



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

PLANNING AND REGULATORY COMMITTEE

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

DATE: Tuesday, 13 July 2010 **TIME:** 9.30 am

MEETING ROOM: Waitemata Room

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

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

7 July 2010

Desiree Tukutama
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8815

MEMBERSHIP:

| | | |
|-------------|-----|------------------------------------|
| Councillors | VS | Neeson, JP (Chairman) |
| | WW | Flaunty, QSM, JP (Deputy Chairman) |
| | DQ | Battersby, QSM, JP |
| | BA | Brady, JP |
| | MFP | Chan, JP |
| | JM | Clews, QSO, JP |
| | RI | Clow |
| | LA | Cooper, JP |
| | AK | Corban, OBE, JP |
| | RP | Dallow, QPM, JP |
| | MM | Jolley |
| | JP | Lawley, JP |
| | PG | Mitchell |

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

(Quorum 5 members)

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(Meeting Room could be subject to change)

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

**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO BE
HELD IN THE WAITEMATA ROOM AT WAITAKERE CENTRAL, 6 HENDERSON
VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY, 13 JULY 2010,
COMMENCING AT 9.30 AM**

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AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO BE HELD IN THE WAITEMATA ROOM AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY, 13 JULY 2010, COMMENCING AT 9.30 AM

PART A - OPENING OF MEETING

1 APOLOGIES



2 URGENT BUSINESS

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

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

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

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



3 CONFLICTS OF INTEREST

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



4 CONFIRMATION OF MINUTES

Meeting Minutes – Tuesday, 8 June 2010

RECOMMENDATION

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

Receive the minutes of the meeting of the Planning and Regulatory Committee held on Tuesday, 8 June 2010, as circulated, and that they be taken as read and now be confirmed.

The public excluded minutes are attached at page 7 of the confidential supplement.



PART B - REGULATORY / ENFORCEMENT

5 LEGAL UPDATE (AS AT 30 JUNE 2010)

GLOSSARY

| | |
|--|---------------------------|
| Planning and Regulatory Committee | (the Committee) |
| Auckland Regional Council | (ARC) |
| Auckland Regional Policy Statement | (ARPS) |
| Resource Management Act 1991 | (RMA) |
| Department of Building and Housing | (DBH) |
| Weathertight Home Resolution Service | (WHRS) |
| Waitakere Ranges Protection Society Incorporated | (WRPS Inc.) |
| Weathertight Homes Tribunal | (WHT) |
| Protect Piha Heritage Society Incorporated | (PPHS Inc.) |
| Swanson Structure Plan | (SSP) |
| Building Act 2004 | (Building Act) |
| Public Works Act 1981 | (PWA) |
| Sentencing Act 2002 | (Sentencing Act) |
| Summary Proceedings Act 1957 | (Summary Proceedings Act) |
| Networth Developments Limited | (Networth) |
| National Trading Company | (NTC) |
| Metropolitan Urban Limit | (MUL) |
| metres squared | (m ²) |
| Rodney District Council | (Rodney) |

EXECUTIVE SUMMARY

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

RECOMMENDATION

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

Receive the Legal Update (as at 30 June 2010) report.

HIGH COURT

(Changed)

T Muir v Rodney DC, Waitakere CC, Auckland Regional Council (January 2010)

1. This is an application for judicial review of the Rodney District Council's (Rodney) decision to grant consent jointly to Rodney District Council, Waitakere City Council (Council), the Auckland Regional Council (ARC) and the Department of Conservation for the removal of a species of willow trees in Bethells/Te Henga which is considered to be a weed. The works are adjacent to private property; the property owners were in support of the application. No ARC consent was required because the spraying is a permitted activity under the Auckland Regional Air Land and Water Plan. Land use consent was required from Rodney as Rodney was concerned as to the area of clearance, being 23 hectares. No other rules were infringed. The consent was granted to the joint councils by an independent commissioner without the application being notified.

2. The Applicant, Mr Muir, has sought to review the Rodney decision on the basis that he should have been notified of the application because he was affected. The Council is involved because it is one of the bodies that now cannot exercise its right under the consent.
3. Mr Muir has withdrawn his application for judicial review and the matter is no longer active. Council can commence works in the summer of 2011.

(Unchanged)

Waitakere City Council v Networth Developments Limited (November 2008)

4. The Council commenced liquidation proceedings against Networth Developments Limited (Networth) for failing to comply with a statutory demand. Networth owes Council \$11,138.58 for unpaid consent application fees. This matter was called on 19 December 2008 and Networth was put into liquidation. The liquidators, Jollands Callander, have advised in their second liquidator's report that it is unlikely there will be a distribution to creditors, which includes the Council.

(Changed)

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

5. The Council was served with seven sets of proceedings under the Public Works Act 1981 (PWA) in the High Court claiming the Council breached its duty to offer back land on Te Atatu Peninsula bordering the Waitemata Harbour. The Council filed applications to strike out the various claims on the basis that: the events which triggered an obligation under the PWA occurred prior to the offer back obligation coming into force, and the PWA should not apply retrospectively.
6. Associate Judge Faire declined the applications. An application to review the Associate Judge's decision was heard before Williams J on 26 February 2007. The Court issued a decision upholding the decision of the Associate Judge Faire concerning the application of s. 40 of the PWA. The Court of Appeal has released a Judgment upholding the High Court decision and dismissing Council's strike out application. The Judgment however contains some useful findings about the statutory requirements before offer back obligations under s. 40 of the PWA arise.
7. Statements of Defence on all seven proceedings have now been served. The plaintiffs have also been asked for information about their financial position to assess whether an application for Council's costs is necessary and details of any third party funders. Discovery of documents is currently in progress.

Substantive hearings involving Mr Mawhinney

(Changed)

Mawhinney and Others v Waitakere City Council (May 2008)

8. Costs of \$19,350.50 were awarded to Council following appeals by Mr Mawhinney against the Environment Court's decision (issued in April 2008) to strike out three related appeals regarding purported applications for certificates of compliance and subdivision consents. The overall purpose of the application was seeking to establish 77 dwellings on the subject site in the foothills environment. Mr Mawhinney failed to pay the costs awards. Bankruptcy notices were issued and a substituted service application was necessary to serve Mr Mawhinney with the notices. Mr Mawhinney applied to set aside the bankruptcy notices alleging various counterclaims and set-offs against Council which were without merit. The matter was allocated a defended hearing on 10 May 2010.
9. Before the defended hearing, a settlement was reached with Mr Mawhinney. It was agreed that Mr Mawhinney's application to set aside bankruptcy notices would be dismissed and that Mr Mawhinney would pay Council the outstanding costs of \$19,350.50, plus further costs of \$14,649.50 (a substantial contribution to Council's costs of the application), \$34,000 in total on or before 9 July 2010. The case has been adjourned until 13 July 2010 to allow payment. If Mr Mawhinney does not pay the debt the proceeding will be dismissed and Mr Mawhinney will commit an act of bankruptcy. If this occurs, Council will be able file an application asking the Court to adjudge Mr Mawhinney bankrupt.

ENVIRONMENT COURT

(New) Trustees of the George Easton Family Trust v Waitakere City Council (April 2010)

10. This is an objection to the taking of land under the PWA. The property is situated at 19 Totara Ave, New Lynn. The property being acquired is in New Lynn and is part of the strategic acquisitions in New Lynn. The objections were required by the Court to provide further particulars of objection by 27 May 2010.

(New) Choong Huat Lai and Luan Joo Tan v Waitakere City Council (April 2010)

11. This is an objection to the taking of land under the PWA. The property is situated at 30 Totara Ave, New Lynn. The property being acquired is in New Lynn and is part of the strategic acquisitions in New Lynn. The Council is required to file a reply to the objection by 7 June 2010.

**(Changed) Laidlaw College of New Zealand v Waitakere City Council (February 2010)
Canam Construction v Waitakere City Council (February 2010)
New Zealand Retail Property Group Management Limited v Waitakere City Council (February 2010)
New Zealand Transport Agency v Waitakere City Council (February 2010)
Mitre 10 Mega v Waitakere City Council (February 2010)**

12. These appeals relate to the Council's decision to grant consent for a Mitre 10 Mega on Lincoln Road, Henderson. The appellants oppose the consent because they consider the scale of the proposal is inappropriate for the area. The consent holder has also appealed the decision on the basis that the consent conditions need to be amended to better reflect the intentions of the applicants.
13. The appeal period has now closed. However, the period for s. 274 parties to lodge their interest is now open. This period closes in mid-April 2010, given the varying dates during which the appeals were lodged.
14. The Council reported to the Court on 27 April 2010 as to its position and the position of the other parties. The matter has been set down for mediation on 13 July 2010.

(Changed) Kane Holdings Limited v Waitakere City Council (January 2010)

15. This appeal relates to the Council's decision to decline consent to the appellant for a retrospective consent to enlarge the existing business of cutting and supplying firewood from a site along State Highway 16. There are three s. 274 parties; the Herald Island Residents and Ratepayers Association, John Tabak and Nevan Barbour. Primary evidence has been exchanged and rebuttal evidence will be exchanged during July 2010. The matter may go to mediation in August 2010 and is likely to go to hearing in December 2010 if it cannot be resolved in mediation (subject to hearing time being available).

(Changed) Duopharma Pacific Limited v Waitakere City Council (August 2009)

16. The proceedings involve an appeal under s. 120 of the Resource Management Act 1991 (RMA). The appeal seeks to overturn a Council decision (made through Commissioners). The Council's decision was to decline consent for an eight level apartment block with ground floor commercial space in Te Atatu Peninsula (543 Te Atatu Road). The proposal was classified as a non-complying activity and the Commissioners for the Council (one independent and two Councillors) were of the view that the effects of the proposal were more than minor and were unable to be remedied or otherwise mitigated. The decision of the Commissioners recorded that a reduced scale proposal may be more appropriate for the area. There are a number of s. 274 parties to this appeal.

17. The appellant has put forward through mediation a reduced scale development of five levels (four residential, one, ground floor, retail) with more landscaping and reduced overall height. This proposal was put to the parties at the mediation on 3 May 2010. The parties to the mediation in part accepted that the reduced scale proposal is acceptable. A report on the outcome of mediation is included as a confidential report to the agenda of the Planning and Regulatory Committee.

(Unchanged)

Swanson Structure Plan Decisions (October 2008)

18. The Court has delivered its decision on the Swanson Structure Plan (SSP). At a special meeting of the Planning and Regulatory Committee on Tuesday, 10 February 2009 it was resolved not to appeal the decision. No other party has appealed. The Council has been directed to prepare a final version of the SSP along with the rules and policies that give effect to its decision by 31 July 2009, with amended provisions to be submitted three months thereafter.

(Changed)

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

19. Officers are still working with the Protect Piha Heritage Society Incorporated to recover the costs.

(Unchanged)

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

20. This was an appeal by the applicants M and C Brickell, W Ashton and L Schwab under s. 121 of the RMA against a decision of the Council to refuse to grant resource consent for a seven-lot subdivision at 54 to 56 Christian Road, Swanson. The Waitakere Ranges Protection Society Incorporated (WRPS Inc.) lodged applications with the Court in support of the Council as s. 274 parties. This appeal was heard on 14 to 16 March 2007. The hearing was resumed on 23 May 2007 in order that the Court could hear the evidence of a witness for a s. 274 party that was not available during the March 2007 hearing.
21. The Court has delivered its decision. The appeal was disallowed. Costs were reserved. The Council submitted its costs application and the Court in Auckland have forwarded the application to Judge Jackson, (who ordinarily sits in Christchurch) for a decision. As His Honour is currently involved in a large hearing, a decision on costs is expected to occur sometime after the conclusion of that matter. We have been advised that Judge Jackson is working on the costs decision.

Mawhinney Matters in the Environment Court

22. There are a number of matters being dealt with currently relating to Mr Mawhinney's companies. The matters are addressed below at paragraphs 31-39 of this report. The current status of Mr Mawhinney's companies referred to is as follows:
- London and Greenwich Trading Company Limited - Struck off;
 - Perceptus Limited - Struck off; and
 - Waitakere Resource Consents Limited - Struck off.

(Unchanged)

Alex Simpson Limited and Peter Mawhinney (substituted plaintiffs) v Waitakere City Council (August 2008)

23. This was a proceeding lodged in the Environment Court by three companies associated with Mr Mawhinney on 25 August 2008. The original appellant companies were London and Greenwich Trading Limited, Perceptus Limited, and Waitakere Resource Consents Limited (all now struck off the register). Alex Simpson Limited and Peter Mawhinney have now been substituted as parties following a defended interlocutory application.
24. The application seeks to revoke a determination made by Council to defer two subdivision applications SUB2008-570 and SUB2008-571 pending obtaining further regional consents. The application has been made to the Court under s. 91(3) of the RMA. The applicant companies dispute the need for the further regional consents.
25. A Notice of Opposition has been filed and a timetable for exchange of submissions and evidence put forward. An affidavit explaining the reasons for the deferral, and legal submissions have been filed with the Court. The proceedings will now be referred to the judge for a decision 'on the papers'.

(Unchanged)

Waitakere Resource Consents Limited (formerly on this report as Perceptus Limited) v Waitakere City Council (January 2008)

26. These proceedings involve Mr Mawhinney seeking an enforcement order under s. 314 of the RMA directing the Council to give public notice on its decision to reserve control over "roads" under the subdivision rules. The Council amended the subdivision rules in 2001, and it is now opposing the application on substantive and procedural grounds.
27. Mr Mawhinney advised the Court on 16 January 2009 that he has no further evidence to file other than that which was originally filed, namely submissions and affidavit evidence. Council served legal submissions and an affidavit from Philip Brown on 17 February 2009. Mr Mawhinney has not replied within the specified timeframe (16 March 2009). Waitakere Resource Consents Limited, the sole remaining corporate appellant, has now been struck off the register. Mr Mawhinney has applied to have another company, Alex Simpson Limited, substituted as the appellant in the proceedings and the Council has opposed this application on the same basis as above.
28. The Court has made the same orders in this proceeding as in the London and Greenwich Trading Company Limited case. Alex Simpson Limited has been permitted to substitute as an appellant, but Mr Mawhinney has also been required to become a party (and he will be liable for Council's costs). The proceedings will now be referred to the judge for a decision.

(Unchanged)

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

29. This case has been placed in the 'on hold' list by the Environment Court, until the Dilworth Structure Plan proceedings (RMA 886/98) have been concluded. Mr Mawhinney recently applied to reactivate this matter on the basis that it should be determined in advance of the completion of the Dilworth Structure Plan proceedings (which are part heard) seeking deferment of a decision for the Dilworth Structure Plan. A Joint Memorandum has been filed with the Court opposing these applications. The Court held a hearing on 9 July 2008 to consider the application and released an oral decision declining the application for priority. The Dilworth Structure Plan proceedings will now need to be completed before the Abacus case can be recommenced.

Plan Change Hearings

(Unchanged)

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

- A1-A3
30. A summary of appeals against Plan Changes 13 to 18 is set out in Annexure 1 attached at pages A1 to A3. The summary identifies the appellants and the plan changes appealed. There are 53 appeals lodged by 27 parties. Further reports will be provided as time goes by.
 31. In addition to appeals on the Council's Plan Changes 13 to 18, the Council had filed its own appeal regarding some decisions of the ARC in respect of Change 6 to the Auckland Regional Policy Statement (ARPS). The Council is also an interested party in respect of appeals filed by other parties where those other appeals affect or interlock with the Council's appeal.
 32. The appeals have been separated into topics, with each council having its own topic groups and the region as a whole creating a topic for Commercial Appeals which address the appeals by the large format retail appellants, which are concerned with whether retail should be located in city centres or corridors. A judicial conference was held on 23 May 2008 where all parties, including the councils, put forward their strategies for managing the appeals. There are no appeals to the Council's plan changes which seek whole plan changes to be cancelled or withdrawn. Only certain rules in each of the plan change areas are under challenge. There are no appeals to the Metropolitan Urban Limit (MUL) and the ARC is working through the process of announcing new MUL, which includes Hobsonville Peninsula, Hobsonville Village and Massey North. The ARC Strategy and Policy Committee had a meeting on 2 February 2010 to determine how it will progress the matter.
 33. The Council has commenced negotiations with all the parties and is progressively working through the appeals.
 - In respect of Plan Change 13 (Hobsonville Peninsula) there are only two appeals outstanding which relate to Precinct H of Hobsonville Peninsula. These appeals relate to the retail provisions in the plan and the appellants are the National Trading Company (NTC) and Progressive Enterprises.
 - The appeal to this plan change by ARC has been resolved by way of consent order.
 - The appeal to this plan change by North Shore City Council has been resolved by way of consent order.
 - In respect of Plan Change 14 (Hobsonville Village) there are a number of appeals. The appeal by NTC as to the location of a supermarket in Hobsonville Village is subject to a draft consent order in respect of which mediation has commenced.
 - The appeal to this plan change by ARC has been resolved by way of consent order.
 - The appeal from the Ockleston Family Trust has been resolved by way of consent order.
 - In respect of Plan Change 15 (Massey North) there are a number of appeals. The appeal by NTC as an additional supermarket in Massey North is subject to a draft consent order in respect of which mediation has commenced. Similarly the appeal by the Midgley family regarding a retail cap in Precinct C of Plan Change 15 is subject to mediation and if unresolved may proceed to a hearing next year. Mediation was conducted between the parties to both of these appeals on 27 and 28 August 2009. The parties agreed to exchange the evidential basis for their positions prior to mediation resuming. This has occurred and mediation will be resuming. The Court is yet to set the matter down for mediation, although it is expected it will do so soon. If these appeals are not resolved at mediation they will proceed to hearing. The appeal to this plan change by ARC has been resolved by way of consent order between the ARC and the Council. Parties to the appeal are yet to agree.

- In respect of Plan Change 16 (Managing City Growth) there are a number of appeals. The appeals that relate to retail within centres and corridors are to be considered now that the appeals relating to this subject have been resolved by way of consent order between the parties. This means that the Council no longer has an appeal against the ARC in respect of Plan Change 6. The appeal by the Waitakere Ranges Protection Society has also been resolved by way of consent order which was lodged with the Court last week.
- In respect of Plan Change 17 (New Lynn) there are a number of appeals. The Council is progressing the resolution of a number of appeals. However some of the relief is subject to the resolution of appeals to Plan Change 18.
- In respect of Plan Change 18 (Urban Design) there are a number of appeals. Most of the appeals relate to the requirements of large format retailers. The Council is meeting with the appellants to attempt to resolve these appeals. The appeals have been set down for mediation on 20 July 2010.

DISTRICT COURT

(New) **Kamal Pradeep Singh / Roma Praneeta Singh – 73 Harmel Road, Glendene (June 2010)**

34. The Council's Building Enforcement Officer inspected the property in response to a customer service request alleging unauthorised building works. During the inspection which took place on 22 March 2010, the Officer discovered that the basement at the rear of the 2 storey dwelling was under construction and was at present held up by temporary props. A significant extension had also been made to the front of the dwelling involving the removal of a deck, and the installation of midfloor timbers and flooring to form an internal landing, installation of an outer load bearing wall framing to form a side wall beneath the roof and also roof framing. Mr Singh who is one of the owners of the property admitted that he had personally carried out the building works.
35. Council's Building Enforcement Officer had concerns about the structural stability of the works carried out and informed Mr Singh that he would need to engage an engineer to confirm that the building was not dangerous. Mr Singh did consult an engineer, however, the engineer was not willing to confirm that the building was safe. Consequently, Council has taken the precaution of issuing a dangerous building notice to the owners until they can provide evidence that the building works have structural stability. On 25 June 2010 the Council laid informations against Mr and Mrs Singh, the registered proprietors of the property for allegedly carrying out unauthorised building works. The matter is set down for a first call on 2 August 2010.

(Changed) **Jin Ling Chen / Zhilan Trading Company Limited 'D H Supermarket' – 2/3 Edsel Street, Henderson (March 2010)**

36. Council's Environmental Health Officer inspected 'D H Supermarket' on 27 January 2010 in response to concerns raised by members of the public in relation to hygiene issues at the supermarket. The inspection revealed that the butchery section of the supermarket was in a very poor state of cleanliness that compromised the safety of products sold to the public. The floor and walls of the cool room were coated with meat/blood debris and emitted a foul odour. The customer service area was also very dirty with display cabinets smeared with blood and rotting meat present. The remainder of the supermarket did not have any significant hygiene issues.

37. The manager agreed to voluntarily close the butchery section to enable cleaning to occur. On 28 January 2010 the butchery was re-inspected by the Officer who considered that it had been cleaned to a reasonable standard. The supermarket was issued a 'D grading'. It was previously given a 'D grading' in June 2008. A charge was laid against the owner/occupier on 10 March 2010 for breach of s. 239 of the Local Government Act 2002 for contravention of Council's Food Bylaw 2005 which carries a maximum penalty of \$20,000. After discussions with the defendant's solicitor, the Council has laid an identical charge against Zhilan Trading Company Limited which owns the supermarket business. The charge has been laid to enable the substitution of the company for Ms Chen as a defendant to these proceedings. The Company has, through its solicitor intimated a guilty plea to the charge. The matter has been adjourned until 9 July 2010.

(Changed)

Sarah Emily Scanlon – 14 Oreil Avenue, West Harbour (December 2009)

38. Onyx Group Limited is contracted to the Council to undertake rubbish collection services in the City. On 30 October 2009 a runner employed by Onyx was seriously injured while undertaking his regular duties. The runner collected a rubbish bag from outside 14 Oreil Avenue and was badly cut by a piece of glass protruding from the bag as he attempted to deposit the bag in the rubbish truck. The glass severed an artery in the runner's leg; he suffered significant loss of blood and had to be taken to hospital. As a result of the injury, the runner was off work for a period of time and once he returned to work he was limited to part time work due to the injury.
39. Council's Waste Minimisation Officer interviewed Ms Scanlon who is the occupier of the property where the rubbish bag was collected on 2 November 2009. Ms Scanlon admitted placing some uncontained broken shards of glass in the bag but was remorseful for the resulting injury. Placing broken glass in a rubbish bag without ensuring that it is sufficiently contained is a breach of Council's Waste Bylaw 2005 and carries a maximum penalty of \$20,000. The prosecution has been brought to alert the public to the requirements of the Waste Bylaw and to reduce the likelihood of a similar incident in the future. Ms Scanlon appeared at the Waitakere District Court on 26 March 2010 and entered a guilty plea to the charge. At the sentencing of the matter on 23 April 2010, Judge Recordan recognised that a deterrent was appropriate and ordered the defendant to complete 40 hours community service.
40. The matter was recalled on 4 June 2010 for the Court to resolve outstanding matters relating to costs/reparations. At the hearing, the defendant supplied a letter from a local kindergarten stating that she had carried out 40 hours community service and complimenting her assistance. Judge Recordan considered that a conviction and discharge under the Sentencing Act 2002 was appropriate in the circumstances. His honour commented that Miss Scanlon had been remorseful, and had completed 40 hours community hours even though more serious offences have often received lower penalties. However, Miss Scanlon was ordered to pay \$456 costs to Council consisting of Court Costs, Solicitor's Costs and a contribution to service costs. This matter is now at an end.

(Changed)

Philip Tamahori – 2 Aio Wira Road, Te Henga (December 2009)

41. On 15 September 2009, a Council Environmental Monitoring Officer lodged a customer service request alleging that a dwelling had been constructed at the site without building consent. Council's Building Enforcement Officer inspected the property on 21 September 2009 and noticed a number of structures at the site that had been constructed without building consent. These structures included a dwelling (116 metres squared (m²), a carport (24m²), a water tank structure (2 m high) and conversion works to a consented shed at the property. RMA compliance issues at the site were also investigated by Council officers. However, the owner has largely addressed these issues by way of a retrospective resource consent application. On 16 December 2009, Council laid an information against the owner for carrying out unauthorised building works at the property. On 26 March 2010 Counsel applied to the Court to strike out reference to the water tank structure on the charge particulars. After the amendment was made, Mr Tamahori entered a guilty plea to the charge through his lawyer. The matter has been set down for sentencing on 29 June 2010 at 10am.

42. The defendant was sentenced by Judge Tremewan. Her honour considered that the building works were relatively significant in a residential context and so set down a starting point fine of \$10,000. However, she considered that the mitigating factors including the defendant's early guilty plea, lack of previous convictions, very poor financial means, and efforts to make the buildings compliant by way of a Certificate of Acceptance/Building Consent warranted a reduction in the resulting fine. The defendant was fined \$4,500 plus \$130 Court Costs and \$226 Solicitor's Costs. This matter is now at an end.

(Changed)

Adrian Leaney / Gordan Brkic / Michael Fahey / Michael Sullivan / D & H Steel Construction Limited / D & H Assets Limited / A J Russell Bricklayers Limited / Clearwater Construction Limited / DHC Consulting Limited – 42 Brick Street, Henderson (December 2009)

43. The owners of the property (D & H Assets Limited) applied for a two stage building consent to construct a large workshop/office at the property in 2007-2008. The project was significant with gross floor area under the consents measuring approximately 12,000 metres squared (m²). The workshop was to be occupied by D & H Steel Construction Limited. On 18 August 2009, a Council building inspector was asked to inspect grids 16-19 of the workshop/office, a part of the building site which was not authorised by building consent. The inspector issued a written stop work notice to the site manager requiring that all unauthorised building works at the site cease.
44. On 28 August 2009, Council's Building Enforcement Officer inspected the extension and met the project manger, Mr Leaney and the General Manager of Clearwater Construction Limited Mr Fahey. He instructed the men to stop all work on the unauthorised section of the workshop. He was advised that the unauthorised extension has a building coverage of approximately 1200m². On the same day Council issued a Notice to Fix to Clearwater Construction Limited and D & H Assets Limited requiring all unauthorised works to cease, and requiring compliance with the Building Act 2004 (Building Act).
45. On 8 September 2009, Council's Building Inspector observed building works continuing on the unauthorised section of the workshop. He notified the Council's Building Enforcement Officer who immediately went to the site. The Building Enforcement Officer advised the acting site manager to stop all unauthorised building works at the site as required by the Notice to Fix. The manager advised that he was under instruction from Mr Fahey to proceed regardless and so the officer left the site.
46. On 9 September 2009, Council's Building Enforcement Officer returned to the site with a second Notice to Fix requiring all unauthorised building works to cease. He hand delivered a copy to the acting site manager and re-stated the requirement to stop unauthorised building works. Again the site manager advised he was under instruction from Mr Fahey to continue working. The officer also encountered workers from AJ Russell Bricklayers installing block work on the unauthorised part of the workshop. He instructed one of the workers to stop work but he refused on the grounds that he was under instructions from Clearwater Construction Limited.
47. As a result of a meeting later that day, Clearwater Construction Limited agreed to stop working on the unauthorised part of the building and to apply for a Certificate of Acceptance/Building Consent to complete the works. On 15 September 2009, Council's Building Inspector observed the installation of a beam on the unauthorised part of the workshop.
48. On 18 December 2009, the Council laid charges under s. 40, 168 and 365 of the Building Act against the construction company, the owners of the property, the owners of the building, engineering contractors and the blocklayer contractors as well as a number of individual defendants who had an involvement in the offending. The parties have met to discuss the charges and the Council has sought an adjournment to seek further advice in the matter. The case will be recalled on 2 August 2010.

(Unchanged)

Sabrni Properties Limited / Christopher West / Glenda West - 91 Mountain Road, Henderson Valley (November 2009)

49. Council received a complaint on 19 June 2009 in relation to the construction of two additional dwellings at the site without building consent. Council officers inspected the site and discovered a newly built 30m² household unit at the site. In addition, an existing 45m² "outbuilding" at the site had been extensively renovated to create another household unit at the site. The works undertaken on both units required a building consent but the owners did not apply for one. Council officers are also concerned that there is inadequate provision for the disposal/treatment of wastewater at the property. As a result, there is a risk of environmental contamination given that the two buildings are in close proximity to the western boundary of the property.
50. A Notice to Fix was issued to the owners of the property on 29 June 2009 giving the owners a number of options to ensure the buildings could comply with the Building Act and Building Regulations by 5 October 2009. The owners have not complied with the Notice to Fix. On 19 November 2009 the Council laid informations against the owners for undertaking unauthorised building works at the property. On 25 January 2010 the defendant's solicitor entered not guilty pleas to the charges. The matter has been set down for a defended hearing on 13 August 2010.

(Unchanged)

Neil Milbank – 185a Metcalfe Road, Ranui (August 2009)

51. On 28 August 2008 a Council officer inspected the property in response to a complaint from the public in relation to lack of stormwater control at the property. A number of photographs were taken of the property including of the upper deck which was estimated to be three metres above the ground but lacked any kind of safety barrier. A Dangerous Building Notice was issued to the owner requiring him to immediately install a safety barrier to the upper deck that would comply with the Building Code. The Dangerous Building Notice was issued to the owner in person on 1 September 2008, and the safety issues were explained to him by the Council officer.
52. The site was re-inspected on 3 November 2008 by the Council officer who saw that no safety barrier had been installed. A second Dangerous Building Notice was issued to the owner by affixing it to the fence at the property. Another inspection took place on 29 December 2008 and a third Dangerous Building Notice was issued to the defendant by post the following day. A fourth Dangerous Building Notice was issued to the owner on 1 May 2009 following another inspection. On 10 June 2009 the property was inspected again and a sofa was noticed situated on the upper level deck which was the subject of the Dangerous Building Notice.
53. On 12 August 2009 informations were laid against the defendant for failing to comply with a Dangerous Building Notice. The defendant entered a not guilty plea on 21 December 2009. At a status hearing on 25 January 2010 the defendant failed to appear and so the matter was set down for formal proof on 22 February 2010. The defendant attended Court on 22 February 2010 and advised that he wished to defend the charge. The matter has been set down for a defended hearing on 13 August 2010.

(Unchanged)

Leslie Comer – 164 Statehighway 16 (April 2009)

54. Mr Comer sought a resource consent to establish a firewood store and processing facility at the property. A resource consent (RMA20060922) was granted to Mr Comer on 26 October 2006 subject to 26 conditions. On 11 November 2008 an Environmental Monitoring Officer inspecting the site found that Mr Comer had laid a huge concrete slab instead of a turning circle which was a breach of condition (1) of RMA20060922 that required Mr Comer to follow the architect's plans which were submitted with the application for resource consent, and in addition Mr Comer had erected signs that did not include the words "no retail sales" in contravention of condition (15) of RMA20060922.

55. A subsequent inspection was made on 22 December 2008 by an Environmental Protection Officer who took measurements of the building coverage as well as photographs of the site. A Significant Breaches Report was subsequently completed which identified substantial breaches of building coverage limits in the district plan as well as condition 1 and 15 of RMA20060922. As a result of the gravity of the breaches prosecution was recommended.
56. Informations were laid on 8 April 2009 and the first call of the matter was heard by Judge Tremewan at Waitakere District Court on 25 May 2009. Mr Comer entered a plea of not guilty and indicated that he would have legal representation at the substantive hearing. Judge Tremewan agreed to counsel's request to transfer the matter to the Auckland District Court to be heard by a judge with an Environment Court warrant. The matter was set down for a status hearing at Auckland District Court on 10 August 2009.
57. At a status hearing on 10 August 2009, Counsel for the defendant requested an adjournment until the retrospective consent application relating to the property is processed. Counsel for the informant opposed the adjournment application on the basis that the retrospective consent is not relevant to the defendant's culpability for the offence and an adjournment would unnecessarily delay the proceedings. The defendant elected a trial by jury and the matter was set down for a pre-depositions hearing date for 16 November 2009. The date has been moved to 17 November 2009 due to a clash in the Court schedule.
58. At the pre-depositions hearing the matter was adjourned until 18 December 2009 to enable the defendant's Counsel to advise the informant which of the informant's witnesses are to provide oral evidence at the depositions hearing. The parties have agreed to file all written statements and exhibits by 12 March 2010. Mr Comer was committed on 16 April 2010 and the matter is remanded until 6 July 2010. An indictment was filed on 28 May 2010.

(Changed) Leaky Building Claims

Current Claims

59. Claim statistics are as follows:
- (a) There are now 19 leaky building claims being handled by Council's lawyers. The 19 claims represent 336 units, with 9 multi unit claims representing 328 units:

| | |
|-----------------------------------|------------------------------------|
| High and District Court: | 11 (including 5 multi unit claims) |
| Weathertight Homes Tribunal (WHT) | 8 (including 4 multi units claims) |

- (b) The total number of Weathertight Home Resolution Service (WHRS) claims recorded on the Department of Building and Housing (DBH) website relating to properties in Waitakere as at the 31 May was 188. The total number of properties affected was 364. These figures include buildings where building consents were processed and/or inspections were undertaken by building certifiers. In respect of those matters, the Council may have no liability exposure from claims. However, the WHRS figures do not capture court claims.

Claims Settled

60. To date the total amount paid by Council to Claimants to settle claims, inclusive of contributions by Riskpool, is \$1,145,000. There are six claims, including one multi unit, with the Council's lawyers which are not covered by RiskPool.

June 2010

61. The only claim to be resolved (as far as the Council is concerned) was 15 Lockington Avenue, Henderson, which was a private certifier matter. The Council was removed from the proceedings on the 23 June 2010.

May 2010

62. The claim in respect of 40 Danica Esplanade, Te Atatu Peninsula was settled at mediation on 17 May 2010. The Council's and Waitakere Properties Ltd combined RiskPool excess of \$100,000 was consumed in settling the claim.

April 2010

63. The claim in respect of 192B Cliff View Drive, Green Bay was settled at mediation on 27 April 2010. The Council's RiskPool excess of \$50,000 was consumed in settling the claim.

March 2010

64. The contribution to settlement of 15 Vinograd Drive (an 8 unit claim) has been agreed, but the settlement agreement remains to be signed. The Council's RiskPool excess of \$15,000 was consumed in settling the claim.

February 2010

65. 20 Belvedere Court settled at mediation on the 23 February 2010, 29C Kamara Road failed to settle at mediation, but appears subsequently to have settled with an assignment of the claim being taken against the builder, who would not contribute a sufficient share to settle the claim at mediation. Settlement consumed the Council's \$50,000 RiskPool excess in both matters.

January 2010

66. No claims were settled during January 2010.

Claims Received

June 2010

67. The Council received 5 notifications of new claims, being:
- 15 Reflection Drive, West Harbour;
 - 135 and 137 Metcalfe Road, Ranui;
 - 1/43A Savoy Road, Glen Eden; and
 - 1 Barra Drive, Henderson.

May 2010

68. Applications for Assessor reports were accepted by the WHRS in relation to 18 Chettle Court, New Lynn, and 29 Roy Maloney Drive, Henderson on the 7 May 2010 and in respect of 7 Kona Crescent, Henderson on the 11 May 2010.

April 2010

69. Applications for Assessor reports were accepted by the WHRS in relation to 11 Exotic Court, Massey on the 15 April 2010 and 23 Stephen Avenue, Henderson on the 19 April 2010.

March 2010

70. An application for an Assessor's report was accepted by the WHRS in relation to 11 Woontons Lane, Titirangi on the 18 March 2010.

February 2010

71. Applications for Assessor's reports were accepted by the WHRS in relation to 121A, 129C and 131 Hobsonville Road, Hobsonville.

January 2010

72. No claims were received during January 2010.

Report prepared by: David Collins, Contract Solicitor.



6 CONTROL OF LIQUOR IN PUBLIC PLACES BYLAW 2008 REPORT

Glossary

| | |
|---|---------------|
| Central Business Districts | (CBDs) |
| Control of Liquor in Public Places Bylaw 2008 | (the Bylaw) |
| Local Government Act 2002 | (LGA 02) |
| New Zealand Bill of Rights Act 1990 | (NZBORA) |
| Waitakere City Council | (the Council) |
| Waitakere Area Police | (Police) |

EXECUTIVE SUMMARY

The purpose of this report is to update the Planning and Regulatory Committee on the review and the proposed new sites and hours for amendment in the Waitakere City Council Control of Liquor in Public Places Bylaw 2008 (the Bylaw).

Feedback from the Waitakere Area Police (Police), Waitakere community and other Council departments has been incorporated into this report for the consideration of the Planning and Regulatory Committee.

RECOMMENDATIONS

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

1. **Receive** the Waitakere City Council Control of Liquor in Public Places Bylaw 2008 Report.
2. **Invite** the Council to amend the Bylaw, pursuant to clause 7 of the Waitakere City Council Control of Liquor in Public Places Bylaw 2008 to:
 - (a) Extend the specified hours of liquor ban areas listed in the Second Schedule of the Bylaw from 9pm to 6am to 7pm to 7am.
 - (b) Remove five existing parks and reserves from the liquor ban areas listed in the Second Schedule:
 - (f) Map 12 - Te Pai Park - Henderson;

- (j) Map 16 - Waikumete Cemetery - Glen Eden;
 - (m) Map 19 - Archibald Park - Kelston;
 - (o) Map 21 - Ken Maunder Park - New Lynn; and
 - (s) Map 25 - Triangle Park - Massey.
- (c) Insert a Fourth Schedule with specified times of 24 hours, 7 days a week for the following parks and reserves:
- (a) Map 12 - Te Pai Park - Henderson;
 - (b) Map 16 - Waikumete Cemetery - Glen Eden;
 - (c) Map 19 - Archibald Park - Kelston;
 - (d) Map 21 - Ken Maunder Park - New Lynn; and
 - (e) Map 25 - Triangle Park - Massey.

3. **Invite** the Council to declare, pursuant to clause 7 of the Waitakere City Council Control of Liquor in Public Places Bylaw 2008, 11 new liquor ban areas as set out in the schedules and delineated in corresponding maps for the specified times:

| New Liquor Ban Areas | Hours/days where liquor ban will be in place | Schedule | Proposed Map |
|--|---|-----------------|---------------------|
| Green Bay (CBD) | 24 hours, 7 days a week | First | 31 |
| Harold Moody Park – Glen Eden | 7.00pm – 7.00am | Second | 32 |
| Glen Eden Picnic Area – Glen Eden | 7.00pm – 7.00am | Second | 33 |
| Otitori Bay (French Bay) - Titirangi | 7.00pm – 7.00am | Second | 34 |
| Henderson Park (including Opanuku Reserve, Corban Park, Vintage Reserve and Rotary Park) – Henderson | 24 hours, 7 days a week | Fourth | 41 |
| Te Rangi Hiroa Reserve (including Birdwood Winery and Birdwood Depot) - Ranui | 7.00pm – 7.00am | Second | 35 |
| Hobsonville War Memorial Park - Hobsonville | 7.00pm – 7.00am | Second | 36 |
| Northall Park – New Lynn | 7.00pm – 7.00am | Second | 37 |
| Moire Park – Massey | 7.00pm – 7.00am | Second | 38 |
| Lawson Park – New Lynn | 7.00pm – 7.00am | Second | 39 |
| Manutawhau Reserve - Massey | 7.00pm – 7.00am | Second | 40 |

4. **Invite** the Council to resolve, pursuant to section 156(2)(a) of the Local Government Act 2002, to make a minor change to Map 24 (Herald Island) of the Waitakere City Council Control of Liquor in Public Places Bylaw 2008 in order to correct a drafting error and ensure that Map 24 is consistent with the corresponding reference in the Second Schedule to the “Public area adjacent to Herald Island wharf car park – Herald Island”.

BACKGROUND

1. On 17 December 2008, the Council resolved to adopt the Bylaw with a commencement date of 23 December 2008 (resolution 2140/2008). At its earlier meeting on 24 November 2008, the Planning and Regulatory Committee resolved as follows:

“Agree that a report be brought to the Planning and Regulatory Committee to be held on Tuesday, 12 May 2009, to make any amendments required under clause 7 of the Control of Liquor in Public Places Bylaw 2008.”

1963/2008

2. Signage for the liquor ban areas was in place by May 2009 (after resource consent was obtained). The Bylaw has now been operative and enforced for a sufficiently long period to be assessed. Waitakere Area Police (who enforce the bylaw), Council staff and the community (principally through Community Boards) have been consulted on the manner in which the Bylaw is enforced and its effectiveness. This has prompted suggestions for amendments to the current bylaw.
3. During the review of the Bylaw, it was found that Map 24 contained a drafting error whereby it depicted the liquor ban area for Herald Island extending out past the Council’s territorial boundary. This drafting error was inconsistent with the description of Map 24 in the Second Schedule of the bylaw - “Public area adjacent to Herald Island wharf car park – Herald Island”. The review of the Bylaw provides an opportunity to amend Map 24 in accordance with section 156(2)(a) of the Local Government Act 2002 (LGA 02) where it states:

“... a local authority may, by resolution publicly notified,—

- (a) make minor changes to, or correct errors in, a bylaw, but only if the changes or corrections do not affect—*
 - (i) an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies; or*
 - (ii) an existing status or capacity of any person to whom the bylaw applies.”*

Waitakere Police Liquor Ban Review Report

- C67-C89
4. The Waitakere Police have provided the Planning and Regulatory Committee with a report (in confidence) attached at pages C67 to C89 of the confidential supplement. The report contains the following conclusions on the current Bylaw at page 21 of the report:

“48. The Liquor Ban is almost certain to have successfully reduced assaults (4%), disorder (15%), youth incidents (12%), and wilful damage (21%) around Waitakere City in 2009 particularly in the traditional hotspots now covered by the Liquor Ban.

49. It is likely enforcement has changed alcohol consumption habits, prompting people to gather, consume alcohol and leave before the hours of the liquor ban.

50. There has been an increase in alcohol incidents (23.8%) clearly showing the proactive apprehension of offenders breaching the Liquor Ban.

51. The liquor ban is viewed as an early intervention tool enabling Police to intervene, preventing an intoxicated person becoming an offender or victim of crime.

52. *Enforcement by groups such as the Tactical Policing Unit in areas covered by the Liquor Ban can significantly reduce offending in these locations and contribute to making Waitakere a safer place.”*

5. The Waitakere Police Report goes on to make a number of recommendations flowing from their review about further liquor ban areas that could be established.
6. The Council has also received a number of complaints relating to alcohol-related disorder in public places that are not currently covered by the existing Bylaw. These concerns relate to incidents of anti-social behaviour. The complaints have come from local residents, community and local business groups. Supporting evidence has been provided by Council's Parks officers who also share concerns about the impact of alcohol-related disorder (including broken glass and vandalism) in parks within Waitakere. This is the basis for recommending an extension of hours and including new areas.

DECISION MAKING

Issues

7. The Police Report identifies areas of concern within the City where alcohol-related offending occurs. The newly identified areas are not liquor ban areas within the ambit of the current Bylaw. Police have also requested that the liquor ban times on the parks included within the current Bylaw be changed from 9.00pm to 6.00am everyday, to 7.00pm to 7.00am everyday. In addition to this amendment, Police have identified key parks where a 24 hours a day, 7 days a week liquor ban is desirable to prevent ongoing alcohol-related problems in these areas.
8. The Police are of the view that an extension and amendment to the hours and will lead to a reduction in offensive behaviour and reduce the number of serious incidents by further restricting the consumption of liquor in public places. Analysis of provisional data in Waitakere between 2008 and 2009 showed a reduction in alcohol-related disorder and violent events in Waitakere during 2009 when the current bylaw was in force. Much of the reduction occurred within the liquor ban sites across the city, in particular the six Central Business Districts (CBDs). Police have noted in their report that only minor displacement of disorder and violence has occurred.
9. A summary of the additional sites for liquor bans to be implemented as a result of consultation with the Police, Council staff and key community stakeholders is detailed below:

| Public Places for inclusion (in addition to the Bylaw) | Hours/days where liquor ban will be in place |
|--|---|
| Green Bay (CBD) | 24 hours, 7 days a week |
| Harold Moody Park – Glen Eden | 7.00pm – 7.00am |
| Glen Eden Picnic Area – Glen Eden | 7.00pm – 7.00am |
| Otitori Bay (French Bay) – Titirangi | 7.00pm – 7.00am |
| Henderson Park (including Opanuku Reserve, Corban Park, Vintage Reserve and Rotary Park) - Henderson | 24 hours, 7 days a week |
| Te Rangi Hiroa Reserve (including Birdwood Winery and Birdwood Depot) - Ranui | 7.00pm – 7.00am |

| Public Places for inclusion (in addition to the Bylaw) | Hours/days where liquor ban will be in place |
|---|---|
| Hobsonville War Memorial Park – Hobsonville | 7.00pm – 7.00am |
| Northall Park – New Lynn | 7.00pm – 7.00am |
| Moire Park – Massey | 7.00pm – 7.00am |
| Lawson Park – New Lynn | 7.00pm – 7.00am |
| Manutawhau Reserve - Massey | 7.00pm – 7.00am |

Table 1: Summary of Additional Sites

10. In July 2009, the Council received a request from Waitakere Licensing Trust requesting the Council to extend the current liquor ban in the vicinity of the Trusts Stadium to cover both sides of Central Park Drive between Universal Drive extension and Paramount Drive. However, the Council has not received any supporting Police or community requests for this additional area to be subject to a liquor ban, and therefore at this stage, this area has not been recommended as a suggested liquor ban area.
11. Reports and requests received from Police, Council officers (Parks and Call Centre) and key community stakeholders have been summarised in the table below. These additional proposed sites are likely to assist in reducing alcohol-related violence and disorder within these areas.

| Public Places for inclusion (in addition to the Bylaw) | Consultation and community/ Police/Council Officers' feedback | Support for liquor ban |
|---|--|--|
| Green Bay (CBD) | Numerous complaints from the public and local Business Association about the disorder in and around the Green Bay Shops and local parks from drunken disorderly behaviour during a 24 hour period. | Local residents; including business district Police Council officers |
| Harold Moody Park – Glen Eden | Police scans show evidence of alcohol-related violence and disorder incidents. Anecdotal data suggests that most of this offending is occurring from 7pm through to the early hours of the morning. Evidence from Council's Parks department indicates drinking is occurring on a regular basis within the Harold Moody Park. | Police Council officers |
| Glen Eden Picnic Area – Glen Eden | A number of serious assaults, disorder and alcohol-related incidents have occurred in this area. | Police |

| Public Places for inclusion (in addition to the Bylaw) | Consultation and community/ Police/Council Officers' feedback | Support for liquor ban |
|--|--|---|
| Otitori Bay (French Bay) – Titirangi | <p>Community complaints relating to violent disorder have been regularly logged through the Council and Police call centres.</p> <p>Police have attended a number of violent alcohol-related incidents in this area over the last few years. This area is remote. A liquor ban would give the Police the ability to instantly deal with alcohol-related crime.</p> | Community Police Council officers |
| Henderson Park (including Opanuku Reserve, Corbans Park, Vintage Reserve and Rotary Park) – Henderson | Police have responded to numerous violence, disorder and alcohol-related incidences within the park. Anecdotal evidence suggests that consumption of alcohol is evident in the park across a 24 hour period. | Police Council officers |
| Te Rangi Hiroa Park (including Birdwood Winery and Birdwood Depot) – Ranui | <p>Police have attended alcohol-related disorder and violence incidents within the park. Evidence suggests that young people are congregating drinking alcohol within the park.</p> <p>Concerns from Council officers regarding the detrimental effects of increased public drinking in the park.</p> | Police Council officers |
| Hobsonville War Memorial Park – Hobsonville | <p>Complaints from residents and shop owners coupled with evidence of broken bottles and beer cartons indicate a liquor ban would be beneficial.</p> <p>Evidence from Council's Parks department highlight continual alcohol-related issues here.</p> | Police Council officers |
| Northall Park – New Lynn | <p>A number of alcohol-related disorder incidents have occurred in Northall Park as well as significant disorder and violence problems around the entrance of Westall Road, New Lynn</p> <p>Evidence from Council's Parks department indicates drinking is occurring at Northall Park on a consistent basis.</p> | Police Council officers |
| Moire Park – Massey | Evidence from Council's Parks department indicates drinking on a regular basis is occurring at Moire Park with associated problems. | Council officers |
| Lawson Park – New Lynn | This has been identified by the Tactical Policing Unit as a busy location for alcohol-related disorder and violence. | Police |

| Public Places for inclusion (in addition to the Bylaw) | Consultation and community/ Police/Council Officers' feedback | Support for liquor ban |
|---|---|-------------------------------|
| Manutawhau Reserve – Massey | Written request from the residents in Jadewynn Drive, Massey requesting that a liquor ban be placed on the Manutawhau Reserve as a means of curbing youth congregating, drinking and vandalism within Manutawhau Reserve. | Community Council officers |

Table 2: Summary of Consultation and Support for Additional Sites

12. In addition to the proposed new liquor ban sites, Police are requesting amendments to the existing liquor ban hours in four parks and Waikumete Cemetery. The Cemetery Manager is in support of the proposed amendment to the current liquor ban time at Waikumete Cemetery. The proposed extension of liquor ban hours are requested to address the alcohol-related issues and disorder continually occurring at these sites. The table below outlines the suggested time amendments.

| Public Place | Current liquor ban hours | Amended hours/times where liquor ban will be in place |
|--------------------------------|--------------------------|---|
| Waikumete Cemetery – Glen Eden | 9.00pm – 6.00am | 24 hours, 7 days a week |
| Te Pai Park – Henderson | 9.00pm – 6.00am | 24 hours, 7 days a week |
| Triangle Park – Massey | 9.00pm – 6.00am | 24 hours, 7 days a week |
| Archibald Park – Kelston | 9.00pm – 6.00am | 24 hours, 7 days a week |
| Ken Maunder Park – New Lynn | 9.00pm – 6.00am | 24 hours, 7 days a week |

Table 3: Five Identified Parks/Sites for Amended Liquor Ban Hours

Control of Liquor in Public Places Bylaw

A4-A40

13. The Bylaw (attached at pages A4 to A40) is consistent with the requirements of Part 8 of the LGA 02 and the New Zealand Bill of Rights Act 1990 (NZBORA). The proposed amendments to the bylaw are similarly consistent with these statutory requirements and are in accordance with clause 7 of the Bylaw:

7. Liquor bans in other public places

- 7.1 *The Council may, by resolution, declare specified parts of the district or a public place to be a liquor ban area.*
- 7.2 *A resolution made under clause 7.1 must specify the hours of the day or the days during which the liquor ban will apply.*
- 7.3 *For the avoidance of doubt a resolution under clauses 7.1 and 7.2 may be made for the purpose of holding a special event.*
- 7.4 *A resolution made under clauses 7.1 to 7.3 inclusive may be made, amended or revoked by the Council at any time.*
- 7.5 *Before passing a resolution under clauses 7.1 to 7.3 inclusive the Council must, without limiting its decision making responsibilities under the Local Government Act 2002, have regard to:*
- a) *the likelihood that liquor will be present in that public place during the specified period;*

- b) *the nature of the locality and the reasons why the liquor ban is being sought, or was originally imposed;*
- c) *the size of the proposed liquor ban area and the ability to enforce the ban;*
- d) *the views of the New Zealand Police;*
- e) *any implications under the New Zealand Bill of Rights Act 1990;*
- f) *the views of the community.*

7.6 *As soon as practicable after a resolution is passed under clauses 7.1 and 7.2 the Council must give public notice of the passing of the resolution, the date upon which the liquor ban will take effect and stating that a copy of the resolution and a map of the liquor ban area will be made available upon request. The Council will also post a copy of the resolution and a net of the liquor ban area on its website."*

Options Identified

14. There are four options open to the Planning and Regulatory Committee:

- (a) **Option 1: No change**
Retain the status quo of the current liquor ban sites and hours as per the current bylaw.
- (b) **Option 2: New sites, existing times**
Declare specified sites (as set out in Table 2) a requested by the community, Police and supported by Council officers to be additional liquor ban areas, and implement the existing bylaw liquor ban hours. These additional liquor ban areas would be added to the Schedules as follows:

| Additional Liquor Ban Areas | Schedule | Existing Times |
|---|-----------------|-------------------------|
| Green Bay (CBD) | 1 | 24 hours, 7 days a week |
| Harold Moody Park – Glen Eden | 2 | 9.00pm – 6.00am |
| Glen Eden Picnic Area – Glen Eden | 2 | 9.00pm – 6.00am |
| Otitori Bay (French Bay) | 2 | 9.00pm – 6.00am |
| Henderson Park (including Opanuku Reserve, Corban Park,, Vintage Reserve and Rotary Park) - Henderson | 2 | 9.00pm – 6.00am |
| Te Rangi Hiroa Reserve (including Birdwood Winery and Birdwood Depot) - Ranui | 2 | 9.00pm – 6.00am |
| Hobsonville War Memorial Park – Hobsonville | 2 | 9.00pm – 6.00am |
| Northall Park – New Lynn | 2 | 9.00pm – 6.00am |
| Moire Park – Massey | 2 | 9.00pm – 6.00am |
| Lawson Park – New Lynn | 2 | 9.00pm – 6.00am |

| Additional Liquor Ban Areas | Schedule | Existing Times |
|-----------------------------|----------|-----------------|
| Manutawhau Reserve – Massey | 2 | 9.00pm – 6.00am |

Table 4: Option 2 Additional Liquor Ban Areas – Schedules and Times

(c) **Option 3: New sites, current times and extend times for 5 key identified sites**

Declare specified sites (as requested by the community and Police and supported by Council officers) to be additional liquor ban areas (as set out in Table 2) and implement the existing liquor ban Bylaw hours. In addition, extend the times on the five identified key sites that are existing liquor ban sites from the current 9.00pm-6.00am to 24 hours-7 days a week (as set out in Table 3), as requested by the Police.

(d) **Option 4: New sites, new times (for all parks and reserves) and extend times for 5 key identified sites**

Amend the Bylaw, pursuant to clause 7, regarding times of all the existing liquor bans on parks and reserves (Second Schedule of the 2008 bylaw) and extend the ban from 9.00pm-6.00am to 7.00pm-7.00am. Declare specified sites (as listed in Table 1) to be additional liquor ban areas and hours as per Table 1. Amend the times on identified key sites (as set out in Table 3) from 9.00pm-6.00am to 24 hours-7 days a week as requested by the Police.

Assessment of Options

| Option | Option Analysis | Advantages | Disadvantages |
|---|---|--|--|
| Option 1 Retain the status quo of the current liquor ban sites and hours as per the current Bylaw. | Effective way to manage public drinking in most public places identified in the Bylaw. Police data indicates reduced alcohol-related offending in these areas. | No additional resources required. Public familiar with existing times. | Does not meet current police or community needs related to public health and safety issues. Some offending occurs outside the prescribed bylaw times. Some parks are not covered by the bylaw. |
| Option 2 Declare additional sites (as set out in Table 2) as requested by the community, Police and supported by Council officers to be additional liquor ban and implement the existing liquor ban hours of 9.00pm – 6.00am. | Provides additional liquor ban site coverage as requested by the Police and community. | Limited additional resources required, being signage for 11 new sites. Public familiar with existing times. | Does not meet specific Police needs for extended hours to address public health concerns around excessive consumption and safety issues (violence). Some offending occurs outside the prescribed Bylaw times. Increased impact on civil liberties as more areas where the public are not permitted to drink alcohol. This may be |

| | | | |
|---|--|--|---|
| | | | a particular issue during the summer months when more use is made of public places. |
| <p>Option 3 Declare specified sites (as requested by the community and Police and supported by Council officers) to be additional liquor ban areas (as set out in Table 2) and implement the existing liquor ban Bylaw hours. In addition, extend the times on the five identified key parks/sites that are existing liquor ban sites from the current 9.00pm-6.00am to 24 hours-7 days a week (as set out in Table 3), as requested by the Police.</p> | <p>Provides additional liquor ban site coverage and extended hours as requested by the Police.</p> | <p>Targets identified problem areas i.e. parks and public places by extending hours.</p> | <p>Additional costs associated with notification and further signage.</p> <p>Increased impact on civil liberties as more areas where the public are not permitted to drink alcohol. This may be a particular issue during the summer months when more use is made of public places.</p> |
| <p>Option 4 Amend the bylaw regarding times of all the existing liquor bans on parks and reserves (Second Schedule of the 2008 Bylaw) and extend the ban from 9.00pm-6.00am to 7.00pm-7.00am. Declare specified sites (as listed in Table 1) to be additional liquor ban areas and hours as per Table 1. Amend the times on identified key sites (as set out in Table 3) from 9.00pm-6.00am to 24 hours-7 days a week as requested by the Police.</p> | <p>Provides standardised 7.00pm to 7.00am liquor ban hours and 24 hour bans for specified sites.</p> | <p>Targets identified problem areas i.e. parks and public places by extending hours.</p> <p>Consistency in approach across sites with either a 7pm-7am or 24 hour ban to address specific hot spots.</p> <p>These hours are commonly adopted liquor ban hours in many other council areas.</p> <p>Increase perception of safety in parks and reserves.</p> <p>Will not restrict the sensible consumption of alcohol in parks and reserves.</p> | <p>Considerable additional costs associated with public notification and more signage.</p> <p>Increased impact on civil liberties as more areas where the public are not permitted to drink alcohol.</p> |

Consideration of Community Views

Preferred Option

15. Following an analysis of the information gathered to date, the Planning and Regulatory Committee are invited to consider Option 4 as the preferred option. This option is considered the most beneficial to the wellbeing and safety of the city due to a likely reduction in alcohol-related incidents in the specified sites as evidenced by the positive impacts of existing liquor bans as detailed in the Police Report.
16. Option 4 will enable Council to amend its Bylaw to:
- a. Apply a consistent approach for reducing the incidences of alcohol-related offending in identified problem areas within the City.
 - b. As requested by Police, place a 24 hours a day, 7 days a week ban in specific parks where a high incidence of alcohol-related issues are evident.
 - c. Increase safety within parks and reserves by enabling the Police to appropriately deal with those members of the public who drink alcohol in these parks during the specified liquor ban hours. The Police have indicated that a discretionary approach around the enforcement of the Bylaw will be continually implemented.
 - d. Allow the sensible consumption of alcohol in parks and reserves during the day and early evening in some parks. Police discretion will apply.
17. Option 4 will not alter the general provisions of the Bylaw, as only the First and Third Schedules of the Bylaw are amended and a new Fourth Schedule created. Therefore, a liquor ban will apply only to certain public places in Waitakere that are scheduled (and mapped) liquor ban areas. As is the present case, liquor bans do not apply to public places that are “licensed for the purposes of the sale and/or consumption of liquor under the Sale of Liquor Act 1989” (clause 5(h)(iii) Bylaw), which would include those events with a Special Liquor Licence.
- A41-A67 18. In the event that Council agrees to implement Option 4, the recommended amendments have been prepared with an update of the Bylaw in accordance with this option (attached at pages A41 to A67). These proposed changes are summarised below:

Table 6: Summary of Additional Sites with Proposed Map References

| Public Places for inclusion (in addition to the bylaw 2008) | Hours/days where liquor ban will be in place | Proposed Schedule | Proposed Map |
|---|--|-------------------|--------------|
| Green Bay (CBD) | 24 hours, 7 days a week | 1 | 31 |
| Harold Moody Park – Glen Eden | 7.00pm – 7.00am | 2 | 32 |
| Glen Eden Picnic Area – Glen Eden | 7.00pm – 7.00am | 2 | 33 |

Table 6: continued

| Public Places for inclusion (in addition to the bylaw 2008) | Hours/days where liquor ban will be in place | Proposed Schedule | Proposed Map |
|--|--|-------------------|--------------|
| Otitori Bay (French Bay) – Titirangi | 7.00pm – 7.00am | 2 | 34 |
| Henderson Park (including Opanuku Reserve, Corban Park, Vintage Reserve and Rotary Park) - Henderson | 24 hours, 7 days a week | 4 | 41 |
| Te Rangi Hiroa Reserve (including Birdwood Winery and Birdwood Depot) - Ranui | 7.00pm – 7.00am | 2 | 35 |
| Hobsonville War Memorial Park – Hobsonville | 7.00pm – 7.00am | 2 | 36 |
| Northall Park – New Lynn | 7.00pm – 7.00am | 2 | 37 |
| Moire Park - Massey | 7.00pm – 7.00am | 2 | 38 |
| Lawson Park – New Lynn | 7.00pm – 7.00am | 2 | 39 |
| Manutawhau Reserve – Massey | 7.00pm – 7.00am | 2 | 40 |

Table 7: Summary of Existing Liquor Ban Areas with Existing Sites and New Proposed Times

| Existing Liquor Ban Area | (Proposed) Schedule | Hours/days where liquor ban will be in place | Map |
|------------------------------------|---------------------|--|-----|
| Henderson | First | 24 hours, 7 days a week | 1 |
| New Lynn | First | 24 hours, 7 days a week | 2 |
| Glen Eden | First | 24 hours, 7 days a week | 3 |
| Titirangi | First | 24 hours, 7 days a week | 4 |
| Westgate | First | 24 hours, 7 days a week | 5 |
| Te Atatu Peninsula | First | 24 hours, 7 days a week | 6 |
| Taipari Strand, Te Atatu Peninsula | Second | 7.00pm – 7.00am | 7 |

| | | | | |
|--|--------|----------------------------|---|----|
| Harbourview Reserve, Te Atatu Peninsula | Second | 7.00pm 7.00am | - | 8 |
| Chapman Strand – Te Atatu Peninsula | Second | 7.00pm 7.00am | - | 9 |
| Gloria Park – Te Atatu Peninsula | Second | 7.00pm 7.00am | - | 10 |
| Central Park – Henderson | Second | 7.00pm 7.00am | - | 11 |
| Te Pai Park – Henderson | Fourth | 24 hours, 7 days a week | | 12 |
| Riverpark Reserve, Woodside Reserve and Helena Park – Henderson | Second | 7.00pm 7.00am | - | 13 |
| Starling Park – Ranui. | Second | 7.00pm 7.00am | - | 14 |
| Ranui Domain – Ranui. | Second | 7.00pm 7.00am | - | 15 |
| Waikumete Cemetery – Glen Eden | Fourth | 24 hours, 7 days a week | | 16 |
| Paremuka Lake Reserve – Western Heights | Second | 7.00pm 7.00am | - | 17 |
| Parrs Park – Oratia | Second | 7.00pm 7.00am | - | 18 |
| Archibald Park – Kelston | Fourth | 24 hours, 7 days a week | | 19 |
| Brains Park – Kelston | Second | 7.00pm 7.00am | - | 20 |
| Ken Maunder Park – New Lynn | Fourth | 24 hours, 7 days a week | | 21 |
| Ceramco Park and Kaurilands Domain – Kaurilands | Second | 7.00pm 7.00am | - | 22 |
| Titirangi Beach – Titirangi | Second | 7.00pm 7.00am | - | 23 |
| Public area adjacent to Herald Island wharf car park – Herald Island | Second | 7.00pm 7.00am | - | 24 |
| Triangle Park – Massey | Fourth | 24 hours, 7 days a week | | 25 |
| Rush Creek walkway and Royal Reserve – Massey | Second | 7.00pm 7.00am | - | 26 |
| Bruce McLaren Memorial Park - Henderson | Second | 7.00pm 7.00am | - | 27 |
| Henderson Valley Park – Henderson | Second | 7.00pm 7.00am | - | 28 |
| Corban Reserve – Henderson | Second | 7.00pm 7.00am | - | 29 |

STRATEGIC CONTEXT

19. The proposal directly aligns with the Long Term Council Community Plan 2009-2019 and the Council's high level strategic framework, particularly the Social, Economic Wellbeing and Cultural Wellbeing Strategies. Key Community Outcomes supported by the LTCCP 2009-2019 are Strong Communities where communities and people want to feel safe and have a sense of belonging, Urban and Rural Villages where there is connectivity to local places and each other Toi Ora - Healthy Lifestyles, and Working Together.
20. There is also alignment with the strategic priorities of the City Wide Alcohol Strategy, adopted by Council on July 2005; Crime Prevention Plan (2007-2012); Safe City and First Call to Children; as well as the Social Strategy.
21. This report is strongly supported by the Police. It will provide the Police with the ability to adopt a preventative approach in dealing with alcohol-related behaviour that is offensive, causes a nuisance to members of the public in and around public places and potentially can lead to more serious alcohol-related problems.
22. The proposed amendments are not inconsistent with any other plans or policies of the Council and alignment across greater Auckland.

CONSULTATION

23. A number of Council departments have been consulted on the proposed amendments. This has included Legal, Policy and Strategy, Parks, Regulatory Enforcement, Field Services and Safe Waitakere.

Consideration of Community Views

24. Consultation and input with community and Police has occurred. Key stakeholders have been consulted over the proposed new sites and time amendments. This has included the local Community Boards and identified park users such as local clubs.
25. Community consultation has largely been through Community Boards, although residents and concerned community groups have made direct approaches to the Council and Police regarding the inclusion of several further liquor ban areas.

Consideration of Maori Views

26. This does not directly impact on Maori but should Council resolve to make the amendments and declare specified sites to be additional liquor ban areas, the view of Maori will be sought. Consultation will be in accordance with Council policies and procedures, and advice will be sought from Council's contracted iwi consultants.

Implications under the New Zealand Bill of Rights Act 1990

27. The proposed amendments must meet the legal standards of reasonableness and cannot be inconsistent with the freedoms protected and affirmed in the NZBORA. "Prohibiting or otherwise regulating or controlling" certain activities in certain public places, may impact on some of the freedoms affirmed in section 18 of the NZBORA. However, on balance the limits being imposed on those freedoms are reasonable and justifiable in the circumstances on the grounds of public health and safety, as allowed for in section 5 of NZBORA. The areas identified for potential liquor ban areas are those public places that have historically been known to cause people to gather and behave in an offensive manner leading to health and safety issues such as broken glass, vandalism, gross intoxication, and violence. Therefore the proposed amendments are justified for the purpose of maintaining public health and safety.

RESOURCES

28. If Council resolves to proceed with the recommended amendments, this will ultimately require expenditure on signage and new installations of liquor ban signs.
29. The estimated cost based on amending all park times, and the addition of new sites (option 4) is detailed below:

Table 8: Estimated Costs

| Item | Estimated cost per item | Estimated number of signs | Total Cost |
|---|-------------------------|---------------------------|--------------------|
| Signage for additional sites | \$ 47.12 | 60 | \$ 2590.50 |
| Erection of signs | \$172.00 | 60 | \$ 10320.00 |
| Signage for sites with amended times | | 90 | \$ 4062.00 |
| Installation of signs on existing posts | | 90 | \$ 2396.00 |
| Public awareness | | | \$ 3000.00 |
| Project Manager | | | \$ 14,000.00 |
| Total estimated cost | | | \$36,368.50 |

30. The cost of implementation will be met by Council's Parks department. There are no additional resource implications from an enforcement perspective for Council as the Police are responsible for enforcing this bylaw.

IMPLEMENTATION

31. There will be few implementation issues as there is an existing Bylaw. However, any implementation issues associated with the Bylaw as a result of amended liquor ban times and additional locations should be minor as the new provisions largely reflect current practices. Given that there is currently a Bylaw in force, there is likely to be little noticeable change.
32. The Resource Consent issued in April 2009 for the installation of the initial signage is sufficient to cover the installation of all new signage.
33. Following installation, regulatory enforcement team will be responsible for the ongoing monitoring and maintenance of all signage.

AUCKLAND COUNCIL TRANSITION ISSUES

34. The decision making proposed in this report is not constrained by section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, as it does not directly or because of its consequences:
- (a) significantly prejudice the organisations;
 - (b) significantly constrain the powers of capacity of the Auckland Council, or any subsidiary of the Auckland Council following the reorganisation, or

- (c) have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.
35. The Auckland Transport Council Controlled Organisation and Auckland Council (Governance) may both make and enforce bylaws from 1 November 2010. Those bylaws that are in force on 31 October 2010 are deemed to be made by Auckland Transport (if they are transport-related) or Auckland Council, and (with some exceptions) must be reviewed by 31 October 2015 (sections 61 and 63 Local Government (Auckland Transitional Provisions) Act 2010).
36. While Auckland Transport may make and enforce bylaws related to transport, this does not extend to bylaws for liquor control purposes, as specifically confirmed in section 46(1)(h) of the Local Government (Auckland Council) Act 2010.

Report prepared by: Kylie Hill; Alcohol Project Leader, Kim Conway; Strategic Analyst, Jennifer Lamm; Solicitor.



PART C - DISTRICT PLAN / STRUCTURE PLANS

7 PROPOSED PLAN CHANGE 38 TE ATATU TOWN CENTRE AND VARIATION 2 TO PLAN CHANGE 17

GLOSSARY

| | |
|--|--------------------|
| Planning and Regulatory Committee | (the Committee) |
| Proposed Plan Change 38 Te Atatu town centre | (Plan Change 38) |
| Waitakere City District Plan | (District Plan) |
| Te Atatu Peninsula Town Centre Concept and Implementation Plan | (TAP Concept Plan) |
| Waitakere Growth Management Strategy 2009 | (GMS) |
| Plan Change 18 City Wide Urban Design | (Plan Change 18) |
| Plan Change 16 Managing City Growth | (Plan Change 16) |
| Resource Management Act 1991 | (RMA) |
| Auckland Regional Policy Statement | (ARPS) |
| Metres squared | (m ²) |

EXECUTIVE SUMMARY

The purpose of this report is to seek endorsement from the Planning and Regulatory Committee (the Committee) for Proposed Plan Change 38 Te Atatu Town Centre (Plan Change 38) to the Waitakere City District Plan (District Plan) and Variation 2 to Plan Change 17 New Lynn. As it is unlikely that Plan Change 38 will be notified prior to 31 October 2010, the report requests that the Committee recommends Plan Change 38 to the new Auckland Council for notification after November 2010.

To enable further opportunities for community involvement in Plan Change 38, the report also proposes that a draft of Plan Change 38 be circulated to landowners and stakeholders for comment and further discussion prior to notification.

Plan Change 38 is intended to manage growth and development in Te Atatu Town Centre. It is an outcome of Te Atatu Peninsula Town Centre Concept and Implementation Plan (TAP Concept Plan), which was adopted by the Policy and Strategy Committee on 4 December 2008.

RECOMMENDATIONS

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

1. **Receive** the Proposed Plan Change 38 Te Atatu Town Centre and Variation 2 to Plan Change 17 report.
2. **Agree** to adopt proposed Plan Change 38 Te Atatu Town Centre and Variation 2 to Plan Change 17.
3. **Agree** to undertake further landowner and stakeholder consultation prior to the notification of proposed Plan Change 38 Te Atatu Town Centre and Variation 2 to Plan Change 17.
4. **Agree** to delegate to the Chairman of the Planning and Regulatory Committee final approval of any minor amendments to proposed Plan Change 38 Te Atatu Town Centre and Variation 2 to Plan Change 17 resulting from feedback from landowners and stakeholders.
5. **Agree** to recommend to the new Auckland Council that it notifies Plan Change 38 Te Atatu Town Centre and Variation 2 to Plan Change 17 in accordance with the First Schedule of the Resource Management Act 1991 as soon as possible after November 2010.

BACKGROUND

Previous Council Resolutions

1. On 4 December 2008 the Policy and Strategy Committee adopted TAP Concept Plan and agreed to the preparation of a plan change to implement the TAP Concept Plan. The resolution stated:

“The Policy and Strategy Committee resolved to:

1. ***Receive** Te Atatu Peninsula Town Centre Concept and Implementation Plan report.*
2. ***Agree to** adopt the updated Te Atatu Peninsula Town Centre Concept and Implementation Plan, dated October 2008.*
3. ***Note** the decisions made by the Infrastructure and Works Committee on 3 December 2008 in relation to the Library and Community Centre, in Te Atatu Peninsula.*
4. ***Invite** the Long Term Council Community Plan and Annual Plan Committee to consider the priorities identified in the Te Atatu Peninsula Town Centre Concept and Implementation Plan for inclusion in the draft Long Term Council Community Plan 2009-2019.*
5. ***Agree** that a District Plan change be initiated to implement the land use and urban design objectives outlined in the Te Atatu Peninsula Town Centre Concept and Implementation Plan.*
6. ***Agree** that Officers prepare a detailed development brief to guide future redevelopment of Te Atatu Peninsula Town Centre core (the community centre, licensing trust and supermarket sites)*
7. ***Note** that Council Officers are working with the Business Improvement District on business planning and planning for minor town centre capital works projects.”*

2088/2008

Te Atatu Town Centre

2. Te Atatu Town Centre has had one of the most significant growth rates in recent years, when compared with the rest of the City. This reflects both the location and the environment on Te Atatu Peninsula, which makes it a desirable place to live.
3. Te Atatu Town Centre serves as a mixed use centre by providing for a range of local functions including retail, professional and financial services, community, leisure and education. It is located next to the bus route, Jack Pringle Park and is close to the Harbour View / Orangihina Reserve. TAP Concept Plan identifies that the Te Atatu Town Centre is also within a 30 minute walk of the majority of the homes on the Peninsula, making it the most 'walked to' centre in the City. The attractiveness of the Peninsula as a place to live is a significant trigger for future growth.

Growth Management

4. The Growth Management Strategy for Waitakere 2009 (GMS) provides the framework for future decisions about the management of population and employment growth in the City. One of the targets in the GMS identifies that a concept plan for Te Atatu Peninsula will be completed by 2010, as a planning tool to guide urban growth.
5. The GMS identifies Te Atatu as a town centre with an increase in population from 1,797 (2006 census) to approximately 3,500 in 2021 and 5,300 in 2057.

Consultation Overview

6. Over the past decade Te Atatu Peninsula community have been extensively involved in consultation regarding improvements to Town Centre. This consultation was an important component of Te Atatu Peninsula becoming the first Business Improvement District in Waitakere on 16 July 2008.
7. Since 2007, work has focussed on the development of a concept plan for Te Atatu Town Centre and the development of preliminary design options for the redevelopment of the library and community centre. The feedback on Te Atatu Town Centre was positive and in support of the Council taking a pro-active approach. The key messages are:
 - Retaining the village feel – as a cohesive, integrated, comfortable, easy to get around place with no more than four levels of development;
 - Improve the retail mix and shop frontage of the Te Atatu Town Centre;
 - Improve ways for pedestrians and cyclists to access the Te Atatu Centre;
 - Retain the park, gardens and green spaces;
 - Manage traffic flows and improve public transport; and
 - Any change should not result in a loss of sufficient parking to support business activity.

Te Atatu Peninsula Urban Concept Plan and Implementation Plan

8. TAP Concept Plan is a planning tool that identifies land use patterns, integrates land use with transport initiatives and infrastructure, and sets out urban design principles to guide future built form. It is an adopted policy document of Council, and includes a targeted programme of work which focuses on the key recommendations to address growth and revitalisation of the Te Atatu Town Centre. These recommendations are to be implemented through advocacy with landowners, along with changes to the District Plan and capital works projects.
9. TAP Concept Plan is intended to provide considerable guidance to landowners who are already investigating opportunities for the development of their land. Landowners may consider redevelopment in the future once the economic climate provides a greater incentive.

10. TAP Concept Plan was prepared on the basis of advice from a range of experts, including urban design on how the Te Atatu Town Centre can respond to growth challenges and promote sustainable urban development. Growth is recognised as a positive opportunity for the future of Te Atatu Town centre because if there is a strong residential population in close proximity to the town centre, this population will support the town centre's vitality. TAP Concept Plan concluded that Te Atatu Town Centre is a good example of a mixed use town centre, being anchored by a supermarket and has a range of civic facilities (a library and multiple purpose community centre on the mainstreet). Further to this, the convenience and local character of the town centre is not dominated by larger format retail activities. Its success can also be attributed to a strong core street network, diverse mix of open spaces (including City, local and pocket parks), the medium density Harbour View development at the edge of Te Atatu Town Centre, and the range of community services and leisure activities. TAP Concept Plan identifies opportunities for the intensification of key sites and seeks that development is undertaken as part of a comprehensive planning framework.

The Existing District Plan

11. TAP Concept Plan identifies matters that require changes to the existing District Plan. In adopting TAP Concept Plan on 4 December 2008, the Policy and Strategy Committee agreed to the approach outlined in paragraphs 72 to 74 of that report. This included:

“Prepare a District Plan change during 2010 in advance of the programmed review of the District Plan to give effect to the policy framework set down by Plan Changes 16 and 18. This plan change will promote the intensification of residential and employment activities within a 500 metre walk from the town centre, and will promote a particular form of redevelopment in the town centre that addresses the urban design principles outlined in the [TAP Concept Plan].”

12. Te Atatu town centre is identified in the District Plan as predominantly a Community Environment (north of Gunner Drive), with the exception of Te Atatu Peninsula Community Corner, which is identified as Open Space Environment and forms the Jack Pringle Village Green. Te Atatu Town Centre core is surrounded by the Harbour View North Special Area. This Special Area covers part of the land occupied by the Harbour View medium density residential development (south of Gunner Drive). It also includes Jack Pringle Sports Park (between Harbour View Road and Gunner Drive), which is also vested in Council as a reserve and includes core community buildings such as the Returned Serviceman's Association, and the bowling club.
13. The Community Environment provides for a mix of land uses suitable for a town centre, such as commercial and retail activities, and residential land uses meeting particular criteria. The Community Environment does not have limits on building height, other than height in relation to boundary controls where that development adjoins Living (residential) and Open Space Environments. The Community Environment is subject to some rules relating to building interfaces with the street.
14. The Harbour View North Special Area provides for residential development with more relaxed controls on bulk and location than in other Living Environments. It also allows for mixed use commercial activities as a Discretionary Activity, and apart from a number of sites, the area has been redeveloped. The pattern of development is now set and the development framework provided by the Special Area is no longer necessary as sites now have achieved either a residential or commercial focus.

Existing Plan Changes to the District Plan

15. Plan Change 18 City Wide Urban Design (Plan Change 18) introduces Citywide rules for urban design and provides an opportunity to apply street typologies on the District Planning maps to manage the design and form of future development on particular streets. The existing Te Atatu Town Centre District Plan provisions do not include street typologies on its retail and commercial streets. TAP Concept Plan recommends the development of an urban concept plan and the implementation of street typologies on Te Atatu Town Centre streets where high amenity redevelopment will generate the greatest outcome for Te Atatu Town Centre (e.g. a better mix of uses and a continuous building frontage on both sides of Te Atatu Road).
16. Plan Change 18 also introduces new rules and assessment criteria relating to apartment design including minimum apartment sizes, criteria for balconies and courtyards, outlook and amenity.
17. Plan Change 16 Managing City Growth (Plan Change 16) introduces new policies and methods into the District Plan to manage growth, give effect to the Auckland Regional Policy Statement (ARPS) and its targets for regional growth, and introduces an urban consolidation strategy. Plan Change 16 identifies Te Atatu Town Centre as a growth node and depicts a 500 metre radius circle around the Te Atatu Town Centre on the District Plan policy map. Other parts of the City already have medium density housing growth circles on the District Plan maps around centres and public transport nodes. The difference between these existing nodes and Te Atatu Town Centre node is that sites identified as Living Environment within the circles provide for medium density housing development on larger sites (over 2,000m²) as a limited discretionary activity. Although Te Atatu town centre is identified as a growth node, the medium density housing provisions do not apply to sites around Te Atatu Town Centre. If growth is to be achieved in a balanced way and across a number of sites within a five minute walk of the Te Atatu Town Centre, the District Plan would need to be amended to apply this rule to Te Atatu Town Centre.
18. The District Plan refers to the City Parking and Driveway Guidelines for the provision of on-site parking for different activities in Te Atatu Town. It prescribes minimum parking provisions for retail and commercial activities, based on floor areas. This has resulted in a generous supply of on-site and at-grade parking in the town centre, none of which is shared between sites or users. Core sites within the town centre (Waitakere Licensing Trust and supermarket sites) present an opportunity for shared parking provision as part of the re-design of these sites. In order to encourage pedestrian movements in the town centre and the use of public transport, the District Plan needs to establish a policy framework that advocates for an alternative approach to car parking management in the town centre.

DECISION MAKING

Issues

Proposed Plan Change 38 Te Atatu Town Centre

19. Plan Change 38 is intended to implement key recommendations of TAP Concept Plan.
20. Plan Change 38 proposes to introduce an Urban Concept Plan for Te Atatu town centre. This identifies a portion of Te Atatu Road that should maintain or develop a mainstreet style street form. It also identifies key corner sites that new development should enhance, indicative connections through the supermarket and Waitakere Licensing Trust sites which should be delivered with redevelopment, and areas that provide opportunities for shared car parking arrangements between landowners and activities.

21. Plan Change 38 proposes to delete the Harbour View North Special Area in Te Atatu Town Centre and replacement with the Living Environment and Community Environment. The Harbour View North Special Area is a mixed use zone and the majority of sites have been developed for residential purposes consistent with the Living Environment, making Harbour View North Special Area unnecessary. Likewise, sites on Gunner Drive and Te Atatu Road have developed with a range of business and apartment uses, which is consistent with the Community Environment. Mixed use provisions contained in the Harbour View North Special Area are no longer considered necessary as redevelopment has predominantly been completed.
22. Plan Change 38 proposes to establish sunlight recession planes for development fronting Te Atatu Road to ensure that adequate sunlight is able to reach this pedestrian environment. Currently there are no height limits in Te Atatu Town Centre, which could allow significant buildings to be built which can have the effect of blocking sunlight to public places. Similar to Catherine Place in Henderson and Memorial Drive in New Lynn, it is proposed to create a recession plane (height in relation to boundary rule) that would allow three storey buildings on mainstreet and require taller buildings to be setback from the street and maintain sunlight access to the street.
23. Plan Change 38 proposes to establish a building design rule (District Plan Rule 5D) specific to the outcomes sought in Te Atatu Town Centre. Currently the District Plan addresses design and development issues in Te Atatu Town Centre in the same manner in which corner dairies and neighbourhood shops are managed. The sub-regional centres of Henderson, New Lynn and Massey North (Westgate) have their own building design rules, along with the Titirangi town centre. Glen Eden and Te Atatu Town Centres are managed through generic rules as opposed to the use of a tailored urban concept plan and rules that are specific to the circumstances of the town centre. The proposal is to recognise the priority urban design outcomes sought by TAP Concept Plan and establish rules which focus mainstreet outcomes towards Te Atatu Road while being more flexible on Gunner Drive. On Te Atatu Road new mainstreet based rules would seek to achieve active street frontages, buildings built to the street, shop front glazing and canopies.
24. Plan Change 38 proposes to align the car parking provisions applying to Te Atatu town centre with other town centres in the City. Two reports about economic development (Market Economic report (April 2008) and CBRE report (May 2008)) highlighted that the existing car parking rules in the District Plan are a barrier to encouraging development and intensification in Te Atatu Town Centre. The rules require significant amounts of car parking to be provided on site. Discussions with some landowners have highlighted that from their perspective the car parking rules are making redevelopment options difficult to justify. The proposal is to require on site car parking to be provided at a rate of one space per 25 m² of gross floor area for ground level, instead of the current requirements of one space per 16 m² of gross floor area. The proposed rate would align with Henderson town centre and the New Lynn Town Centre's periphery, while New Lynn mainstreet environment only requires one space per 35 m² of gross floor area because of its land use and transport integration opportunities.
25. The Council's Car Parking Plan 2009 recommends a long-term strategy of moving towards maximum car parking rules, however the timing of that change is dependent on improvements to onstreet car parking supply and public transport. The proposed amendments are considered to be an interim step to ensure that car parking does not create an unnecessary disincentive to development.
26. The amendments proposed by Plan Change 38 also provide greater guidance for the consideration of proposals for car parking shortfalls, including providing opportunities for businesses to create shared car parking arrangements where this is feasible. TAP Concept Plan acknowledged that shared car parking arrangements can have significant benefits in Te Atatu town centre, and unlock development opportunities.

27. Starting in July 2010, a traffic engineering consultant engaged by the Council is undertaking detailed design work to determine options for increasing the provision of on-street car parking in the town centre. Initial advice from Council's Strategy unit is that up to 40 additional on-street spaces could be provided through a more efficient street design. This outcome, along with the proposed amendments to the car parking rules would provide a more flexible approach to car parking management.
28. Plan Change 38 proposes to remove requirements for development on the site south of the library/community centre (591 Te Atatu Road) to be setback from the boundary and comply with recession planes (height in relation to boundary rules). TAP Concept Plan recommended the maintenance and enhancement of a mainstreet quality to Te Atatu Road, with all new development (including the library) contributing to this. Current rules require buildings to be setback from the Open Space Environment, regardless of whether it is occupied by buildings such as the library. The current rules are in effect defeating the goal of improving Te Atatu Road mainstreet frontage.
29. Plan Change 38 proposes to make provision for a cafe within the library/community centre building. Currently activities such as a cafe are non-complying activities in this Open Space Environment. TAP Concept Plan recommended that a cafe or other use be included in the library redevelopment to provide an active frontage to the street or Jack Pringle Park.
30. Plan Change 38 proposes to amend the Open Space Environment assessment criteria to ensure that developments within open spaces acknowledge any requirements on a relevant Urban Concept Plan.
31. The Council's Parks Planning team have also been progressing the divestment of a small piece of Open Space Environment at 32 Harbour View Road (corner of Harbour View Road and Beach Road). If this divestment process is sufficiently advanced, then it is recommended that the rezoning of this land from Open Space Environment to Living Environment is progressed through Plan Change 38. If by the time of notification the divestment is not completed, then the proposal to rezone this land should be removed from Plan Change 38 and addressed through a future process.
32. TAP Concept Plan recommends that further work be undertaken to address the growth management issues and investigate how to accommodate the forecast demand. The Council, through the GMS and Plan Change 16, has identified Te Atatu Town Centre as an area suited to accommodate increased growth. Currently Te Atatu Town Centre does not have a medium density housing circle around it in a similar manner to all other town centres. The circle creates the ability for medium density housing applications as a limited discretionary activity and provides a preference in the location of these forms of development. While further work is required to address apartment development in a similar manner to that proposed with Plan Change 17, it is proposed that as an interim step the Human Environment maps are amended to illustrate a 500 metre radius circle to create a policy preference for medium density housing applications to be located in proximity to the Te Atatu Town Centre.

Proposed Variation 2 to Plan Change 17

33. Policy 10.11 in Plan Change 17 limits the consideration of shared car parking arrangements to only major town centres. Variation 2 to Plan Change 17 (which accompanies Plan Change 38) proposed to delete the word 'major' from policy 10.11. The amendment provides for shared car parking to be considered in all town centres, including Te Atatu Town Centre.

Statutory Framework

Resource Management Act 1991 and Section 32 Requirements

34. The Resource Management Act 1991 (RMA) provides for changes to the District Plan. The draft section 32 analysis report identifies the relevant sections of the RMA, and other statutory documents, that must be taken into account when making changes to a District Plan.
35. The Council's obligations under section 32 of the RMA 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 RMA;
 - examining whether, having regard to efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives of the District Plan;
 - 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.
35. An evaluation under each of the above subsections has been undertaken in the draft section 32 analysis. This evaluation fulfils the Council's requirements with regards to section 32 of the RMA.
36. In accordance with section 86B of the RMA no rule in Plan Change 38 will have effect until the Auckland Council has notified its decisions on submissions. The hearings process will form part of the work programme of the Auckland Council.

Auckland Regional Policy Statement

37. It is considered that Plan Change 38 gives effect to the objectives and policies of the ARPS and Change 6. A detailed assessment of the relevant ARP's objectives and policies is provided in the draft section 32 analysis.

Options Identified

38. The Committee has three options regarding the notification of Plan Change 38. These are:
 - Option 1: Notify Plan Change 38 and Variation 2 to Plan Change 17 prior to 31 October 2010.
 - Option 2: Adopt Plan Change 38 and Variation 2 to Plan Change 17 and recommend it to the Auckland Council for notification after 1 November 2010.
 - Option 3: Adopt Plan Change 38 and Variation 2 to Plan Change 17, recommend it to the Auckland Council for notification after 1 November 2010 and undertake further consultation on the draft plan change prior to notification.

Assessment of Options

Option 1: Notify Plan Change 38 and Variation 2 to Plan Change 17 prior to 31 October 2010

39. If the Committee notified Plan Change 38 and Variation 2 to plan Change 17, then notification would occur in accordance with the first schedule of the RMA. In addition, specific notification is recommended for residents within Te Atatu Peninsula community. This is considered to be an appropriate means to ensure that the public are aware of the plan change, and can participate in the submissions and hearings process.
40. The Council is undertaking statutory processes in respect to Plan Change 35 to 37 (Waitakere Ranges based plan changes) and preparing for the notification of Plan Change 32 for Penihana North. Council officers are also involved in the negotiation of appeal matters relating to Plan Changes 13 to 18 (Local Government (Auckland) Amendment Act plan changes). There are resource limitations in respect to what additional work can be undertaken on a new plan change, including its notification. Pursuing Option 1 may require resources to be allocated from existing projects and this is not recommended.

Option 2: Adopt Plan Change 38 and Variation 2 to Plan Change 17 and recommend it to the Auckland Council for notification after 1 November 2010

41. Option 2 provides an opportunity for Plan Change 38 and Variation 2 to Plan Change 17 to be adopted by the Council, with a recommendation to the Auckland Council that it notifies the plan change after 1 November 2010. This option provides for future benefits to Te Atatu Town Centre, while allowing the issues of resources identified in Option 1 to be addressed by the Auckland Council. This option would result in delays to the implementation of TAP Concept Plan in the District Plan, and could result in concerns by the community and landowners, particularly those associated with the supermarket and the Waitakere Licensing Trust who have raised concerns with the existing District Plan rules.

Option 3: Adopt Plan Change 38 and Variation 2 to Plan Change 17, recommend it to the Auckland Council for notification after 1 November 2010 and undertake further consultation on the draft plan change prior to notification

42. Option 3 takes the same approach to adopting Plan Change 38 and Variation 2 to Plan Change 17 as option 2. However it provides for further landowner and stakeholder consultation on the draft plan change prior to its notification by the Auckland Council after 1 November 2010. This option provides for future benefits to Te Atatu Town Centre, allows the draft to be further discussed with landowners and stakeholders and allows the Auckland Council to notify Plan Change 38 in the future.

Preferred Option

43. Ideally the Council would be in a position to notify Plan Change 38 and Variation 2 to Plan Change 17 as soon as possible. However, given the changes to Auckland's governance and the identified resource constraints, it is recommended that the Committee pursue Option 3 and adopt Plan Change 38 and Variation 2 to Plan Change 17 and recommend it to the Auckland Council for notification as soon as possible after 1 November 2010. Option 3 provides for ongoing landowner and stakeholder consultation.

Consideration of Community Views

44. Considerable community consultation has been undertaken and TAP Concept Plan has reflected the views of the community identified through a series of public meetings and reports to the Council in 2007 and then again in 2008. The public workshop held on the 26 July 2008 on the draft TAP Concept Plan and options for Te Atatu library and community centre was attended by more than 100 local residents and business people with 53 feedback forms received in response to discussion at this meeting.
45. A focus group was also hosted at the Kotuku Marae on 12 June 2008. Draft options for the redevelopment of the library and community centre, and the draft TAP Concept Plan were presented to an iwi stakeholder group at this meeting.
46. The community were generally in support of measures to improve the amenity and variety of retail activities in the Te Atatu Town Centre. However there was a strong view that growth should be managed in a way that does not compromise the "village feel" of the Te Atatu Town Centre. The community and business landowners wanted to ensure that any change would not result in a loss of sufficient parking to support business activity, or a reduction in open space.
47. Meetings were held in 2009 and 2010 with the landowner of the supermarket site, the supermarket operator and the Waitakere Licensing Trust regarding concepts for development in the town centre. These stakeholders highlighted concerns with a lack of certainty in the existing District Plan, the need to implement key recommendations from TAP Concept Plan and the manner in which the District Plan's car parking rules create disincentives for development. These stakeholders highlighted the importance to them of implementing TAP Concept Plan as soon as possible.

STRATEGIC CONTEXT

48. The key community outcomes that need to be considered in relation to this proposal are Urban and Rural Villages, Sustainable Integrated Transport and the Green Network. To this end Plan Change 38 supports the reinforcement of a network of centres, integrated transport planning, and seeks to actively manage growth whilst recognising the green network. It gives effect to one of the growth areas identified in the GMS.
49. Plan Change 38 will provide a clear direction for any future development, and support urban intensification in proximity to public transport and the town centre's amenities and services. This will ensure the area develops as a thriving place for people to work, live and play. Plan Change 38 seeks to enable further employment and business opportunities which will have flow on benefits to the local economy.
50. The development of TAP Concept Plan has been based on a high level of community and business participation. The desire to create more active streets in the Te Atatu Town Centre, improve pedestrian safety and to upgrade essential community infrastructure will contribute to an improvement in the overall wellbeing of the community. Plan Change 38 provides a District Plan framework for the management of development.

CONSULTATION

51. The development of TAP Concept Plan involved extensive consultation with Council officers and the community including Te Atatu Residents and Ratepayers Association, Te Atatu Peninsula Business Association, a presentation to the Henderson Community Board, and there have been a number of community forums during 2008 and 2009.

52. Consultation on Plan Change 38 has occurred with the landowner of the supermarket site, the supermarket operator and the Waitakere Licensing Trust.
53. Clause 3 of the First Schedule to the RMA states that during the preparation of a proposed plan change, a local authority shall consult with the Minister 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 plan change.
54. A full record of the consultation is included within the section 32 analysis report.
55. Further landowner and stakeholder consultation is recommended to be undertaken on Plan Change 38 prior to its notification by the Auckland Council.
56. The public notification of Plan Change 38 will provide an opportunity for any person interested to make a submission and have their concerns considered at a hearing.

RESOURCES

57. There are resource limitations in respect to what additional work can be undertaken on the notification of Plan Change 38 prior to November 2010. Consequently, the recommended option is to package this plan change for the new Auckland Council to pursue through the statutory process.

IMPLEMENTATION ISSUES

58. The notification of Plan Change 38 is proposed to be undertaken by the Auckland Council after 1 November 2010. Further landowner and stakeholder consultation is recommended to be undertaken on Plan Change 38.

AUCKLAND COUNCIL TRANSITION ISSUES

59. The decision making proposed in this report is not constrained by section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, as it does not directly or because of its consequences: significantly prejudice the reorganisation, significantly constrain the powers or capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation, or have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.

Report prepared by: Eryn Shields, Principal Planner: Resource Management and Building and Mark Tollemache, Strategic Advisor Waitakere Ranges.



PART D - ENVIRONMENTAL MANAGEMENT

8 WAITAKERE CITY COUNCIL SUBMISSION ON PROPOSED VARIATION 4: EXTENSION TO THE AIR QUALITY MANAGEMENT AREAS

GLOSSARY

| | |
|---|-----------------|
| Planning and Regulatory Committee | (the Committee) |
| Proposed Variation 4: Extension to the Air Quality Management Areas | (the Variation) |
| Air Quality Management Area | (AQMA/s) |
| Metropolitan Urban Limits | (MUL) |
| Auckland Regional Council | (ARC) |
| Proposed Auckland Regional Plan: Air, Land and Water | (PARP:ALW) |

EXECUTIVE SUMMARY

A80-A87 The purpose of this report is to inform the Planning and Regulatory Committee (the Committee) of the submission and further submission to support the Auckland Regional Council (ARC) on the Proposed Variation 4: Extension to the Urban Air Quality Areas (the Variation). A copy of the submissions are attached at pages A16 to A22 and copies of the proposed Variation to the amended map series 1 are attached at page A23.

The Variation seeks to change the Air Quality Management Areas (AQMAs) classification from rural to urban in the Hobsonville and Massey North areas that were recently brought within the Metropolitan Urban Limits (MUL). The ARC has prepared the Variation and a series of maps to support the document. The further submission period closed on 18 June 2010.

RECOMMENDATIONS

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

1. **Receive** the Waitakere City Council Submission on the Proposed Variation 4: Extension to the Air Quality Management Areas report.
2. **Approve** the Waitakere City Council submission attached at pages A80 to A81 and further submission attached at pages A84 to A85 on the Proposed Variation 4: Proposed Air, Land and Water Plan to the Auckland Regional Council.

BACKGROUND

1. On 12 March 2010 the ARC made Plan Change 7 to the Auckland Regional Policy Statement operative. Plan Change 7 extended the MUL to incorporate Hobsonville and Massey North.
2. In accordance with Section 3 of the Proposed Auckland Regional Plan: Air, Land and Water (PARP:ALW) any rural areas that become available for urban development as a result of changes to the MUL must be brought within an Urban AQMA. Hobsonville and Massey North are currently identified as Rural AQMAs which adjoin existing urban areas. The Variation to the PARP:ALW incorporates these areas into Urban AQMAs. The PARP:ALW map series has been updated to include the extension to the urban AQMA and forms the basis of the Variation.

DECISION MAKING

3. Council's submission supports the changes to extend the Urban AQMAs to incorporate Hobsonville and Massey North. The Variation will provide consistency in air quality management for the wider area as well as appropriately reflecting the eventual change from a rural/residential landscape to a more urban form.

4. The Variation supports Council's request to have the area identified as an Urban AQMA as opposed to an Industrial AQMA due to the area's location in close proximity to residential development and community facilities and the limited ability of the industrial areas to internalise their effects.
5. Including these areas within the Urban AQMAs is an efficient method of meeting the requirements of the RMA and the objectives, policies and methods of the PARP:ALW.
6. Urban AQMAs aim to ensure a high level of amenity and to protect human health, particularly for sensitive sectors of the population, from the adverse effects of air discharges.
7. The Variation will align with the urban growth areas identified for Hobsonville and Massey North in the Waitakere City Growth Management Strategy. Urban development in these areas has also been provided for in the Waitakere City District Plan.
9. There were four submissions to the Variation including Council's submission. A summary of the submission points is presented below.

| Submitter Name | Submission Point | Summary of Submission |
|-----------------------|------------------|---|
| M. and B. Buckler | 4/2 | Oppose Plan Change 14 Seek clarification on development Concerned about management of adverse effects of urban AQMAs |
| Ministry of Education | 4/3 | Seek to ensure any changes in air quality will be monitored and will not cause adverse effects on school and surrounding area |
| Deanna Tolich | 4/4 | Supports Variation 4 Requests no discharge of contaminants from any industrial site within 200 metres of school boundary |

Table 1: Summary of Submissions

10. Council lodged a further submission to support the Variation. Officers have requested the ARC hold a pre-hearing meeting to discuss issues raised in the submissions. It is likely that a hearing will be held in July 2010. On this basis it is likely that this matter can be determined by October 31 2010.

Issues

11. The first round of public submissions closed on 27 May 2010. Further public submissions closed on 18 June 2010.
12. Due to the short submission period and timing of the Committee's meeting and agenda reporting requirements, the submission was unable to be approved by the Committee prior to lodgement and therefore seeks retrospective approval.

STRATEGIC CONTEXT

13. The Variation supports the Council's strategic direction in particular the Sustainable Development Priority and the Growth Management Strategy for Waitakere by providing options for housing, growth and development.

14. The Community Outcomes met through providing access to good quality air and minimising the levels of pollutants in the City are Sustainable Environment (Kauneke Tauwhiro Taiao) and Environmental Protection (Waiora).

CONSULTATION

15. Consultation has been undertaken with staff from the Sustainable Management, Environment Strategy and Resource Management teams.

RESOURCES

16. There are no resources required other than staff time.

IMPLEMENTATION ISSUES

17. There are no implementation issues.

AUCKLAND COUNCIL TRANSITION ISSUES

18. The decision making proposed in this report is not constrained by section 31 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, as it does not directly or because of its consequences: significantly prejudice the reorganisation, significantly constrain the powers or capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation, or have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.

Report prepared by: Jane Andrews, Strategic Advisor: Sustainable Management.



PART E - REPORT OF THE SUBCOMMITTEE

9 SWIMMING POOL EXEMPTION SUBCOMMITTEE

THE SWIMMING POOL EXEMPTION SUBCOMMITTEE SUBMITS THE FOLLOWING REPORT OF ITS MEETING HELD ON MONDAY, 21 JUNE 2010

MATTERS CONSIDERED

A88-A94

The Swimming Pool Exemption Subcommittee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meeting is attached at pages A88 to A94.

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

Receive the meeting report of the Swimming Pool Exemption Subcommittee held on Monday, 21 June 2010.

WW Flaunty, QSM, JP

CHAIRMAN



PART F - PUBLIC EXCLUDED MATTER

10 REPORT ON MEDIATION OUTCOME - 543 TE ATATU ROAD, TE ATATU PENINSULA

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, Report on Mediation Outcome – 543 Te Atatu Road, Te Atatu Peninsula.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation 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 each of the matters to be considered. | Reason for passing this resolution in relation to each of the matter. | Ground(s) under Section 48(1)(a) for the passing of this resolution. |
|---|---|--|
| Report on Mediation Outcome – 543 Te Atatu Road, Te Atatu Peninsula | The withholding of information is necessary in order to: <ul style="list-style-type: none">• Enable any local authority holding the information to maintain legal professional privilege. | 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. |

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) 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 legal professional privilege.*

