

NOTICE OF MEETING

PLANNING AND REGULATORY COMMITTEE

I hereby give notice that a Meeting of the Planning and Regulatory Committee will be held on:-

DATE: **Tuesday, 14 February 2006** **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.

8 February 2006

Audrey Chan
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8603

MEMBERSHIP:

| | | |
|-------------|-----|--------------------------------------|
| Councillors | VS | Neeson, JP (Chairperson) |
| | RP | Dallow, QPM, JP (Deputy Chairperson) |
| | DQ | Battersby, JP |
| | MFP | Chan, JP |
| | JM | Clews, QSO, JP |
| | RI | Clow |
| | LA | Cooper |
| | AK | Corban, OBE, JP |
| | WW | Flaunty, QSM, JP |
| | DE | Gilmour |
| | PA | Hulse |
| | JP | Lawley |
| | CA | Stone |

Mayor, RA 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.)

**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE
TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN,
WAITAKERE CITY, ON TUESDAY, 14 FEBRUARY 2006
COMMENCING AT 9.30 AM**

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**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE
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PART A - OPENING OF MEETING

1 APOLOGIES



2 URGENT BUSINESS

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

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

The Committee may make a decision on a matter determined to be urgent.

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



3 CONFIRMATION OF MINUTES

Meeting Minutes - Tuesday, 13 December 2005

RECOMMENDATION

That the minutes of the Meeting of the Planning and Regulatory Committee held on Tuesday, 13 December 2005, as circulated, be taken as read and now be confirmed.

The public excluded minutes are attached to the Confidential Supplement.



PART B - REGULATORY / ENFORCEMENT

4 LEGAL UPDATE (AS AT 26 JANUARY 2006)

INTRODUCTION

The following is a list of legal actions in respect of matters which are currently before the Courts and which are ongoing or have been commenced since the date of the preceding report. The list does not include references to Council's District Plan, minor prosecutions for dogs, swimming pools, health, parking, and litter although advice on any particular such prosecution can be provided to the Committee if it wishes.

COURT OF APPEAL

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

An appeal by Council to the High Court (from an Environment Court decision) regarding a decision by Council relating to a requirement to construct and vest Marinich Drive, an arterial road that passes through Estate's subdivision in Ranui Station Road. The appeal was heard before Justice Venning on 29 June 2004. A decision was received from the Court on 30 July 2004 in Council's favour. The decision reversed the decision of the Environment Court. Estate Homes was granted leave to appeal to the Court of Appeal (on two issues, out of an original seven pursued).

A hearing took place in the Court of Appeal on 1 September 2005. The Court released its decision on 11 November 2005. The Court overturned the decision of Justice Venning in the High Court. However, the Court of Appeal did not restore the Environment Court findings, but instead referred the case back to that Court to reconsider its decision. The Court of Appeal agreed that the Environment Court had not taken into account the District Plan requirement that subdivision roading patterns should maximise connections within and between local neighbourhoods ("connectivity"). However, the majority judgment held that it was for the Environment Court to decide what weight should be placed on this factor, rather than for an appellate Court to do so.

The problem with the reasoning of the majority of the Court of Appeal is that it equates Council's role when approving subdivision consents, (particularly as to the roading component) as engaging in the expropriation of private land for public use, and overlooks (or at least relegates) councils' district planning role. This has significant consequences especially as it carries the implication that councils may be required to compensate developers for the "public benefit" aspects of subdivisions. An application has been made for leave to appeal to the Supreme Court.

HIGH COURT

(Unchanged) **Waste Management v Waitakere City Council, North Shore City Council, Rodney District Council and Christchurch City Council (August 2005)**

This is an action for judicial review by Waste Management seeking a declaration that the Local Government Acts 1974 and 2002 do not provide for that part of Councils' newly passed waste bylaws which make provision for imposing levies on waste for the purpose of providing economic incentives and disincentives under section 544 of the Local Government Act 1974. A timetable has been set for the matter. The Court has recently notified the parties that it can hear the matter in February 2006. The matter has been set down to be heard during the week of 13 February 2006. All four councils have retained Kensington Swan as solicitors and David Kirkpatrick as barrister.

(Unchanged) Carter Holt Harvey v Waitakere City Council, North Shore City Council and Rodney District Council (August 2005)

This is an action for judicial review by Carter Holt Harvey alleging that the Local Government Acts 1974 and 2002 do not permit a waste bylaw which requires it to be licensed for paper recycling activities where that is a private relationship and to impose a levy on waste. There has been some consolidation of this proceeding with the Waste Management proceeding. The Court has recently notified the parties that it can hear the matter in February 2006. The matter has been set down to be heard during the week of 13 February 2006. All three councils have retained Kensington Swan as solicitors and David Kirkpatrick as barrister.

Mr Mawhinney was served with a bankruptcy notice on 21 October 2005 in relation to \$5,063.16. This is a costs award due to Council for winning the security for costs application in May 2005. In response Mr Mawhinney has filed an application to have this notice stayed and set aside and Council has filed a response. This matter has been set down for a fixture on 21 March 2006.

(Changed) P W Mawhinney (substituted plaintiff) v Waitakere City Council (February 2002) (Civil Proceedings)

This claim was on hold pending the payment of security for Waitakere City Council's costs of \$60,000 ordered by Associated Judge Sargisson on 2 May 2005. After a defended hearing about an appropriate form of security, at which his proposal of a mortgage in favour of the Registrar had been rejected by the Court; Mr Mawhinney has paid the required security into Court. The Court awarded indemnity costs in relation to Council's application to strike out, because Mr Mawhinney's delay in providing security and leaving it to the last minute.

Mr Mawhinney now has until 31 March 2006 to file an amended claim. A five-day hearing has been allocated by the Court for the week of 6 November 2006. Once an amended claim has been received we will assess whether a further strikeout application should be filed.

ENVIRONMENT COURT

(Unchanged) Auckland Regional Council v Waitakere City Council (October 2005)

An appeal by the Auckland Regional Council against a decision of this Council to grant consent to a proposed college and associated facilities. The Auckland Regional Council opposed the consent application alleging that granting consent to a new school outside of the Metropolitan Urban Limits ("MUL") would undermine the Auckland Regional Policy Statement, the Metropolitan Urban Limits ("MUL") and would create negative precedent effects. A notice of reply is to be filed shortly.

(Changed) Denver Holdings Limited & J Baran v Waitakere City Council (October 2005)

An appeal by the applicant (Denver) against certain conditions imposed on a resource consent for a medium density housing development at 23 Denver Avenue, Sunnyvale. A related appeal by Mr J Baran against the Council's decision to grant the consent has since been withdrawn. We await case management directions from the Court. Notices of reply will be filed shortly. It is likely that the matter will be referred to mediation in the first instance.

(Changed) R Britten – 19 Church Street, Swanson (October 2005)

An application by the Council for interim and final enforcement orders in respect of a land slip that occurred at the Brittens property in Church Street, Swanson. The Council seeks interim orders requiring the cessation of all vehicular use of the access road that was affected by the slip/instability and prohibiting any earthworks in the vicinity of the slip. We are seeking final orders to require that the Brittens undertake appropriate remedial works to stabilise the affected area and to pay the costs incurred by the Council in its initial remedial operation undertaken in July/August.

The application and supporting evidence has been filed and served. At the last judicial conference in November Mr Britten gave an undertaking that there would be no further use of the access road and no earthworks would be undertaken in the vicinity of the slip and surrounding (potentially unstable) land. Mr Britten's engineer is undertaking an assessment of the affected land. Mr Britten's solicitor is to consult with Council's solicitors and is to file a reporting memorandum by 17 February 2006 proposing a way for determining an outcome. We expect to hear from Mr Britten's solicitor once the engineering assessment has been completed.

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

Appeals filed by the applicant Mr Selak and his neighbours, Mr Collett and Ms Nye. Both appeals relate to the operation of a go-kart track on Mr Selak's property at Kennedy's Road, Whenuapai. Mr Selak has appealed a condition disallowing use of the track on Sundays and public holidays. Mr Collett and Ms Nye have appealed Council's decision to allow the go-kart track. Mr Selak has put forward a new proposal, involving additional mitigation of the noise impact of the go-kart track, which was considered by all parties at a Court assisted mediation held on 8 June 2005. We have prepared consent documentation in accordance with the agreement reached at mediation. The Council has granted consent for a noise mitigation fence. Consent documentation is to be finalised (once we have resolved several minor details raised by Mr Collett) and filed with the Court shortly.

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

This case has been placed in the 'on hold' list by the Environment Court, until the Dilworth structure plan proceedings (RMA 886/98) has been concluded.

(Unchanged) Te Atatu Residents' & Ratepayers' Association Inc v Waitakere City Council (January 2004)

This matter relates to a reference against the Council's decision approving Plan Change 2. It makes changes to the zoning of land in Harbourview on the Te Atatu Peninsula. The Plan changes the Living Environment and Harbourview South Special Area to 'Open Space Environment' and 'Marae Special Area' respectively.

The matter was heard during week of 5 December 2005. The Court's interim decision was to defer its decision on Plan Change 2 until all appeals on Plan Change 12 are settled.

(Unchanged) I & Z Farac v Waitakere City Council

A site-specific reference has been filed by Mr and Mrs Farac, relating to their property at 172A Don Buck Road, Massey. It seeks to rezone all (or part) of the property as 'Living 2 Environment'. Discussions are to take place on the relief being sought. Settlement discussions are taking place in an attempt to refine the issues in dispute.

Auckland Regional Council v Waitakere City Council (May 2005)

(Unchanged) Waitakere Ranges Protection Society Inc v Waitakere City Council (May 2005)

An appeal by the Auckland Regional Council and Waitakere Ranges Protection Society Inc ("WRPS") against a decision of the Council to grant consent to a subdivision by M and K Duncan, relating to the property at 46 Christian Road, Swanson. Both Auckland Regional Council and Waitakere Ranges Protection Society Inc oppose the consent on the basis of the density of the proposed subdivision and alleged precedent effect. A judicial conference was held on 5 September 2005 to consider issues including whether these appeals should be heard following resolution of the appeals on the Swanson Structure Plan. The Court has directed that these appeals should be put on hold to await the resolution of the structure plan appeals.

(Changed) Glorit Subdivision Limited and P W Mawhinney v Waitakere City Council (June 2005)

A further appeal by South Kaipara Nominees Limited (now in liquidation)/Peter Mawhinney in relation to a refusal by Council to issue Certificates of Compliance for boundary changes to 27 separate Certificates of Title. There are two alternative proposals; (a) to widen access lots of the subdivision and make various other consequential changes to the surrounding lots; and (b) a sequenced series of 10% boundary adjustments. Council has filed a notice of reply to the appeal opposing the relief sought and indicating that such boundary adjustments would require discretionary or non-complying consents. An application to strike out the appeal was heard in November 2005 and a decision of the Court released before Christmas. The appeal was struck out in its entirety and Mr Mawhinney's various arguments based on the definitions of 'site' and 'site area' under the District Plan were rejected. We have applied for indemnity costs of \$32,000 against Glorit Subdivision Limited and Mr Mawhinney in his personal capacity. In response Mr Mawhinney has applied for a rehearing of the strike out on the basis of allegedly 'new and important' evidence. That application is opposed and will be considered by the Judge on the papers shortly.

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

This is an appeal by the applicants M and C Brickell, W Ashton and L Schwab under s 121 of the Resource Management Act 1991 against a decision of the Council to refuse to grant consent to a 7 lot subdivision at 54-56 Christian Road, Swanson. The Auckland Regional Council and Waitakere Ranges Protection Society Inc have lodged applications with the Court in support of the Council as s 274 parties. A judicial conference took place on 5 September 2005 at which time the Court directed that this appeal be put 'on hold' to await the resolution of the Swanson Structure Plan appeals.

Waitakere Resource Consents Limited v Waitakere City Council (September 2005)
(New)

This is an appeal against a refusal to issue a certificate of compliance under s139 Resource Management Act. In essence the application contends that through a 'sequence' of activities, the establishment of 77 barns/residential units are a permitted activity under the District Plan. The Application includes the creation of various 'allotments', the creation of barns and sheds, the conversion of barns to dwellings, terraces, decks and pergolas, earthworks, clearance of vegetation, driveways, establishment of lawn, and vesting of land as road.

Council has lodged a detailed Notice of Reply and timetable orders have been made for exchange of evidence. The Appellant (director: P.W. Mawhinney) has until 17 February 2006 to lodge his evidence and Waitakere City Council must reply by 24 March 2006. A hearing will be allocated after that date.

DISTRICT COURT

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

This matter relates to breaches of the Resource Management Act and Building Act. The matter was set down and heard at the Auckland District Court on 7 October 2005. Mr Gordon entered not guilty pleas to all charges and confirmed his election of trial by jury in relation to the Resource Management charges. A tentative hearing has been set down for the Resource Management Act charges on 11 June 2006.

(Unchanged) G M and B K Wheeler - 21 Kirby Street, Glendene (October 2005)

Charges laid under the Building Act for unauthorised building work undertaken to remove an existing deck from the second story of the house and replace it with a new 2.4 metre high one. The new deck does not meet the standards of the building code and is considered to be unsafe. The matter has been adjourned to a further date to permit the Council and the defendants to reach a solution.

(Changed) M F Khan - 18 Patts Avenue, Glendene (October 2005)

Charges were laid under the Building Act for unauthorised building work undertaken to convert and alter the downstairs area of the house into a separate dwelling. The matter was called on 16 December 2005 where Mr Khan entered a guilty plea and the charges against Mrs Khan were withdrawn. The matter is set down for sentencing on 2 March 2006.

(Unchanged) McGuigan Syme Chilcott Limited, R McGuigan, G Chilcott, T Donald, G Pitts, M and J Engle, R Foster, D Owens Limited, D Owens - 71 Riverlea Road, Whenuapai (August 2005)

Charges laid under the Building Act for unauthorised building work undertaken to construct concrete foundations and timber framing as well as failing to stop work after the direction of an authorised officer. A building consent was lodged, but work commenced prior to the consent being granted. The matter was adjourned on 16 December to 3 February 2006.

(Changed) P and D Clark, R Hawkins, R Johnston - 97 Shaw Road, Oratia (August 2005)

Charges laid under the Building Act for unauthorised building work. The work involved alterations and extensions to the house so as to create new rooms and move kitchen facilities. The matter was called on 16 December 2005 where Mr Clark entered a guilty plea and charges against Mrs Clark, Mr Hawkins and Mr Johnston were withdrawn. The matter is set down for sentencing on 28 February 2006.

(Changed) G Nicola, A Casey, and Eurovision Building Removals Limited - 4 Bowers Road (June 2005)

Charges laid under the Building Act for unauthorised building work undertaken to construct pile foundations to support a relocated house which was relocated onto the foundations. No building consent was obtained for the construction of the foundation or the relocation. The matter was heard in part on 18 November. Charges were withdrawn against Ms Freeman, and the defendant Mr Nicola pleaded guilty. The Court convicted Mr Nicola on 16 December and fined him \$3,000, plus court costs of \$130 and solicitor's costs of \$226. The Court ordered that 90% of the fine and solicitor's costs be paid to the Council. The co-defendants Mr Casey and Eurovision Building Removals Limited pleaded not guilty. A defended hearing is set down for 4 April 2006 for the latter two defendants.

(Unchanged) A Mackinnon - 5 Armour Road, Parau (June 2005)

Charges were laid under the Resource Management Act for the clearance of at least 80 native trees including mānuka, kanuka, kahikatea, mahoe, and cabbage trees from a Protected Natural Area without resource consent. The matter was called on 4 November 2005, and was referred to a restorative justice conference to be organised by the defendant's solicitor. A date is yet to be set down for the conference. The parties are to report to the Court on progress on this issue on 13 February 2006.

(Changed) P Chand - 16 Archibald Road, Kelston (June 2005)

Charges laid under the Building Act for unauthorised building work to create a residential unit by converting a downstairs garage, and under the Resource Management Act for the use of the unit in breach of the residential rules of the District Plan. Mitigation works were carried out and the defendants have removed the unauthorised building works. The matter was transferred to the Auckland District Court before an Environment warranted Judge where R Chand pleaded guilty to the charges, and charges against P Chand were withdrawn. The matter was heard on 15 December 2005 at the Auckland District Court where the defendant was convicted and fined \$3,000 in respect of the Building Act offences, and \$1,500 in respect of the Resource Management Act offences. The Court ordered that 90% of the fine and solicitor's costs be paid to the Council. Court costs of \$260 and solicitor's costs of \$452 were also awarded. The Court noted that although the offence was at the minor end of the scale, the potential for harm was great. The Court considered that property owners must make every endeavour to meet their obligations under the Resource Management Act and the Building Act.

(Changed) Sher Mohammad and Abdul Hafeez - 73 Huia Road, Titirangi (May 2005)

Charges were laid under the Building Act for unauthorised building work (construction of a dwelling without consent) and under the Resource Management Act in respect of District Plan rule breaches relating to unauthorised vegetation clearance, and earthworks. The matter was partially heard on 4 November 2005. The defendant Hafeez pleaded guilty to three charges of undertaking unauthorised building work and earthworks as well as vegetation clearance. All alternate charges against Hafeez were withdrawn. The matter is to be allocated a hearing date.

Mohammad was not present and no solicitor was representing him, despite the Court's insistence of the necessity over the last six months of the need for a solicitor in this matter. A warrant was issued for Mohammad's arrest.

(Changed) John Steed – Public Places Bylaw (March 2005)

An application for an order pursuant to section 162 of the Local Government Act 2002, requiring Mr Steed to cease breaching the Council's Public Places bylaw (Bylaw No. 4, Ch 2, cl 233.1(b)). Mr Steed has been living in his caravan on roadsides and road reserves in various locations in the City in breach of the bylaw and has refused to comply with Council officers' requests to cease doing so, has contravened an abatement notice, and is generally causing a nuisance in the locations where he resides in the caravan (e.g. by burning his household rubbish on the roadside and emptying wastewater from the caravan into the stormwater drainage system). Council officers have tried to assist him with alternative accommodation but he refuses to consider such options. The Court was granted an interim order restraining Mr Steed from breaching the bylaw. The Council has since withdrawn its application, given that Mr Steed has disappeared from Waitakere City and is no longer breaching the bylaw.

(Changed) D Thompson - 10 Pohutukawa Road, Whenuapai (March 2005)

Charges laid under the Building Act for unauthorised building work undertaken to create two residential units within an existing warehouse building, and under the Resource Management Act for the use of those units in breach of the residential rules of the District Plan. This matter will be called next on 16 February 2006.

(Changed) M K Kasprzak – 27 Bedford Street, Te Atatu South (March 2005)

Charges were laid under the Building Act and Resource Management Act in respect of a second minor household unit constructed without the requisite building and resource consents. Mr Kasprzak entered not guilty pleas and the matter was set down for a defended hearing on 12 December 2005. Following receipt of the Council's evidence, Mr Kasprzak changed his plea. The Judge directed that he liaise with Council regarding the standard of the building work done and remedy any substandard work, if possible, at Council's direction. Sentencing is to occur on 10 April 2006.

(Changed) Lance Olsen - Dovey Place, Massey (February 2004)

Charges were laid against the building contractor who undertook work on five houses without building consent. A pre-trial issue has been raised by Mr Olsen regarding the validity of information as his company has been struck off the register - the Council sought to have the charges amended so that Mr Olsen is personally liable for the alleged offences. This matter was heard on 21 November 2005. The District Court determined that the information was a nullity because the company, upon which Mr Olsen's liability as a director rested, was no longer a legal entity and therefore could not be convicted. This in turn led to the conclusion that the charges against Mr Olsen did not disclose an offence that could ever be pursued. This decision has not been appealed.

(Unchanged) I R Stanic – 11 Orchid Place, Henderson (May 2004)

Charges were laid under the Resource Management Act 1991 ("RMA") regarding the contravention of District Plan Rules (as the property is being used to store vehicle wrecks and undertake vehicle repairs, without the requisite resource consent) and for contravention of an abatement notice. Mr Stanic pleaded guilty. A restorative justice conference was held on 13 May 2005, at which time the Council, affected neighbours and Mr Stanic discussed the situation. An agreement was reached that Council would assist the defendant to remove the vehicles from the property and that no further vehicle repair work would be undertaken at the property.

The Council will seek an enforcement order to ensure that this occurs. Sentencing was scheduled for 7 June 2005 but Mr Stanic failed to appear and an arrest warrant was issued. A new date is yet to be set as the Police have not executed the warrant.

RECOMMENDATION

That the Legal Update (As At 26 January 2006) be received.

Report prepared by Setareh Masoud-Ansari, Contract Solicitor.



PART C - ENVIRONMENTAL MANAGEMENT

5 HEARING REPORT FOR PROPOSED PLAN CHANGE 19 TO RE-IDENTIFY THE HUMAN ENVIRONMENT IDENTIFICATION OF TWO SITES

PURPOSE OF THE REPORT

The purpose of this report is to present to the Planning and Regulatory Committee a final report for Proposed Plan Change 19 relating to the re-identification of two sites from Living Environment to Community Environment. Proposed Plan Change 19 was notified on 4 November 2005 and the submission period ended on 2 December 2005. No submissions were received to the Plan Change. This report seeks for the Proposed Plan Change to be approved.

A1-A28 A copy of the 'Background Report and Section 32 Analysis' for the Proposed Plan Change, including changes to the Planning Map, is attached at pages A1 to A28.

BACKGROUND

Proposed Plan Change 19 seeks to rezone the Human Environment identification for two properties located at 288 and 290 Lincoln Road, located on the corner of Lincoln Road and Daytona Road. Each of the properties is currently identified as Living Environment in the District Plan. The proposed Plan Change is as a result of a private request by the land owner to review the zoning of the subject land. The costs of preparing and notifying the Plan Change are being met by the land owner.

The sites are legally described as Lots 2 & 3 DP 43472 and comprise areas of 1,062m² and 809m² respectively, with a combined site area of 1,871m². The two sites are currently vacant with a small area of hard standing for parking. It is understood that the land was previously used for display as a show home although there are currently no existing buildings located on the site.

A1 The adjoining and surrounding properties to the west are zoned Living Environment and include residential properties. The main adjoining residential property to the west is currently owned by the same owner of the land that is subject to the Plan Change. The land opposite the subject site to the north is zoned Living Environment, and includes residential properties. The land on the opposite side of Lincoln Road to the east is zoned Lincoln Working Environment and includes a mixture of commercial activities. The land on the adjoining southern boundary of 288 Lincoln Road is identified as Community Environment and is currently occupied by a car sales yard. This mixture of different land uses in the immediate locality contributes to a mixed commercial character, which is prevalent along Lincoln Road. A Proposed Plan Change map for the subject land is attached at page A1.

The Community Environment of the District Plan includes the town centres and other smaller commercial areas, which are the focus of a number of potential activities including shopping (retail), commercial (offices), service, recreational and community activities. Residential Activities may also be established within the Community Environment.

The Living Environment of the District Plan represents the predominant urban environment within the Metropolitan Urban Limits and traditionally reflects a residential character. The rules of the District Plan seek to protect the amenity values of these areas. In the case of the subject land, the character of the surrounding area means that the land is not particularly representative of a traditional Living Environment. The mixed use nature of the surrounding land uses contribute to the commercial appearance of the area.

The Planning and Regulatory Committee therefore resolved the following at its 13 September 2005 meeting:

- “1. That the Issue Report and Proposed Plan Change to Re-identify the Human Environment Identification of Two Sites report be received.
2. That pursuant to the First Schedule to the Resource Management Act 1991, the Proposed Plan Change to the Waitakere City District Plan to re-identify the two sites at 288 and 290 Lincoln Road, Henderson from Living Environment to Community Environment in the District Plan as set out in pages attached at A7 to A33 to the Agenda be publicly notified.
3. That prior to public notification of the Proposed Plan Change the land owner shall enter into a legal agreement with the Council in respect of Council’s particular requirements.”

1776/2005

STRATEGIC CONTEXT

The Long Term Community Consultation Plan has nine platforms that set out the Council’s goals and actions for managing the social, economic and environmental wellbeing of the City. The Urban and Rural Villages platform identifies that the Council will need to review its planning processes to support integrated planning. The Proposed Plan Change will ensure that the District Plan, as a statutory and strategic document, is accurate and based on the most up to date information available to Council. The Strong Innovative Economy platform seeks to identify and work towards the overall economic wellbeing of residents.

The existing Human Environment identifications for the subject sites are potentially at odds with the range of activities and effects that the community would expect of the subject land in the context of its commercial location. The Proposed Plan Change would re-identify the two sites and enable them to be managed sustainably and consistently in relation to a more appropriate land use.

The Council has previously prepared a newsletter and indicative Concept Plan (August 2003) for the Lincoln Road Area and has identified that properties fronting Lincoln Road may be suitable for commercial development. While, it is acknowledged that this document has no statutory weight, it does indicate that the proposal is consistent with the Council’s strategic vision for the area.

STATUTORY CONSIDERATIONS

Resource Management Act 1991

The Resource Management Act provides a legislative framework for the sustainable management of natural and physical resources in New Zealand. The purpose of the Act is to promote the sustainable management of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being, and for their health and safety. Part II (Sections 5-8) sets out the purpose and principles of the Act.

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

- “managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-*
- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;*
 - and*

- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

Section 6 of the Act relates to “Matters of National Importance”. Matters of national importance include:

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

Section 7 relates to “Other Matters”. Particular regard must be given to:

- (a) *Kaitiakitanga:*
- (aa) *The ethic of stewardship:*
- (b) *The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (e) *Repealed.*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon*

Section 8 requires that managing the use, development and protection of natural and physical resources, takes into account the principles of the Treaty of Waitangi.

Council’s functions are outlined in Section 31 of the Act. The Council’s functions include the control of actual and potential effects off the use, development or protection of land and associated natural and physical resources in order to achieve the purpose of the Act. Section 31 of the Act outlines Council’s functions as follows:

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

- (d) *The control of the emission of noise and the mitigation of the effects of noise:*
- (e) *The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
- (f) *Any other functions specified in this Act.*

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

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

Section 32 of the Resource Management Act

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

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

A10-A28

An evaluation under each of the above subsections has been undertaken and is attached at pages A10 to A28. It is considered that the evaluation fulfils Council's requirements with regard to Section 32 of the Resource Management Act.

The Section 32 analysis identified that the Proposed Plan Change would enable the Council to manage its land resources efficiently whilst meeting the purpose of the Act by allowing sustainable management of natural and physical resources. The section 32 analysis also concludes that re-identification of the subject sites would ensure that more appropriate rules would apply to the sites. In summary, the re-identification of the land would provide a clear direction to the community on the use of the land for commercial purposes.

This evaluation was made available to the public for inspection at the same time as the Proposed Plan Change is publicly notified (in accordance with section 32(6)).

Waitakere City District Plan

The proposed Plan Change does not seek to amend any objectives, policies or rules of the District Plan. However, re-identifying the sites will align them with the Community Environment provisions of the District Plan. It is considered that the proposed Plan Change will be consistent with the existing objectives, policies and rules of the District Plan.

Auckland Regional Policy Statement

It is considered that the Proposed Plan Change is entirely consistent with the objectives of the Regional Policy Statement.

Actual or Potential Adverse Effects on the Environment

Under Section 31 of the Resource Management Act Council's function includes "*the control of any actual or potential effects of the use, development, or protection of land*". Section 76(3) requires that in making a rule, a territorial authority is to have regard to the actual or potential effect of activities on the environment.

Proposed Plan Change 19 has been reviewed by Transport Assets and EcoWater, who have advised that they support the proposed change subject to the owner agreeing to add an encumbrance on the titles for the properties to ensure that certain works are achieved as part of the development of the subject land. The land owner has entered into an encumbrance with the Council to ensure that the above mitigation is included when the sites are redeveloped.

In summary, it is considered that there are no adverse environmental effects that will be generated by re-identifying either of the sites, which cannot be suitably avoided, remedied or mitigated through compliance with the Community Environment provisions of the District Plan or through encumbrances on the titles. It is considered that the existing provisions of the District Plan will ensure that the amenities of the surrounding Living Environment are protected.

CONSULTATION

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

As previously reported the Council has written to the Ministry for the Environment, which has not lodged any submission. Consultation has been undertaken with local iwi as part of the Plan Change, which has raised no concerns and no submissions have been received from iwi. Given the local nature of the proposed Plan Change it was considered that no other statutory authority was affected.

SUBMISSIONS

As noted above Proposed Plan Change 19 was publicly notified in the Herald on 4 November 2005. Letters were also sent to surrounding residents, and a notice was placed in a prominent location on the property. The submission period closed on 2 December 2005. There were no submissions received in support or opposition to the proposed Plan Change. As no submissions were received, no summary of submissions was publicly notified and no further submissions were received either in support or opposition to the proposed Plan Change.

CONCLUSION

The purpose of this report is to present to the Planning and Regulatory Committee a proposed Plan Change relating to the re-identification of two properties at 288 and 290 Lincoln Road, Henderson. The proposed Plan Change seeks to re-identify the two sites from Living Environment to Community Environment. No changes are proposed to any District Plan objective, policy or rule.

It is considered that the re-identification of the subject sites will better meet the objectives and policies of the District Plan. The re-identification of the subject sites would enable them to be used for a more appropriate use than that currently provided for under the District Plan.

Proposed Plan Change 19 was publicly notified on 4 November 2005. There were no submissions received in support or opposition to the proposed Plan Change. As no submissions were received, no summary of submissions was publicly notified and no further submissions were received either in support or opposition to the proposed Plan Change.

The proposed Plan Change is considered necessary to achieve the purpose of the Act and is the most appropriate in terms of effectiveness and efficiency of Council exercising its function. In addition, the proposed Plan Change is consistent with the existing District Plan policies and objectives and it is considered that there will be no adverse environmental effects generated as a result of the proposed Plan Change.

RECOMMENDATIONS

1. That the Hearing Report and Proposed Plan Change 19 to Re-identify the Human Environment Identification of Two Sites report be received.
2. That pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, the Planning and Regulatory Committee approves Plan Change 19, as set out in pages A10 to A28. In accordance with the requirements of the First Schedule, the decision shall be publicly notified and shall become operative at a date to be identified in that public notice.

A10-A28

Report prepared by: Michael Campbell, Planner: Policy Implementation and Philip Brown, Group Manager: Planning and Community Services



6 PUBLIC PLACES REVIEW OF MOBILE OR TRAVELLING SHOPS AND HAWKERS BYLAW 1990

PURPOSE OF THE REPORT

The purpose of this report is to analyse General Bylaw No.4 (1990) Chapter 4, Mobile or Travelling shops and Hawkers, and commence the review of General Bylaw No. 4 (1990) Chapter 2 Public Places, in accordance with the ongoing Bylaw Review Programme under the Local Government Act 2002.

STRATEGIC CONTEXT

One of the objectives of the Strong Communities Platform of the Long Term Council Community Plan is to 'make the City a safe and interesting place to live.' This has the aim of protecting the health, wellbeing and safety of the community. A bylaw which regulates the conduct of persons and activities in public places is consistent with this key objective.

THE PROPOSAL

A29-A38

The current bylaw, adopted in 1990 is attached at pages A29 to A38. Pursuant to Section 158 of the Local Government Act 2002 all bylaws that were in existence before the Act came into force must be reviewed by June 2008 or they cease to have effect two years later on 30 June 2010. This report concludes that Council has a legal power to make a bylaw for this purpose, and that the use of a bylaw is an appropriate mechanism to regulate trading in public places.

Waitakere City, like the majority of other local Councils currently has a stand alone bylaw covering mobile or travelling shops and hawkers. During the fifteen years since the current bylaw was adopted, however, a number of other issues have emerged relating to other 'trading' activities in public places which Council may now wish to take the opportunity to regulate. Examples include cafes, restaurants and taverns encroaching onto the pavement with tables and chairs, shop owners displaying goods outside their premises, buskers, windscreen washers, charitable collections, flea markets, soliciting for the purpose of prostitution, and the private sale of motor vehicles. Whilst these varied activities are quite obviously distinct from mobile shops and hawkers, they are all "trading" related and commonly occur in public places around the City. To prevent the unnecessary repetition of definitions, and to promote consistency, clarity and ease of access, it is suggested that all regulations relating to "trading" activities occurring in public places should be contained within one Public Places Bylaw.

In addition to this there are other activities which commonly occur in or about public places which occur in conjunction with trade and are appropriately regulated by a bylaw. Examples of this are signs (which are also regulated by the District Plan), and the storage of goods. Both activities are currently referred to in the Public Places bylaw (Clause 204 'Placing of Articles on Public Places' and 204A 'Advertising Signs').

The current Public Places Bylaw also covers a diverse range of issues from leaving dead animals in the street, general obstructions, vehicle crossings, house numberings and profane singing. In addition to deciding which of the existing provisions are still relevant in 2006, a review of the Public Places Bylaw offers the opportunity for Council to also consider whether other current Council bylaws (for example Bylaw No.4 (1990) Chapter 17 Parks and Reserves, No.9 of (1990) Beaches and Waters and No.8 (1990) Barbed Wire Fences) could also be incorporated into one simplified and updated Public Places Bylaw.

Given the size and scale of the review of regulation of Public Places, it was decided to present the review to the Committee in stages, so that each part can be properly considered. This report focuses on the proposed trading in public places rules. It is intended to bring the remaining parts of the draft Public Places Bylaw to Committee for consideration over the next few months.

A39-A46

Attached at pages A39 to A46 therefore is the beginning of a draft Public Places Bylaw dealing only with trading and business type issues. It is probable, that as the review progresses, definitions, headings and overall layout may change. If approved in principle today, the recommendation will be to 'park' this draft until the Committee has considered the other stages of the review and is comfortable to refer the full draft to Council for approval prior to public consultation.

PROBLEM IDENTIFICATION AND ANALYSIS

Section 77 of the Local Government Act 2002 requires local authorities in the course of the decision-making process to seek to identify all reasonably practical options and to assess those options by considering the benefits and costs, community outcomes, statutory responsibility and any other relevant matters.

There is a demand for streets, parks and other public places to be used by traders selling goods and supplying services. These activities can bring benefits, but can also have adverse effects if not controlled. Practical rules are required to regulate and manage the use of public places by street traders, hawkers and mobile shops to ensure that obstructions do not threaten public safety, only properly and hygienically prepared food is offered for sale, and citizens are not subjected to hazards, interference, or general annoyance.

What is therefore required is a set of fair, practical and enforceable regulations to manage the number, conduct and activities of persons selling goods and services in public places from either vehicles or stalls. The options are:

(a) Do nothing – maintain the status quo

- There would be no change to the existing rules and no increase in costs.
- There is a statutory requirement to review all existing bylaws by 30 June 2008 or they automatically expire on 30 June 2010.

(b) Update the current bylaw and incorporate it into a new Public Places Bylaw

- The existing bylaw was adopted 15 years ago and will benefit from an update.
- Enables the current bylaw to be updated and improved where appropriate to better meet the objectives of Council's Long Term Council Community Plan.
- There are no significant cost implications. Given that there is an operative bylaw in force regulating mobile shops and hawkers, funds are already provided for service delivery and enforcement. There could, however, be some additional costs associated with any proposed expansion to consenting and licensing arrangements.
- Council complies with its statutory duty to review existing bylaws under the Local Government Act 2002.

(c) Revoke Bylaw and rely on other powers

- If the current bylaw was revoked, the full common law rights relating to street trading would be reinstated. Council could respond to complaints from businesses or members of the public by issuing trespass orders, (but only in relation to reserves and other Council land not vested as road) or perhaps by relying on the Food Hygiene Regulations regarding the sale of food. The Police could deal with traffic complaints/obstructions under the Land Transport Act 1998 provided they had sufficient resources and a willingness to do so.
- There would be a cost reduction, because there would be no bylaw to manage or enforce.
- Without a bylaw, however, there would be no coordinated regulation and management of trading activities in public places. The Council's objectives relating to Strong Communities would therefore be threatened. The lack of regulation and enforcement could result in more complaints of nuisance and obstruction as the number of traders increase and the limited ability to use the Trespass Act is found to be inadequate. The Council may be criticised by the community and the Police for lack of appropriate response.
- Council would find itself 'out of step' with all other local authorities.

It is recommended that Council should continue to regulate activities in public places by means of a bylaw. The effectiveness of other remedies is moot. Bylaws are well understood by the public, and generally observed. Enforcement is relatively easy and effective. An appropriate bylaw would be relevant, fair and understandable.

DETERMINATION AND FORM OF NEW BYLAW

Council has a specific legal power to make a bylaw for the purposes of regulating trading in public places pursuant to s.146 (a) (vi) Local Government Act 2002. Having established that a clear legal power exists to make a bylaw covering this subject, the Act then requires Council to determine:

- *Whether a Bylaw is the most appropriate way of addressing the problem?* (Section 155 Local Government Act 2002)

On the basis of the problem identification and analysis above, and the limitations of other available powers, a bylaw is the most appropriate way of addressing the problem.

- *Is the proposed Bylaw the most appropriate form of bylaw?*

In reviewing Council's current bylaws the Christchurch Public Places bylaw 2003, the NZ Standard Model Trading in Public Places bylaw 1999, Auckland City's consolidated bylaw 1998, and the proposed new bylaws for Manukau and North Shore have been considered. Christchurch's Public Places bylaw contains one section on Hawkers and Travelling shops, another on Stands and Stalls. North Shore City has submitted for public consultation a draft Trading in Public Places bylaw which includes a section on outdoor cafes and Manukau is currently considering an updated bylaw which will require all persons trading in public places to apply for a licence unless specifically exempted.

The proposals contained in the draft bylaw reflect only those parts of the bylaw that have been reviewed. They will be amended and extended as the bylaw is further developed. The layout and headings are also likely to change. The proposals thus far are summarised below:

- Trading activities have been grouped into those that Council may wish to know about, and give consent to, and those that Council may wish to licence. The consenting regime is intended to be an informal process for temporary "one-off" activities and for activities where the use of the public place is so small and insignificant that it can be overlooked.

A47-A55

Council can attach conditions to those consents and licences to reduce the likelihood of these activities developing into a nuisance and to reflect adopted policies and Community objectives. For example, attached at pages A47 to A55 is a draft Outdoor Dining Policy for the Committee's consideration. Failure to obtain a licence, consent, or comply with conditions attached to a licence or consent is an offence under the bylaw, which gives Council a degree of control.

As referred to earlier, there could be resource implications for Field Services if, as proposed the regulatory regime is extended. Field Services will make some enquiries with other Councils, and comment further on this point, at the meeting.

A42

- In the section entitled "Activities requiring a Licence" under the Draft Public Places Bylaw 2006, 'Trading' has been drafted to cover a wide range of activities including soliciting for prostitution, and windscreen washers (see b) at page A42 which refers to "perform or offer to perform a service").

- (i) Whilst Section 26 of the Summary Offences Act 1981 (the offence of soliciting for the purposes of prostitution) was repealed by the Prostitution Reform Act 2003, there is no reason why soliciting should not be covered by licensing requirements as well. The purpose of the bylaw is, inter alia, to regulate otherwise lawful activities where there is potential for public nuisance or offensive behaviour.

- (ii) 'Windscreen washers' are currently expressly prohibited under clause 5 Bylaw No.22 (1990) Use of Public Roads as amended. It may be thought necessary to continue with an express prohibition.
- Performing as a busker has also been included in the draft 'trading' section therefore requiring a licence. The current bylaw does not require buskers to obtain a licence and neither does the Auckland City's bylaw. Auckland City can, however, resolve to prohibit busking or other entertainment activities in certain streets or at prescribed times, and there are clauses in Auckland's bylaw empowering authorised officers to require buskers to stop, and impound instruments if necessary.

Whilst there is an element of spontaneity in busking by its very nature, on the other hand it is conducted in a public place with the aim of receiving money. Arguably therefore busking should also be subject to a licence requirement. It is, however, open to Council to provide in its Public Places Trading Policy that a busking licence will not be required in certain public places or in certain conditions. The current Public Places Bylaw at 214.1 recognises that 'busking' may require some regulatory control and prohibits singing, playing of any instrument, preaching, reading aloud, lecturing or selling without the consent of the Council. Those other activities listed in clause 214.1 will be considered under a general public places nuisance clause in due course. When considering this issue some consideration will need to be given to the fact that busking activities now commonly occur on private property, in particular in malls and shopping centres, where some form of consent is also required.

- Consideration has been given as to how (if at all) the bylaw could be extended to regulate the sale of motor vehicles in public places by either private owners or motor vehicle traders, advertising vehicles for sale which are parked on grass verges, parking areas or the road itself. The problem is not so much that they are offered for sale, but rather that in some circumstances they may cause an obstruction, damage the grass verge, or present a danger to other road users. There is no evidence of significant complaint arising from these activities. Perhaps the best place to regulate such activities is through the parking bylaw which is also due for review later this year.
- Whilst it may not be appropriate to require organisers of appeals raffles and collections to obtain a licence, sometimes fund raising activities do require control, for example, collection buckets at busy traffic intersections. Auckland and Christchurch regulate the activities of charitable and community services organisations in public places. The proposal is, for any fundraising activity of more than ten hours in a six month period, Council's consent should be obtained beforehand. For those that operate more frequently, for example school or charitable sausage sizzles on a monthly basis, there is no reason why consent would not be granted, but a requirement to obtain consent allows Council to monitor the situation and take appropriate action if such activities began to create a nuisance.
- The current Bylaw No 4 (1990) Chapter 4 Mobile or Travelling Shops and Hawkers covers only the activities referred to in its title. It imposes a licence requirement for hawkers and mobile shop keepers, but a permit regime on stand and stallholders. It would be far simpler and easier to understand if all prospective traders (including buskers, window washers and prostitutes) were required to apply for a licence using the same form. The information required, the requisite fee and the conditions imposed would obviously depend on the type of licence sought, but one streamlined process should reduce confusion and provide an easily understandable and fairer system. That major proposed change means that the current Mobile or Travelling Shops and Hawkers bylaw has been substantially overtaken. The following matters are, however, a departure from the current bylaw, and are brought to the Committee's attention for consideration:

- (a) Applicants (to sell goods or be the keeper of a mobile shop) are to provide photographic identification, so that officers can be satisfied that the trader is the person named on the licence.
- (b) Under the heading 'Licence Conditions', Council may prescribe conditions relating to any subject, one specifically mentioned is location. It is therefore unnecessary to attach a schedule of streets to the bylaw itself listing streets where trading is prohibited. This is a matter which can be dealt with, if appropriate, in the Council's Public Places Trading Policy.
- (c) Under 'Licence Conditions', sub-clause (3) (bottom of page 5) imposes conditions relating to mobile and travelling shops, and (b) requires no keeper to trade within 100 metres of any shop that sells similar items. In Auckland City's current bylaw, the restriction is 300 metres of any shop that sells similar items. The 100 metre restriction has been included for consideration and discussion

Does the proposed Bylaw give rise to any implications into the New Zealand Bill of Rights Act 1990?

The proposed bylaw must meet legal standards of reasonableness and cannot be inconsistent with the freedoms protected and affirmed in the New Zealand Bill of Rights Act 1990.

It is submitted that the proposed Bylaw does not impact on any freedoms affirmed in that Act. It is therefore concluded that the proposed Bylaw does not breach or unnecessarily interfere with rights protected by that Act.

RECOMMENDATIONS

1. That the Public Places Review of Mobile or Travelling Shops and Hawkers Bylaw 1990 report be received.
2. That subject to any amendments made, it is recommended that the parts of the draft Public Places Bylaw 2006 attached to this report, together with the draft Outdoor Dining Policy be forwarded to Council in due course with the final document for approval, and public consultation.

Report prepared by: Denis Sheard, Legal Services Manager and Yvonne Donaldson, Team Leader: Legal Services.



PART D - PUBLIC EXCLUDED MATTER

7 HEARING REPORT FOR PROPOSED PLAN CHANGE TO AMEND BOUNDARY ADJUSTMENT PROVISIONS

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, Hearing Report for Proposed Plan Change to Amend Boundary Adjustment Provisions.

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"> • Hearing Report for Proposed Plan Change to Amend Boundary Adjustment Provisions | <p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"> • Maintain legal professional privilege. • enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). | <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)(g) and 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 could affect certain legal proceedings and the Council's negotiation.*

