is no Reserve Management Plan for a reserve or public open space, as in this case, all buildings are deemed to be a non-complying activity under the rules of the Open Space Environment.

The Bush Living Environment includes those intensively settled areas within the Waitakere Ranges, where natural features dominate, but settlement has substantially fragmented the bush. A partly residential but, nonetheless, "non-urban" character predominates as a result. The development controls limit a range of effects such as building coverage, yards, building height, residential density. The site could not be subdivided easily as the rules require at least 4,000m<sup>2</sup> over the entire parent site with a minimum net site area of 2,000m<sup>2</sup> for each proposed site provided that the building platform is an existing cleared area.

## STATUTORY CONSIDERATIONS

### District Plan Changes

Section 73 of the Resource Management Act 1991 provides for changes to the District Plans. The first Schedule of the Act sets out the process, which must be followed for plan changes. The Council must have regard to Section 74, matters to be considered by territorial authority:

- "(1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part II, its duty under section 32 and any regulations.*
- (2) In addition to the requirements of section 75(2), when preparing or changing a district plan, a territorial authority shall have regard to -*
  - [(a) Any-*
    - (i) Proposed regional policy statement; or*
    - (ii) Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part IV; and]*
  - (b) Any-*
    - (i) Management plans and strategies prepared under other Acts; and*
    - (ii) Relevant planning document recognised by an iwi authority affected by the district plan; and*
    - [(iia) Relevant entry in the Historic Places Register; and]*  
*sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing)],-*  
*to the extent that their context has a bearing on resource management issues of the district; and*
  - (c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*
- [(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition.]*

Section 5 of the Act sets out its purpose as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-*
  - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Environment is defined in Section 2 of the Act as follows:

*"Environment" includes-*

- (a) *Ecosystems and their constituent parts, including people and communities; and*
- (b) *All natural and physical resources; and*
- (c) *Amenity values; and*
- (d) *The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters".*

Section 31 of the Act sets out Council's functions and in summary this function is the control of actual or potential effects of the use, development or protection of land and associated natural and physical resources in order to achieve the purpose of the Act. Council is to establish, implement and review objectives, policies and methods to achieve this and can also include rules which prohibit, regulate or allow activities. The District Plan is a tool to assist the Council in achieving its function.

Before adopting an objective, policy or rule or other method in the District Plan an assessment under Section 32 of the Resource Management Act must be carried out.

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

### **Section 32 Analysis**

Section 32 (3-6) of the Act states that:

- (3) *An evaluation must examine-*
  - (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
  - (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

- (4) *For the purposes of this examination, an evaluation must take into account-*
  - (a) *the benefits and costs of policies, rules, or other methods;*
  - and*
  - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- (5) *The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
- (6) *The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made."*

In summary, Section 32 of the Resource Management Act 1991 requires a rigorous test to ensure that before any objective, policy, rule or other method is adopted, a local authority has had regard to:

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

The extent to which the Proposed Plan Change is the most appropriate way to achieving the purpose of the Act.

The purpose of the Act as outlined in Part II is to promote the sustainable management of natural and physical resources as defined in the Act. The Resource Management Amendment Act 2003 has elevated heritage to a matter of national importance. Section 6(f) states:

- (f) *the protection of historic heritage from inappropriate subdivision, use and development."*

Section 7 requires Council to have particular regard to the efficient use and development of natural and physical resources, maintenance and enhancement of amenity values and any finite characteristics of natural and physical resources. If the property were to be sold it would require a change in identification to be in accordance with the Bush Living Environment identification of surrounding land and protection of particular heritage aspects of the existing dwelling. This would ensure that any residential use of the land would be in character with its surroundings and consistent with the purpose of the Act. The proposed change would protect and enhance the existing amenity values by enabling the site to be used efficiently for a low-scale residential purpose that is appropriate in the neighbourhood context.

The Council has commissioned a heritage assessment of the site by Dinah Holman. Henry Atkinson purchased the property in August 1945. It is one of the few houses left in existence designed by Tibor Donner, a Hungarian from the modernist school of architecture. Tibor Donner is well-known as a modernist architect whose main works include the Parnell Baths and Auckland City Council's, Civic Centre in Greys Avenue Auckland.

The house was originally built for the Atkinson family, who lived in it from 1946-7 until 1967. Harry Atkinson commissioned Tibor Donner to design the house. The dwelling was designed for the sun and views to the south over the Manukau Harbour and to the east and north over Titirangi. The open plan design worked well for the family and the living room could accommodate up to 100 people. The house at 1 Rangiwai Road, featured in the New Zealand Arts Yearbook 1946.

After the house was sold by the family to the Waitemata County Council in 1967, it was used as an office administration centre by the Council. However, in 1978, the County Council moved its district office to Henderson and the old Atkinson house became the Titirangi Community House, a function that ceased when the new Community Centre was built in 2002.

A54

An extract of the heritage assessment of the dwelling is attached at page A54. The dwelling has considerable integrity and is assessed as being in reasonable condition. The heritage consultant recommends listing it on the following grounds:

- It is a good example of domestic Modernist architecture in Auckland, there are few such buildings in Waitakere City and only a limited number in the Auckland region.
- It was designed by a noted Auckland architect, Tibor Donner, who left a very considerable architectural legacy in the Auckland area.
- The innovative design and construction methods are of considerable interest.
- The building was used by the community for many years and is valued by the community.

The heritage consultant has recommended listing the dwelling as a category II item as it is an important example of domestic architecture by Tibor Donner, although it is not his best example. The dwelling has significance in terms of its association with the Atkinson family who were early settlers in Titirangi and the building has architectural significance. There are three heritage management categories in the District Plan: Category I, II and III. Category I structures are of high value which should not be modified or only minimally, for example Lopdell House and the Glen Eden Playhouse. Category II buildings are structures of value, but where change could be considered if it is in keeping with the character. Category III items are structures of value, but where change could be considered if it is in keeping with the character. These items are good examples of their kind but there is a recognised need for flexibility in terms of management of the items.

Whether having regard to efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

- Council is required to have regard to means other than regulation, which may be used in achieving the purpose of the Act. This includes non-statutory means such as education, provision of services, incentives and levying of charges. Other means could be taking no action at all or retaining the existing rules. If the existing rules were to be retained then the purpose of the Act would not be met as it would require a non-complying resource consent for the property to be utilised for residential purposes. It is likely that such an application would need to be publicly notified thereby introducing unreasonable compliance costs. Another alternative means of achieving protection of the heritage status of the dwelling would be to register a covenant on the Certificate of Title. However, that method would not ensure that any future alterations to the building would respect the integrity of the original design. It is considered that it would be more efficient and effective for Council to appropriately re-zone the property prior to its sale and a heritage listing would ensure that any potential purchaser of the site was aware that the dwelling has heritage value.

- Leaving the site zoned Open Space would not be an efficient use of land as it would not enable any alternative use of a valuable resource without resource consent. Leaving the site as Open Space Environment with a view to developing a car park on the site would require the Council to disregard its functions under Part II of the Act of protecting historic heritage.
- If the site were to be re-zoned to Community Environment, this would effectively expand the range of commercial activities (goods and services) in the town centre. Given difficulties of access, parking, visibility and a change to neighbourhood character this option is undesirable.

Benefits and costs of the proposed Plan Change or other methods.

The Proposed Plan Change and the alternatives to the Proposed Plan Change have been identified below:

- Proposed Plan Change.
- Register covenants to protect the heritage status of the dwelling and existing open space.
- Change the Human Environment from Open Space to Community Environment and list the dwelling as a heritage item.
- Leaving the Human Environment identification as Open Space.

Reasons for and against adopting the Proposed Plan Change and the principal alternative means, cost/benefit analysis.

- The Proposed Plan Change - change the existing Open Space Environment identification to Bush Living Environment and list the dwelling as a heritage item.

Changing the identification of the subject site from Open Space Environment to Bush Living Environment can be supported by technical studies and would remove a constraint to residential use of the site. A residential land use would be sympathetic to the dominant natural and physical features of the site and surrounding village, which contribute to the amenity value and neighbourhood character of the area. The site is sufficiently close to the existing retail node in Titirangi to enable residents to walk to local shops without the need to take a car. Although it would require a plan change thereby incurring costs for Council, it would remove compliance and consent processing costs for any future purchaser and ensure that the Council as landowner achieved a fair sale price. It is likely that some commercial use of the property would be allowed to continue as an "existing use", provided that it was of the same scale, nature and intensity as the current use. This would therefore enable the property to be used for either residential use or a commercial purpose provided that the activity did not attract more vehicle trips, noise than its current use. Formal protection of the heritage aspects of the dwelling would ensure that any future modifications to the dwelling were sympathetic with the original design and should not deter prospective purchasers of the property as resource consents to alter heritage buildings are processed free of charge by Council. It is considered that the proposed plan change would enable the Council to manage its resources sustainably and efficiently. A residential use of this site would not have an adverse effect on traffic or other infrastructure as the effects would be of a lower scale to previous use of the site.

The Bush Living Environment of the District Plan would enable the natural and physical resources on 1 Rangiwai Road to be sustainably managed through the implementation of the Objectives, Policies and Rules of the Proposed District Plan. A heritage listing would also ensure that future owners are aware of the significance of the building and any modifications would have to be in keeping with the original design.

The proposed plan change is consistent with the provisions of the Regional Policy Statement to the extent that the land is already within the urban limits and the proposed re-zoning is consistent with other surrounding residential properties and will facilitate efficient provision of services through the utilisation of the existing water and wastewater services (policy 2.6.1 - Urban Growth Management).

- Retain existing classification and register covenants to protect the heritage status of the dwelling and open space around the dwelling.

This option would only partially achieve the desired outcome as a heritage covenant in itself would still require the Council to enforce it through civil litigation procedures if it was breached. The Open Space covenant would ensure that no further subdivision of the site could take place by protecting the unbuilt areas of the site. However, this method would still require any future landowner(s) to apply for resource consents to utilise the property for residential purposes. Residential housing is not compatible with the policies and objectives associated with the Open Space Environment. The Open Space zoning is only applicable to publicly owned land and as such any application for residential uses may potentially be refused. As such it would not be appropriate for Council to sell a site ostensibly for private use when the existing zoning should only be applied to publicly owned land. This option would not lead to sustainable and integrated planning for the City.

- Change the Human Environment from Open Space to Community Environment and list the dwelling as a heritage item.

This option involves changing the Human Environment from Open Space to Community Environment and listing the dwelling as a heritage item. It is considered that the cumulative effects of increased traffic generation and access and parking difficulties as a result of commercial development would not be desirable. The site has a difficult access and is able to accommodate on-site parking for only one or two vehicles at the top of the driveway. The driveway is only sufficiently wide to take one vehicle and there is no available space for a passing bay. It is also likely that any extension of the Community Environment in this locality would result in a reduction of amenity values for surrounding residents primarily through the additional traffic congestion. It is likely that the building would have to be modified extensively to suit consulting/professional offices or any other form of business and would have cumulative effects on traffic generation close to a busy intersection on Titirangi Road.

- Leaving it as Open Space.

As discussed above in relation to option 2, leaving the site as Open Space is not appropriate as it would not fulfil the objectives and policies for the Open Space Environment. The resolutions passed by Council indicate that it intends selling the property and the value of the property to a third party would be diminished if it was required to obtain a resource consent to use the site for residential purposes. It would also be an inappropriate zoning for land that is privately owned.

- The use of the subject land for residential purposes would be a non-complying activity in terms of the rules of the Open Space Environment.

The risks of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

If the Council does not proceed with the proposed Plan Change there is a risk that the Council will be forced as landowner to continue renting the site for an indefinite period and fail to re-coupe the costs of re-locating the Titirangi Community Centre last year. The proposed Plan Change is likely to be supported by residents who may prefer that the site were owned by an individual who could generally improve the house and its environs. However, the proposed Plan Change may be opposed by the Titirangi Business Association or others who may subsequently appeal any decision that does not secure this site for car parking in the future.

It is considered that there is sufficient information about the site and car parking situation in Titirangi to proceed. The proposed Plan Change should proceed on the basis that the Human Environments identification is appropriate to maintain the character of Rangiwai Road, is consistent with existing constraints on-site and would ensure that the heritage aspects of the building are listed in the District Plan.

### RESOURCES

Although this issue does not necessarily have a high strategic value, it does impact upon the Council's ability to dispose of the land in a timely manner. Any proposal for Council to dispose of this land would have to be referred to the Annual Plan process. It should be noted that the Council would need to be certain that the proposed re-zoning of the subject site was beyond challenge before a sale and purchase contract could be entered into. There are adequate resources to progress the Plan Change within existing budgets.

### CONCLUSION

- A54 Overall, it is concluded that a plan change should be undertaken to re-identify the site at 1 Rangiwai Road from Open Space to Bush Living Environment, register the dwelling as a Category II Heritage Item in the District Plan. A plan change is required to give effect to this and the Map and other changes to the District Plan are attached at page A54.

### RECOMMENDATIONS

1. That the information be received.
- A54 2. That pursuant to Clause 16A of the First Schedule to the Resource Management Act 1991, the Environmental Management Committee resolve to publicly notify Proposed Plan Change 11 to the Waitakere City District Plan to change the Human Environment identification of a property at 1 Rangiwai Road, being Lot 4 DP 191856 from Open Space Environment to Bush Living Environment and to list the dwelling on the site as a Category II building in the Heritage Appendix of the Operative District Plan, as attached at page A54.

Report prepared by: Alina Hughes, Planner: Policy Implementation.



## 13 CAR PARKING IN TOWN CENTRES

### PURPOSE OF THE REPORT

This report is to update the Environmental Management Committee on work being undertaken to review parking requirements for town centres in the District Plan.

### BACKGROUND

The parking requirements for major *community environments* in Waitakere City's District Plan were based on the holistic principle that town centre car parking need not be accommodated site-by-site, and that the demand generated by different activities can be balanced out over the whole centre. For this reason the District Plan moved to allow flexibility of occupancy by relating car parking requirements to floor space rather than the specific nature of the activity. The rate for ground-level space is 1 space per 25 sq m. For floor space at other levels it is 1 space per 35 sq m.

Nevertheless there is an awareness that the District Plan car parking rules may be more onerous and costly than necessary, and may be at variance with some of our strategic objectives. In particular, recent studies (such as the Henderson Parking Study, 2003) have indicated that - while there may be specific pressure points - centres as a whole have significant areas of under-used car parking. In some cases the need to accommodate car parking on-site has led to a compromise in the desired design outcomes and quality of the pedestrian amenity.

### STRATEGIC CONTEXT

Council's Urban & Rural Villages Strategic Platform has as a goal:

*Over half of all new housing will be in town centres or on major public transport routes.*

Actions to achieve this include:

- Continue planning to bring working, living and playing closer together.
- Ensure not only buildings, but also transport solutions, parks and footpaths, urban and rural public places support innovative city form.
- Review planning processes to support integrated planning and innovative ideas.
- Ensure planning processes support innovative housing provision

A founding principle of mixed-use urban villages is to reduce the dependency on private car travel by having more services, facilities and employment in local centres and located along public transport routes.

The District Plan policies aim to intensify urban development around town centres, encouraging a 24-hour mix of activities. In particular, the aim is to accommodate much of the new residential growth in town centres - enabling our changing population more choice of housing type, including the choice of living in locations where they can easily shop, recreate and commute to work without needing to use a car. At the same time there is a need to support public transport and to allow business redevelopment.

These objectives have since been taken up by the Regional Growth Strategy, and most recently by the Government in the policy changes it has asked for to support its Auckland transport funding package.

## ISSUES

Focussing on Henderson and New Lynn initially, work is being done to investigate the following issues:

1. Whether the intent of Policy 11.22 (Off-street Car parking) of the District Plan is best fulfilled by the current rules.
2. Whether there is justification for treating household parking in town centres as complementary to daytime parking - ie. not required at all
3. What are the disadvantages of site-by-site car parking, loading bay and vehicle turning requirements (cost, urban form, useability of sites, convenience of parking)?
4. Whether the provision of cash-in-lieu be an as-of-right alternative to providing parking spaces on-site?
5. Whether the ratios for the major Community Environments (1 parking space per 25m<sup>2</sup> at ground level; 1 space per 35m<sup>2</sup> at other levels) are set too high?
6. What would the Henderson Parking Study indicate to be a more accurate required level?
7. How could the requirement change with the introduction of charges for parking, and/or changes to the time limits regime?
8. Whether it is justifiable to use kerbside parking in nearby industrial and residential streets for excess worker parking?

It is envisaged that this work will lead to amendments to the District Plan car parking rules. Other related issues that may be followed up include:

9. Whether the rules should ensure the public accessibility of commercial parking spaces?
10. Whether the level for cash-in-lieu contributions is set appropriately?
11. Whether Council should be identifying/buying/leasing sites suitable for efficient parking structures?
12. How could parking facilities be used to facilitate other town centre objectives?
13. What would be the effect of removing parking requirements altogether, and leaving the market to meet demand?
14. What would be the effect of imposing a maximum rather than minimum parking requirement?
15. How far could changes proposed to parking policies in major centres be extended to Westgate and to smaller community environments in the city?

## RESOURCES

This work is covered by the resources allocated in the Annual Plan for reviewing the effectiveness of Council's urban growth strategy.

## CONCLUSION

To achieve Council's goals greater integration of built form and car parking is required. A continuation of supplying car parking on a site-by-site basis is not sustainable or supportive of public transport. This work will lead to District Plan changes to better reflect the integration of car parking and built form.

Direction is sought from the Committee regarding the principles underlying car parking provision in town centres, and whether the possible changes signalled above would better fulfil Council's goals.

## RECOMMENDATIONS

1. That the information be received.
2. That the Environmental Management Committee endorses the general direction of the review on car parking requirements as raised in issues 1 to 15 above, for town centres be based on achieving the Urban & Rural Villages Strategic goal.

Report prepared by: John Mackay, Manager: Urban Development & Design.



## 14 ALTERATION OF STATE HIGHWAY 16 DESIGNATION - KEDGELY DRIVE

### PURPOSE OF THE REPORT

The purpose of the report is to seek confirmation of the Environmental Management Committee's agreement to an alteration of the current SH16 designation to allow for the new location of Kedgely Drive, Westgate.

### BACKGROUND

Transit New Zealand (Transit) is a 'requiring authority' under the Resource Management Act, which gives them the power to 'designate' land for public works. In 1999, Transit lodged a Notice of Requirement for the State Highway 18 motorway running parallel with Hobsonville Road and the extension of the northwestern motorway (SH16) with the Council. The Notice of Requirement sought that a designation for the new motorways be incorporated within the Council's Proposed District Plan. Transit has successfully negotiated the relevant statutory processes in relation to the designation, and the Environment Court confirmed the part of the designation relating to SH16 in the vicinity of Kedgely Drive in 2001.

Kedgely Drive is a short private road that gives access to five properties at the end of the current northwestern motorway. As shown in the original Notice of Requirement by Transit, the land over which the existing Kedgely Drive runs would become part of the extension of the SH16 motorway. Kedgely Drive was to be repositioned as a slip road along the western edge of the SH16 designation, approximately 80 m to the west of its current position. The new Kedgely Drive position as proposed in the Notice of Requirement was appealed by seven parties, mainly property owners. A solution was reached through negotiation and confirmed by consent order issued by the Environment Court on 10 July 2001. This consent order which amends Condition 9 of the original designation, provides for Kedgely Drive to be relocated (subject to landowners consent and the designation being altered) a further 80m to the west of the initial relocation of Kedgely Drive as shown in the Notice of Requirement.

A55-A134

Transit New Zealand has now applied to alter the boundaries of the designation for State Highway 16 in order to for this new location for Kedgley Drive in accordance with the Consent Order. A plan showing the extent of the change is included as Figure 2 of the supporting documentation provided by Transit, as attached at pages A55 to A134.

At the time the consent order was signed the consent of all affected parties had not been obtained to the new location of the road and Transit was required to "use its best endeavours" to acquire and designate the road by 30 June 2003. If this did not eventuate then Kedgley Drive was to be built in the position shown in the original Notice of Requirement. The date was inserted at the request of Transit who did not want to be held up indefinitely from building the motorway in the eventuality that negotiations with the landowners would not proceed favourably. However it has taken over a year for all affected parties to give consent to the realignment as the consent of one of the owners of the property adjoining SH16 through which the new road would run, but which does not actually require access from Kedgley Drive, was only recently obtained. Although it is now past the date set in the Consent Order, it is considered that it would unreasonable to not allow the works to proceed in accordance with the realignment proposed by the Consent Order as both Transit and affected residents consider it the desirable location.

### STRATEGIC CONTEXT

The proposed SH 16 and 18 realignment have become an important catalyst for future development in the northern area of the City.

The establishment of the proposed motorway is provided for in the Regional Land Transport Strategy. In addition, the land between the proposed motorway and the existing alignment of Hobsonville Road has been identified in the Regional Growth Strategy as an area of future urban expansion.

In itself, the new location of Kedgley Drive is not of strategic importance to the City. However, the settlement of the new location for Kedgley Drive including the alteration to the designation, which is required to ensure that the works can be undertaken, is of vital strategic importance in that it is part of the total package that is necessary to ensure that the motorway goes ahead.

### ISSUES

#### Proposed Alteration

Transit proposes to alter the extent of the existing SH16 designation to allow for Kedgley Drive to be relocated 80 m to the west of the existing designation.

The purpose of the alteration is to reflect the Environment Consent Order dated 10 July 2001 and provide satisfactory access in accordance with that Consent order to all the properties that currently gain access from Kedgley Drive. The designation alteration is intended to facilitate the provision of the new road alignment which is consistent with the position desired by the appellants to the Notice of Requirement and agreed to by Transit.

The text of the District Plan has not yet been amended to refer to the new SH16/18 designation. However it would be referred to in the Designation Appendix as reference number TSNZ4 and this alteration to the designation would be included within that reference number. The location would be described as "Kedgley Drive" and the designated purpose would be "Local Access Ancillary to State Highway Purposes" with the legal description of *Parts Lots 1, 2, 3 and 4 DP117530, Lots 3 and 4 DP 96884 and Lot 2 DP 127335.*

### Statutory Process

Once a designation is in place, the Resource Management Act 1991 (the Act) provides a relatively simple procedure for making minor alterations. Section 181(3) of the Act states as follows:

*“181(3)A territorial authority may at any time alter a designation in its 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; 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 change.”*

A55-A134 The information provided by Transit in support of the designation alteration proposal is thorough, and addresses all the relevant issues. A copy is attached at pages A55 to A134. It is considered that the correct procedure has been followed in relation to the proposal.

A55-A134 It is considered that the alteration should proceed without going through the notification process required by Sections 168 - 179 of the Act. All affected landowners have given their consent to the alteration, as attached at pages A55 to A134, and it is considered that the alteration is minor in terms of its environmental effects and extent.

When considered against the environmental effects of the original proposal it is considered that there would be little change in environmental effects as essentially the same works are required albeit in a different location. The location of the proposed realignment does not contain any sensitive environmental features such as streams or vegetation and is consistent with the negotiated consent order signed by the Environment Court. The Auckland Regional Council has already granted consent to the earthworks. In terms of effects on the boundaries of the designation it is considered that the addition of a further 3 hectares would be insignificant in relation to the over 90 ha that makes up the Transit SH16/18 designation.

Power pylons carrying 110kV single circuit line (the Albany-Henderson A line) also traverse the site and would be close to the new alignment. Accordingly the consent of Transpower to the new alignment was also sought as an affected party. This consent was obtained subject to two conditions relating to the depth and distance that earthworks and construction work could take place in relation to the pylons as well as the existing Transpower conditions of the consent order. It is recommended that these conditions be imposed as part of this designation alteration.

### CONCLUSION

Transit proposes to alter the existing SH16 designation to provide for Kedgley Drive to be located 80m to the west of the existing designation. The alteration is relatively minor and will provide for the realignment of Kedgley Drive in accordance with Condition 9 of the Environment Consent order that was negotiated between the owners of the affected sites and Transit. The consent of all affected landowners and Transpower has been obtained to the alteration.

**RECOMMENDATIONS**

1. That the information be received.
- A55-A134 2. That the Environmental Management Committee in accordance with Section 181(3) of the Act, acting in its delegated role as territorial authority, confirm to Transit New Zealand that it agrees with the alteration to the designation for SH16/18 to allow the realignment of Kedgely Drive as shown in Figure 2 of the Consent Order from the Environment Court dated 10 July 2001, as attached at pages A55 to A134, subject to the following conditions and advice note:
- “1. *No person shall, in the case of Tower 10 (pylon) supporting any conductor, excavate or otherwise interfere with any land:*
- a. *At a depth greater than 300mm within 6 metres of the outer edge of the visible foundations of the tower: or*
- b. *At a depth greater than 3 metres, between 6 metres and 12 metres of the outer edge of the visible foundations of the tower; or*
- c. *In such a way as to cause an unstable batter.*
2. *Excavated or other material shall not be stockpiled or deposited under or near the Albany - Henderson A transmission line so as to reduce the vertical distance from the finished ground to the conductors to a distance less than:*
- a. *6.5 metres vertically across or along driveways or on any land traversable by vehicles:*
- b. *5.5 metres vertically, on any land not traversable by vehicles due to inaccessibility:*
- c. *3.0 metres in any distance other than vertical on all land.*

Advice Note

1. *Conditions 8(i) - 8(viii), Transpower New Zealand Conditions, of the original Designation shall continue to be applicable to this alteration.”*
3. That the designation alteration be shown on the District Plan maps and appropriate changes made to the text in the Designations Appendix of the District Plan to reflect the alteration.

Report prepared by: Elizabeth Wells, Principal Planner.



## 15 REGIONAL LANDSCAPE ASSESSMENT PROJECT

### **PURPOSE OF THE REPORT**

The purpose of this report is to provide information to the Environmental Management Committee on the Regional landscape Assessment Project. The outcome of the Regional Landscape Assessment Project is the identification of the outstanding natural landscapes of the mainland part of the Auckland Region.

Staff from the Auckland Regional Council will be making a presentation on the project.

### **BACKGROUND**

The project arose out of a need to update the information in the Auckland Regional Policy Statement on the outstanding and regionally significant landscapes of the Region. This information is based on the regional landscape evaluation of 1984.

The new landscape assessment project was in three parts. The first part involved a review of national and international landscape evaluation procedures to determine the appropriate methodology to use to identify landscape values. This work confirmed the validity of using a perceptual approach to landscape evaluation, with the method chosen called the 'Q-Sort process'. The aim of the Q-Sort process is not to obtain a statistically representative sample of the Auckland population, but to obtain sufficient interviews that a clear pattern of "sorting on particular factors" becomes apparent.

In the second part of the study the public of Auckland were asked to identify the types of landscapes they considered to be outstanding natural landscapes. During December 2002 and January-February 2003, a total of 219 respondents completed 229 responses to photographs presented in sets of 30 for coastal, estuary and harbour, lowland and hill landscapes, plus a combined set with examples from all four types of landscape.

Participants included key informants and 'intercepts'. Key informants were councillors and/or senior officers from the Auckland Regional Council and territorial Authorities from the Region, as well as representatives from Iwi, environmental groups, developers and the rural sector. 'Intercepts' were members of the public intercepted at ten locations around the Region and invited to take part in the interview process. There was an attempt in the interview process to obtain a sample group representative of the mix of ethnic groups in the Auckland Region.

From this work, the areas of the Region identified as outstanding natural landscapes have been mapped.

The third part of the Regional Landscape Project will involve the translation of the findings into a formal change to the Regional Policy Statement.

### **STRATEGIC CONTEXT**

Section 6 (b) of the Resource Management Act 1991 directs that all persons exercising functions and powers under the Act shall recognise and provide for 'the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development' as a matter of national importance.

The information in the Auckland Regional Policy Statement on outstanding landscapes is based on a 1984 study that is now outdated. The Waitakere City Council outstanding landscape delineation is based on this Regional Council study, together with a landscape study commissioned by the City in 1995, and another in 1998 designed to resolve variations in the outstanding landscape boundary, for the purposes of the District Plan.

## **ISSUES**

This new study is likely to result in amendments to the Auckland Regional Policy Statement maps that identify outstanding and regionally significant landscapes, and the landscape policies of Chapter 6: Heritage. It may also impact on Waitakere City District Plan issues.

## **RESOURCES**

There are no immediate resource implications.

## **CONCLUSION**

The Regional Landscape Assessment Project is significant for Waitakere City in that it will be the basis for a re-definition of the areas of outstanding landscapes in the City and the Region. The presentation will give the Committee an opportunity to discuss the findings with Regional Council representatives and authors of the report.

## **RECOMMENDATION**

That the Regional Landscape Assessment Project report be received.

Report prepared by: Jenny Macdonald; Strategic Leader.



**PART VI - CONFIDENTIAL ITEM**

**16 NEW LYNN COMMUNITY ENVIRONMENT ZONING**

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely New Lynn Community Environment Zoning.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"><li>New Lynn Community Environment Zoning</li></ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"><li>enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li></ul>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 7(2)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- The report contains information which if released would affect Council's negotiations.*

