



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, 7 September 2010 **TIME:** 9.30 am

MEETING ROOM: Council Chamber

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.

1 September 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 COUNCIL CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY, 7 SEPTEMBER 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 COUNCIL CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY, 7 SEPTEMBER 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, 10 August 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, 10 August 2010, as circulated, and that they be taken as read and now be confirmed.



PART B - REGULATORY / ENFORCEMENT

5 LEGAL UPDATE (AS AT 31 AUGUST 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 31 August 2010) report.

HIGH COURT

(Unchanged)

Waitakere City Council v Networth Developments Limited (November 2008)

1. 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.

(Unchanged)

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

2. 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.

3. 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.
4. 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

(Unchanged)

Mawhinney and Others v Waitakere City Council (May 2008)

5. 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.
6. 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 matter was called on 22 July 2010 but Mr Mawhinney failed to appear. Judge Christiansen made an order adjudicating Mr Mawhinney bankrupt and awarded costs to Council to be paid out of Mr Mawhinney's estate. This matter is now at an end.

ENVIRONMENT COURT

(Changed)

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

7. 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. This matter is close to settlement. A further reporting date has been sought for 17 September 2010.

(Changed)

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

8. 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 filed its reply to the objection on 7 June 2010. A judicial teleconference has been allocated for 25 August 2010 to address timetabling issues.

(Unchanged)

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)

9. 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.
10. The Council reported to the Court on 27 April 2010 as to its position and the position of the other parties. Mediation took place on 13 July 2010. There was no resolution of any points of appeal but the parties are in ongoing discussions with the possibility of narrowing down the grounds of appeal. A preliminary evidence exchange timetable has been discussed but not finalised. The matter has not been allocated priority and if a hearing is required it may be heard in 2011 as no hearing time is available this year.

(Changed)

Kane Holdings Limited v Waitakere City Council (January 2010)

11. 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 be set down for hearing in December 2010 as a back up fixture.

(Changed)

Duopharma Pacific Limited v Waitakere City Council (August 2009)

12. 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.
13. 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. The Court has considered the Council's proposed approach of hearing the evidence, and then determining the matter on the evidence after hearing from all the parties. The Court has asked that a copy of the conditions which the Council and the applicant agree be circulated and the parties express their views on it.

(Unchanged) Swanson Structure Plan Decisions (October 2008)

14. 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.

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

15. 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.
16. 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

17. 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)

18. 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.
19. 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.

20. 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)

21. 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.
22. 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.
23. 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)

24. 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

(Changed)

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

- A1-A3 25. 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.
26. 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 Auckland Regional Council (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.

27. 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.
28. 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. The remainder of Plan Change 15 appeals are to be heard in the weeks of 15 and 29 November and 13 December 2010. If more time is required, the Court will allocate more time.
 - The Plan Change 14 appeals are to be heard in the weeks of 15 and 29 November and 13 December 2010. If more time is required, the Court will allocate more time.

- 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. Plan Change 17 is set down to be mediated for 14 September 2010.
- 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. Mediation occurred on 20 July 2010. The parties are in continuing discussions. Mediation will resume on 6 September 2010. Aspects of Plan Changes 18 that are relevant to Plan Change 14 and 15 will be heard in the weeks of 15 and 29 November and 13 December 2010. The remainder of Plan Change 18 issues that are under challenge will be set down for hearing after the Plan Change 14 and 15 appeals have been heard.

DISTRICT COURT

(New)

Nicholas Jon Madsen – ‘Hillary Trail’, 23 Huia Dam Road, Huia (August 2010)

29. This matter is a prosecution under the Dog Control Act 1996 which arose from two incidents which occurred at the ‘Hillary Trail’ on 13 March 2010. The first incident involved a group of hikers who were rushed by a pitbull called ‘Rosie’ which is owned by the defendant. The dog was not wearing a leash. The owner managed to call off the dog before it reached the hikers. A second more serious incident occurred ten minutes later. A female member of the public was jogging on the trail with her Staffordshire bull terrier cross dog which was wearing a leash. The woman was rushed by the unleashed pitbull ‘Rosie’ along with three other unidentified pitbulls. The pack of four pitbulls surrounded and attacked the leashed Staffordshire bull terrier simultaneously. The woman attempted to pull her dog away from the pitbulls but was unable to get the pitbulls to release their bite holds from her dog. Soon after the attack began, two men including the defendant who had been attempting to call off the dogs appeared, and eventually managed to gain control of the pitbulls.
30. As a result of the fracas, the woman was shaken and suffered minor scratches and cuts. The Staffordshire bull terrier was in a more distressed state, and a visit to the vet showed that the dog had a large hole in his gum, a one centimetre puncture wound on his right front leg, bruising and swelling on the left side of his neck and head, swelling and a possibly torn muscle to his right shoulder area, and scratches to his rear end and legs resulting from the attack. The Council has laid two charges against the defendant, one under section 57(2) of the Dog Control Act 1996 alleging that he is the owner of a dog that attacked a domestic animal, and one charge under section 57A(2) of the Act alleging that he is the owner of a dog that rushed at a person in a manner that caused that person to be endangered. Each offence carries a maximum penalty of \$3,000 plus any liability that the owner may incur for damage caused by the dog.

(Unchanged)

Muriel Ann Newnham – 765 South Titirangi Road, Titirangi (July 2010)

31. The defendant is the owner of a property at which substantial unauthorised building works had been carried out. Council's officer attended the property on 31 April 2010 and discovered that the dwelling that was situated at the site had been substantially demolished without building consent. Further unauthorised works had been carried out to partially construct a new dwelling at the site, including the construction of two timber retaining walls with surcharge, a concrete block retaining wall complete with reinforced concrete footings within sub-floor area, timber framing to form the base of dwelling, and associated works. The owner has admitted to arranging the building works but has refused to provide details of the builder who carried out the project. On 8 July 2010 the Council laid one charge of carrying out unauthorised building works against the defendant. The matter is set down for a first call on 6 September 2010.

(Unchanged)

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

32. 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 two 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.
33. 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 defendants appeared on 2 August 2010 and pleaded guilty to the charges. A sentencing hearing is set down for 18 October 2010.

(Unchanged)

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

34. 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.

35. 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, through its solicitor entered a guilty plea to the charge on 2 August 2010 and the remaining charge was withdrawn. The matter is set down for a sentencing hearing on 21 October 2010.

(Unchanged)

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)

36. 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.
37. On 28 August 2009, Council's Building Enforcement Officer inspected the extension and met the project manager, 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).
38. 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.
39. 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.
40. 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.

41. 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. On 2 August 2010 the Council withdrew s. 40 charges against Gordan Brkic, DHC Consulting Limited and the s. 365 charge against Martin Fahey. The defendants pleaded not guilty to the remaining charges. The matter is set down for a status hearing on 6 October 2010.

(Changed)

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

42. 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.
43. 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. On 13 August 2010 which was the fixture date allocated, the case was adjourned until 2 November 2010 due to a number of police defended hearings which were given precedence. A full day has been allocated to ensure the matter is not delayed again.

(Changed)

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

44. 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.
45. 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.

46. 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. On 13 August 2010 which was the fixture date allocated, the case was adjourned until 2 November 2010 due to a number of police defended hearings which were given precedence. A full day has been allocated to ensure the matter is not delayed again.

(Unchanged)

Leslie Comer – 164 State Highway 16 (April 2009)

47. 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.
48. 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.
49. 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.
50. 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.
51. 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

52. Claim statistics are as follows:
- (a) There are now 22 unresolved leaky building claims being handled by Council's lawyers, representing 393 units, with 10 multi unit claims representing 381 units. Of these, 12 claims are uninsured or effectively uninsured, 3 of which are multi units representing 148 units:
- High and District Court: 14 (including 7 multi unit claims)
 - Weathertight Homes Tribunal (WHT) 8 (including 3 multi units claims)
53. The total number of Waitakere Ranges Protection Society Incorporated (WHRS) claims recorded on the Department of Building and Housing (DBH) website relating to properties in Waitakere as at the 31 May 2010 was 188. The total number of properties affected was 364. These figures include Dbh WHRS figures for 30 June 2010 show 192 Waitakere claims representing 368 properties. The DBH figures capture private certifier claims in respect of which the Council may have no liability. However, the WHRS figures do not capture court claims.

Claims Settled

August 2010

54. The Council was dismissed from 16 Beach Road, a private certifier matter, at an opposed hearing on the 20 August, and 36 Mansion Court settled at mediation on 23 August. The final costs on both claims are not yet in.

July 2010

55. The 15 Lockington Avenue claim closed for the Council in July 2010. This was a private certifier claim and the Council's application to be dismissed from the claim was not opposed. The final costs on the claim are not yet in.

June 2010

56. No claims settled.

May 2010

57. 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

58. 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

59. 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

60. 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

61. No claims were settled during January 2010.

Claims Received

August 2010

62. Notice of WHRS claims was received in respect of 9 Foothills Lane, Glen Eden and 46 Lagoon Way, West Harbour, while a previously unknown claim in respect of 67 Wood Bay Road, Titirangi has gone straight to the Council's lawyers as Court proceedings have been issued.

July 2010

63. 15 Reflection Drive, West Harbour, 1/43A Savoy Road, and 9 Foothills Lane, both Glen Eden, 48 Waimanu Bay Drive, Te Atatu Peninsula and 131 – 139 (odd numbers and all private certifiers) Metcalfe Road, Ranui, have been received since the last report.

June 2010

64. No claims received.

May 2010

65. 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

66. 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

67. 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

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

January 2010

69. No claims were received during January 2010.

Report prepared by: David Collins, Contract Solicitor.



PART C - DISTRICT PLAN / STRUCTURE PLANS

6 ALTERATION TO THE EXISTING NEW ZEALAND RAILWAYS CORPORATION DESIGNATION (NZR1) WITHIN WAITAKERE

GLOSSARY

New Zealand Rail Corporation	(NZRC)
Resource Management Act 1991	(RMA)
Railways Act 2005	(RA)
Waitakere Ranges Heritage Area Act 2008	(WRHAA)

EXECUTIVE SUMMARY

The purpose of this report is to seek approval from the Planning and Regulatory Committee to an alteration of the current railway designation, NZR1, on the North Auckland Line, at numerous locations along the line.

The alteration seeks to ensure that the designation as shown in the Waitakere District Plan is clear, and provides certainty for the Requiring Authority. This will ensure that maintenance, upgrading and electrification works associated with the rail corridor can be undertaken in a clear planning framework resulting in improved decision making process, reducing costs and enabling the Requiring Authority to operate and maintain an efficient rail service.

The report outlines that approval is sought by the Requiring Authority, New Zealand Rail Corporation (NZRC) who trade as ONTRACK under section 181(3) of the Resource Management Act 1991 (RMA). The alteration to the designation is considered to be minor, has relevant land owner approvals and accordingly can be approved to proceed on a non notified basis. NZRC currently owns the subject land or the land is vested in Council as legal road and Council is therefore the landowner. Conditions already established within the Waitakere District Plan will ensure that the effects of future development are appropriately managed and these conditions will apply to areas altered by the application.

RECOMMENDATIONS

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

1. **Receive** the Alteration to the Existing New Zealand Railways Corporation Designation (NZR1) within Waitakere report.
2. **Agree** that railway designation, NZR1 within the Waitakere District Plan be amended, in accordance with the plans titled:
 - WSO1 – Waitakere Road Sliver, Sheet 01;
 - WS02 – Christian Road Sliver, Sheet 02;
 - WS03 – Swanson Station Sliver, Sheet 03;
 - WS04 – Candia Road Sliver, Sheet 04;
 - WS05 Brick Street Sliver, Sheet 05;
 - WS06/WS07 – Sunnyvale Station 1 & Rangeview Road Slivers, Sheet 06;
 - WA01/WS08 – Glenview Road Level Crossing and Glen Eden Station, Sheet 07;
 - WS09/WS10 – West Coast Road & Rua Road Sliver, Sheet 08;
 - WA02 – Fruitvale Road Anomaly, Sheet 09;
 - WS11 – Titirangi Road Sliver, Sheet 10.

Contained in the *s181(3) Alteration to NZR1 Designation within Waitakere*, application submitted by Barker and Associates Ltd.

3. **Approve** that ONTRACK be advised that the Council agrees with the alteration to railway designation, NZR1 within Waitakere.

BACKGROUND

1. ONTRACK is a 'requiring authority' under the RMA which gives it the power to 'designate' land for public works. It is important to note that the Council does not have the power to grant or refuse an application to make an alteration to a designation. Rather it is the requiring authority who is also the decision making body in respect of the designation, and the Council only has the ability to make requests and recommendations to the requiring authority.
2. The existing railway designation, NZR1, encompasses the entire railway line from New Lynn to Waitakere Township. ONTRACK has a programme of works related to the upgrading and improving the railway corridor including the implementation of electrification of the network. Some of the works for this project will be able to take place through Outline Plans of Work and the remainder of the works will be facilitated through changes to the existing designation. An alteration has been recently considered by the Planning and Regulatory Committee in respect of the designation within the Henderson Town Centre area, for the sliver SO1 – which provided for the Rainside Avenue Stabling yard.

A4-A120

3. The designation is to be altered in thirteen areas and these are set out in the application and summarised in table one below. A full copy of ONTRACK's application and maps are attached at pages A4 to A120. The application has described each of the alterations and identified that they may be one of either two distinct types, as follows:

- **Slivers**

Land parcels owned by NZRC that generally form part of a larger contiguous parcel of land within the rail corridor.

- **Anomalies**

Parts of the designation which are shown in the Waitakere District Plan planning maps as being discontinuous, despite the nature of the rail corridor i.e. level crossings at Glen Eden and Fruitvale Road.

DECISION MAKING

4. The reason for the alteration application is included in the application and in general seeks to rectify historical irregularities and to provide certainty that there is a continuous rail designation across Waitakere.
5. With respect to the two anomalies, these represent a situation where the road passes over the rail corridor, and this occurs at Glenview Road and Fruitvale Road, effectively severing the designation despite the physical nature of the track and function of the corridor which extends beyond that immediate locality. ONTRACK propose that the designation will extend five metres either side of the track centrelines.

Sheet No.	Name	Ref.	District Plan Map	Area (m ²)	Relevant Parcels	Ownership
• Slivers:						
01	Waitakere Road	WS01	D07	1998	SO 57489 Pt Lot 3 DP 21566	Crown (railway)
02	Christian Road	WS02	E06	695	Proc 706 SO 68133	Crown (railway)
03	Swanson Station	WS03	E06	853	Proc 706 SO 68133	Crown (railway)
04	Candia Road	WS04	E07	1270	Lot 1 DP 163702	Crown (railway)
05	Brick Street	WS05	E08	2056	Lot 14 DP 406951	Crown (railway)
06	Sunnyvale Station 1	WS06	F09	181	Proc 706 Section 1 SO 361236	Crown (railway)
06	Rangeview Road	WS07	F09	72	Section 1 SO 361236	Crown (railway)
07	Glen Eden Station	WS08	F09	158	Pt Allot 13 Parish of Waikomiti Pt Allot 177 Parish of Waikomiti Pt Allot 187 Parish of Waikomiti SO 33283	Crown (railway)
08	West Coast Road	WS09	F10	136	Procs 1419, 176 & 500 DP 20071 & SO 24365	Crown (railway)
08	Rua Road	WS10	F10	6744	Proc 1419 SO 7205	Crown (railway)
10	Titirangi Road	WS11	F10	1421	Proc 9496 Pt Lot 44 DP 10591	Crown (railway)
• Anomalies:						
07	Glenview Road Level Crossing	WA01	F9	530	N/a	Legal Road
09	Fruitvale Road Anomaly	WA02	F10	419	N/a	Legal Road

Table 1: summary table of slivers and anomalies

6. Council has received legal advice on this matter, and the Requiring Authority has provided detailed consideration of this in their application referencing the Railways Act 2005 (RA) and the powers conveyed to Council in respect of the various provisions of the Local Government Act 2002. In summary:
- ONTRACK has a responsibility to ensure that the carriageway surface at the level crossing is maintained and the road controlling authority (the Council) must maintain the approaches (section 83 of the RA).
 - Works undertaken at the level crossing by ONTRACK must be undertaken in a manner that does not unreasonably impede the flow of road traffic across the railway line (section 84 of the RA).
 - Where works are undertaken, ONTRACK has a responsibility to abide with any reasonable conditions prescribed by the Council (section 87 of the RA). These conditions would be imposed through the Council's Road Opening Notice approval process.
7. The rail network is a strategic asset which provides numerous benefits to the community and the wider region. Much of the Council's strategic direction is reliant on improvements to the transportation network and its integration with land use including the rail corridor. The alteration to the designation will ensure that the designation as shown in the Waitakere District Plan is clear, provides certainty for Requiring Authority and will ensure that upgrading and works associated with the rail corridor can be undertaken in a clear planning framework resulting in an improved and efficient rail service.
8. Should the designation not be altered, additional resource consents would be required to facilitate works associated with the rail corridor which may result in additional costs and the potential for delays for the Requiring Authority. It is considered that the alteration to the designation represents the most appropriate option available.

Issues

Statutory Process

9. Once a designation is in place, the RMA provides a relatively simple procedure for making minor alterations. Section 181(3) of the RMA states as follows:
- “181(3)A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if–*
- (a) The alteration–*
 - (i) Involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
 - (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
 - (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
 - (c) Both the territorial authority and the requiring authority agree with the alteration–*
and sections 168 to 179 shall not apply to any such alteration.”

10. Provided that the proposed alteration complies with the matters set out in section 181(3) (a), (b) and (c), the designation in the Waitakere District Plan can be amended without further formality. The information provided by ONTRACK, through their consultants Barker and Associates Ltd, in support of the designation alteration proposal, addresses all the relevant issues. Council staff are satisfied that the correct procedure has been followed in relation to the proposal.
11. The alterations are considered to meet the criteria of section 181(3) for the following reasons. It should be noted that the conditions of the current designation require any Outline Plan of Works application for works within the NZR1 designation to undertake an assessment of environmental effects and consideration of the relevant District Plan policies. Therefore the effect of any development can be assessed at that time and conditions may be recommended to address these effects. The following comments are made in respect of each alteration:

WS01 Waitakere Road

12. This site is identified as Foothills Environment by the Waitakere District Plan. The adjoining land uses include rural residential and there are large areas of pasture, scrub and regenerating natural vegetation. The land slopes down toward the east to adjoin the rail line. The application notes that this area primarily serves as a vegetated buffer between the rail track and the adjoining rural land.
13. The sliver alteration is approximately 150m in length, 35m in width tapering to 0m, with a total size of 1998m². The alteration would not impact on any road or rural/residential use anticipated in the Foothills Environment. Overall the extent of the designation is considered to be minor.
14. The landowner is ONTRACK.

WS02 Christian Road and WS03 Swanson Station

15. These sites are identified as Transport Environment by the Waitakere District Plan and are adjoined by the Open Space Environment. The sites are currently used for rail purposes or activities associated with the operation of the railway and the effect of the alterations would be negligible. The alteration would not impact on the functioning of the road, or represent a change to the character of the site.
16. WS02 sliver alteration is approximately 695m² in area being 55m in length with a maximum width of 15m. WS03 is located over the current car park and landscape areas associated with the Swanson Station. WS03 is approximately 853m² in area being 35m in length with a maximum depth of 20m. Overall the extent of the alterations are considered to be minor.
17. The landowner is ONTRACK.

WS04 Candia Road

18. The site is identified as Transport Environment by the Waitakere District Plan and is adjoined by Working Environment to the north and east. The site slopes down toward the Waimoko Stream, which is identified as being non-riparian through the rail corridor. The railway bridges the water course adjoining the proposed alteration. The proposed alteration would not impact on the functioning of the road, or represent a change to the character of the site.

19. The sliver is approximately 1270m² in area being 155m in length and a maximum of 23m in width. Overall the extent of the alteration is considered to be minor.
20. The landowner is ONTRACK.

WS05 Brick Street

21. The site is identified as Working Environment by the Waitakere District Plan and was established by a recent subdivision. Access to the site is obtained via a bridge crossing over the Paremuka Stream. The rail corridor is broad in this location and residential properties are located some distance from the proposed alteration with the Paremuka Lakeland Park located south beyond the current southern designation boundary. Effects related to the use of the site would need to be assessed through the Outline Plan of Works process, however the Working Environment as controlled by the Waitakere District Plan is relatively permissive and heavy industrial activities could reasonably be anticipated. The alteration would allow for road access to the rail corridor through an industrial area. The alteration of the designation to include this site does not represent a significant change to the potential character of the site.
22. This sliver is approximately 50m by 30m with a total area of 2056m². Overall the extent of the alteration is considered to be minor.
23. The landowner is ONTRACK.

WS06 Sunnyvale Station 1 and WS07 Rangeview Road

24. These sites are both identified as Living Environment by the Waitakere District Plan. The application states incorrectly that the Human Environment is the Living 1 Environment. It should be noted that the sites affected do not have any residential activities established on them. Both of these alterations seek to align the designation with current cadastral property boundaries. WS06 is 315m² in area and WS07 is 72m². Given the scale and the extent of the alteration, potential environmental effects are considered to be minor.
25. The landowner is ONTRACK.

WS08 Glen Eden Station and WA01 Glenview Road Level Crossing

26. The Glenview Road level crossing WA01 is located within the Transport Environment as identified by the Waitakere District Plan and has been long established.
27. The Glen Eden Station sliver WS08 is identified as Living 1 and abuts residential properties. The platform and buffer fencing has already been established on this strip of land as part of the re-development of Glen Eden Station. The alteration would not provide the potential for a change in character given the already established use.
28. The extent of both areas is relatively minor (WA01 = 530m², WS08 = 158m²), and does not represent the potential for a significant change from the established and authorised activities. Overall the extent of the alterations are considered to be minor.
29. With respect to WS08 the land owner is ONTRACK. With respect to WA01 the road is vested in Council.

WS09 West Coast Road and WS10 Rua Road

30. The West Coast Road sliver WS09 is identified as Transport Environment by the Waitakere District Plan and is located abutting residential properties. This area is part of a much larger vegetated northern embankment associated with a significant deviation in the direction of the railway line. Various established uses including residential dwellings and a church are located near the alteration, however given the topography, presence of vegetation and extent of the area (136m²) environmental effects are considered to be minor.
31. The Rua Road sliver WS10 is identified as Transport Environment by the Waitakere District Plan. Similar to the above this alteration area forms the southern embankment of the deviation. This area has been historically modified by earthworks and there are various access tracks, cuttings and retaining walls in this area. In effect this cutting has set the rail line down below the contour of surrounding and predominant residential land uses. The alteration is over an area already modified for the rail purpose and overall it is considered that the environmental effects of the alteration are considered to be minor.
32. WS10 has the greatest area of all the alterations (6744m²), however at this location the rail corridor is relatively large to allow for the deviation and it is considered that in the wider context of the 18km length of the rail corridor network through Waitakere City the alteration is still considered to be minor.
33. The land owner in both instances is ONTRACK.

WA02 Fruitvale Road Anomaly

34. The Fruitvale Road level crossing WA02 is located within the Transport Environment as identified by the Waitakere District Plan and has been long established.
35. The extent of the area is relatively minor (WA02 = 419m²), and does not represent the potential for a significant change from the established and authorised activities.
36. The road is vested in Council.

WS11 Titirangi Road

37. The Titirangi Road sliver WS11 is identified as Living 1 and abuts residential properties. A vegetated embankment buffers these established residential properties located to the north with the track in this location being elevated above the adjoining properties. This alteration seeks to align the designation with cadastral property boundaries.
38. The extent of the alteration area is minor (WA11 = 230m²) and does not represent the potential for a significant change from the established and authorised activities.
39. The land owner is ONTRACK.

The Waitakere Ranges Heritage Area

40. The following sites are located within the heritage area as defined by the Waitakere Ranges Heritage Area Act 2008 (WRHAA):
 - WS01 Waitakere Road;
 - WS02 Christian Road

41. The application provides a brief assessment in respect of the WRHAA. The following additional assessment is considered appropriate.
42. The purpose of the WRHAA is as follows:

3 Purpose

- (1) *The purpose of this Act is to —*
 - (a) *recognise the national, regional, and local significance of the Waitakere Ranges heritage area; and*
 - (b) *promote the protection and enhancement of its heritage features for present and future generations.*
43. Section 15 of the WRHAA requires the Council to have particular regard to the purpose of the WRHAA and its objectives when making recommendations on designations, as follows:

15 Designations and heritage orders

- (1) *Subsection (2) applies to a person if the person is making a decision or recommendation that relates to the heritage area or a part of it for —*
 - (a) *a designation under section 168A, 171, 172, 174, 179, 181, or 182 of the Resource Management Act 1991; or*
- (2) *The person, when making the decision or recommendation, must have particular regard to —*
 - (a) *the purpose of this Act and the objectives; and*
 - (b) *the relevant provisions of any national policy statement or New Zealand coastal policy statement.*
44. There are no relevant national policy statements nor is the New Zealand Coastal Policy Statement considered relevant to the alterations. It is considered that the following WRHAA objectives are potentially relevant to the alterations:

8 Heritage area objectives

The objectives of establishing and maintaining the heritage area are —

- (a) *to protect, restore, and enhance the area and its heritage features:*
- (b) *to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it:*
- (c) *to adopt the following approach when considering decision that threaten serious or irreversible damage to a heritage feature:*
 - (i) *carefully consider the risks and uncertainties associate with any particular course of action; and*
 - (ii) *take into account the best information available; and*
 - (iii) *endeavor to protect the heritage feature:*

- (d) *to recognise and avoid adverse potential, or adverse cumulative, effects of activities on the area's environment (including its amenity) or its heritage features:*
- (g) *to maintain the quality and diversity of landscapes in the area by —*
- (i) *protecting landscapes of local, regional, or national significance; and*
 - (ii) *restoring and enhancing degraded landscapes; and*
 - (iii) *managing change within a landscape in an integrated way, including managing change in a rural landscape to retain a rural character:*
45. With respect to WS01 Waitakere Road, the alteration is located within the boundaries of the heritage area, but also located on an area modified by the rail corridor. The matters identified in the purpose of the WRHAA and its objectives are not affected. With respect to WS02 Christian Road the alteration is located on the boundary of the Waitakere Ranges Heritage Area, this site has been further modified by historic activity associated with the operation of the rail corridor. Overall it is considered that the proposed alterations do not introduce the potential for the purpose of the WRHAA to be undermined and are not inconsistent with the objectives of the WRHAA.

Built Heritage

46. The following sites contain heritage items listed in the Waitakere District Plan:
- Swanson Station; and
 - Glen Eden Station.
47. The application contains a brief assessment in respect of built heritage and this assessment is considered to be adequate. The alterations to the designation are located away from the established station buildings and will not lead to the potential for activities other than those associated with the rail corridor. It is therefore considered that the alterations will not undermine the integrity of these heritage rail structures or their surroundings. As noted above the conditions of the current designation require any outline plan of works application for works within the NZR1 designation to undertake an assessment of environmental effects and consideration of the relevant Waitakere District Plan policies. Therefore the impact of any development on heritage can therefore be assessed at this time.

STRATEGIC CONTEXT

48. The Council's Transport Strategy has a vision of "a sustainable multi model transport system that is integrated with land use and contributes to Waitakere as an eco city". The proposed alteration to the current designation will allow for the efficient operation of the rail network and by association the rail component of the multi model transport system within the Waitakere area.

49. As part of greater proposed upgrading and electrification of the rail network, the maintenance of the designation in the Waitakere District Plan will ensure that a clear planning framework is established and this will enable the appropriate management and operation of the rail network. The proposed improvements to the rail network are an important priority for future development within Waitakere, and the wider region. The current project to electrify the Auckland Metro Network reflects a continuation of recent substantial investment in Auckland's rail infrastructure. The past decade has seen a renaissance in rail passenger transport within the Auckland region. After many years of under funding and declining patronage, the past five years have seen patronage increase from approximately two million to six million passenger trips per annum. The Auckland Regional Transport Authority's short-term goal is to see this number further increase to more than 10 million trips by 2010. The increased use of passenger rail in Auckland has been driven by significant capital investment in the network in recent years including significant investment in double tracking and station renewal.

CONSULTATION

50. The NZRC owns the land that is the subject of this section 181(3) alteration to the designation application except in relation to the anomalies, which Council owns as legal road. None of the sites subject to the alteration are occupied and therefore there is no need to consult with landowners. With respect to the two anomalies ONTRACK and their agents, Barker and Associates, have consulted with Council staff. Following this initial consultation the Council has obtained legal advice, and the staff are satisfied that the alterations applied for will not interfere with the ongoing operation and management of the road network and this is outlined in paragraph (6) above.
51. Consultation has been undertaken with other Council officers including: Transport Assets; Transport Strategy; and the Parks Planning Team. Minor issues were identified by the Transport Strategy Team with respect to operational matters where Council is in lease arrangements with New Zealand Rail. However these are not considered to be impacted by the alteration of the designation and can be addressed through future negotiation of these agreements. It would not be appropriate to use the section 181(3) process to address the matters raised by Transport Strategy.

RESOURCES

52. No resources are required other than staff time involved in amending the map sheets of the Waitakere District Plan and distributing copies to Waitakere District Plan holders.

IMPLEMENTATION ISSUES

53. There is no implementation issues associated with this report.

AUCKLAND COUNCIL TRANSITION ISSUES

54. 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 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: Nick Pollard, Planner, Policy Implementation.



7 WESTERN RING ROUTE UPDATE

GLOSSARY

Environmental Protection Authority	(EPA)
New Zealand Transport Agency	(NZTA)
Notice of Requirement	(NOR)
State Highway	(SH)

EXECUTIVE SUMMARY

The purpose of this report is to bring a number of issues to the Planning and Regulatory Committee's attention for possible inclusion in a Council submission on the New Zealand Transport Agency's (NZTA's) Notice of Requirement (NOR) relating to the State Highway (SH) 20 Waterview Connection and the widening and upgrade of SH16 between St Lukes interchange and Te Atatu interchange.

The NOR was lodged with the Environmental Protection Authority (EPA) on 20 August 2010. It is anticipated that the NOR will be referred to a Board of Enquiry in September 2010 and public submissions will be invited.

This report outlines the likely issues for inclusion in a Council submission on the project. It is proposed that the Council makes a submission which provides qualified support of the project, identifies key issues and seeks that the resolution of those issues be progressed by the new Auckland Council and Auckland Transport agency through the continuing regulatory process.

Key issues in relation to NZTA's project include:

- The need for NZTA to balance motorway development with investment in passenger transport, including an enhanced bus shoulder lanes along SH16 and protection for a future busway;
- The need for NZTA to provide and maintain new and enhanced cycling and walking facilities, including a continuous SH20-SH16 cycleway, and improved facilities at SH16 interchanges;
- Support for the range of mitigation measures sought by Auckland City Council;
- The need for an upgrade of the Tiverton - Wolverton route and introduction of bus priority measures along Great North Road at Waterview as part of a the wider roading network completion; and
- The need for NZTA to provide improved pedestrian/cyclist facilities as part of the upgraded Te Atatu Rd interchange and the need for investment in an associated upgrade of Te Atatu Rd, as part of the package of works.

This report also provides an update on consent applications, in relation to the Lincoln to Westgate sections of SH16, which are separate from the EPA process.

RECOMMENDATIONS

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

1. **Receive** the Western Ring Route Update report.
2. **Agree** that the issues raised in the Western Ring Route Update report, including feedback provided by the Planning and Regulatory Committee at the meeting, be included in a Council submission to the Environmental Protection Authority in relation to the Waterview Connection and St Lukes to Te Atatu interchange project.

3. **Authorise** the Chairman of the Planning and Regulatory Committee to sign off the Council submission to the Environmental Protection Authority in relation to the Waterview Connection and St Lukes to Te Atatu interchange project.
4. **Note** that there are Council-owned reserves that will be affected by the proposed widening of State Highway 16.
5. **Direct** the Chief Executive to begin negotiations with New Zealand Transport Agency in relation to affected Council-owned reserves, with issues and proposed compensation brought back to the appropriate committee of the new Auckland Council for consideration.

BACKGROUND

- A121
1. On 20 August 2010, NZTA lodged a designation and resource consent application for the Waterview Connection of SH20 and the widening and upgrade of SH16 between St Lukes interchange and Te Atatu interchange. A summary plan of the project is attached at page A121.
- A122
2. The Waterview Connection is the final section of SH20 to allow completion of the Western Ring Route and includes extending a new motorway from the existing Maoro St interchange via above ground and tunnelled sections and connecting to SH16 at the Waterview interchange. The project includes the raising of the SH16 causeway between Waterview and Rosebank interchanges, an additional eastbound lane and two additional westbound lanes along the causeway, near-continuous bus shoulder lanes and an enhanced cycleway between St Lukes Rd and Te Atatu Rd interchanges. The project also includes the duplication of the bridge at Te Atatu Rd interchange and a general upgrade of the interchange in accordance with the operative scheme plan attached at page A122.
 3. NZTA's application was lodged with the EPA as part of a 'fast track' national consenting process. It is expected that in early September the EPA will recommend to the Ministers for Environment and Conservation that the application should be referred to a Board of Inquiry. This process, intended for nationally significant projects, avoids a Council hearing and requires that a decision is released within nine months.
 4. Public notification of the application is expected to occur in late September 2010, with a hearing likely between February and April 2011 and a final decision on the application due in June 2011.
 5. Project material will be made available to the public on the project website, with hard copies available from the EPA and at local libraries. The EPA is planning to establish a 'friend of the submitter' to provide support and advice on the EPA submission process to the community.
 6. The project requires other non-Resource Management Act consents that are not included as part of its application with the EPA. These include the applying for Historic Places Trust Authority and Marine Reserve Act approval through the Department of Conservation. It is expected that NZTA will lodge these applications in September 2010.
 7. Over recent years, and through numerous route variations, the Council has provided conditional support for the completion of the Western Ring Route. The Council set a number of conditions for its support, including appropriate mitigation and enhancement measures, consideration of a potential Whau River crossing, and an upgrade of interchanges at Te Atatu and Lincoln.

- A123-A125
8. On 20 July 2009, the Council, in its non-regulatory capacity, made a submission (attached at pages A123 to A125) to NZTA in relation to the SH20 Waterview Connection project. Council officers have provided input to the proposed urban design and landscape framework and concept design of Te Atatu interchange and SH16 widening.
 9. As the recently lodged application contains new and updated details, it is appropriate to update the resolution and identify current issues which NZTA should be requested to address through the project design or mitigation measures. These issues are summarised in the following sections.

ISSUES

10. The following issues are grouped into transport-related and non-transport-related topics, so that the future Auckland Transport agency may easily take up and progress the transport issues, and the future Auckland Council can similarly progress the other issues.

Transport issues

11. Significant benefits - The Council is supportive of NZTA's Western Ring Route proposals, as the completion of SH20 Waterview and upgrade of SH16 is expected to remove through-traffic from local streets, provide a more complete roading network and facilitate regional economic aims. The Council acknowledges the significant travel time savings expected and overall traffic capacity increase along the Western Ring Route. The completion of the Western Ring Route is expected to provide significant benefit to industry and businesses located in the Whenuapai Development area, Henderson and New Lynn because of the connections with the south and the airport, and due to the upgrade of Te Atatu Rd interchange.
12. Providing for passenger transport – Whilst supporting the completion of the motorway components, the Council recognises that it is critical that this is balanced with provision of passenger transport infrastructure. The Council supports NZTA's proposals for SH16 bus shoulder lanes, but also seeks that the designation footprint and current designs provide for continuous bus shoulder lanes and sufficient space on the causeway and around interchanges for future bus stations. The Council also supports the integration of NZTA's project with future rail along the Avondale-Southdown line through Owairaka.
13. Providing for walking and cycling – The Council supports NZTA's plans for an enhanced Northwestern walk and cycle way. The designation should enable NZTA to own and maintain the walk and cycle way. The walk and cycle way should be designed to meet or exceed Austroads standards. This requires addressing pinch points where the width is proposed to be less than 3.0 metres. NZTA should ensure that cyclists can continue to cycle alongside SH16 during project construction. The Council supports Auckland City Council's position that a continuous SH16-SH20 cycleway/walkway is a core component of the project. The Council also supports improvements in pedestrian, cyclist and passenger transport to key town centres and activity areas, such as to schools adjacent to Te Atatu interchange, through new bridges or improved amenity.

14. Network Plan – The Council supports NZTA’s development of a Network Plan to identify and optimise investment in the range of inter-related projects along the Western Ring Route corridor. This includes co-ordinating local roading, passenger transport, walking and cycling projects which are created or required due to the catalyst of NZTA’s project. The Council supports staging of future SH16 widening and upgrading works from Te Atatu Rd to Hobsonville Road, incorporating the early completion of the Lincoln Rd interchange upgrade.
15. Auckland City mitigation – The greatest proportion of impacts and therefore mitigation measures are required within Auckland City Council boundaries. Given the future amalgamation with that council, it is important that the Council supports and co-ordinates with the mitigation measures sought by Auckland City Council. In particular, the Council supports the introduction of bus lanes along Great North Road at Waterview and the completion of a continuous cycle and walk way between SH20 and SH16, utilising parks and reserves networks.
16. Arterial roads upgrade – With the completion of the Western Ring Route, a key part of the ultimate roading network will be in place. To ensure the expected benefits are realised it is important that other key parts of the network are also completed. The Council seeks that the new Auckland Transport prioritises the completion of the upgrade of the Tiverton - Wolverton route (connecting the recently upgraded Clark St to SH20 at Maioro St) and that this upgrade be planned for the time in the near future when an unacceptable level of traffic congestion is predicted. The Council also seek consideration of how interchanges at Patiki Rd and Rosebank Rd could accommodate increased traffic arising from a future Whau River crossing.
17. Te Atatu Rd interchange – The Council supports NZTA’s plans to upgrade Te Atatu Rd interchange as part of the Western Ring Route project, and seeks the provision of safe movement of pedestrians and cyclists between Te Atatu South and Te Atatu Peninsula. Specifically, the Council supports the provision of both an at-grade and tunnel solution for pedestrians and cyclists, to cater adequately for all users, and that the pedestrian amenity is developed to a very high level (including the use of artwork features). Some users will want to use the upgraded underpass to avoid waiting at the traffic signals and some users will want to cross at the traffic signals to avoid the underpass in the dark. The full benefit of the interchange upgrade will only be achieved by the upgrade of Te Atatu Road (south) up to Edmonton Road. The Council seeks NZTA’s support for the funding and implementation of this upgrade, as part of the package of works required on the wider network to capitalise on NZTA’s investment. The Waitakere City Freight Plan recommends that overweight and over dimension vehicles should be permitted to use SH16, which would require an increase in the Te Atatu Rd interchange height clearance to 6.5 metres.

Non-transport issues

18. Property impacts - The Council supports the minimising of impacts on neighbouring residents to preserve liveability factors, including views and privacy, and high quality mitigation of noise and visual impacts.
19. Water services - Where the Council's three water services (stormwater, wastewater and water supply services) are affected by NZTA’s project, relocation and necessary changes to these services will need to be undertaken by NZTA as part of the project. The Council strongly supports NZTA’s providing for treatment of stormwater runoff from the widened motorway corridor. For example, proposed ponds or wetlands in the vicinity of Te Atatu interchange are proposed.

A126-A132

20. Effect on reserves - The upgrade and widening of SH16 will impact a number of Council-owned reserves, either by permanent land requirements or affected temporarily during the construction phase of the project. Attached at pages A126 to A132 are maps indicating the approximate land requirements of NZTA. The reserves affected include:
- Bridge Avenue Reserve;
 - Harbourview – Orangihina;
 - McCormick Green; and
 - Jack Colvin Park.
21. Generally these are minor encroachments onto reserve areas which are unlikely to materially alter the use of the reserves. The largest impact is caused on Harbourview – Orangihina, where approximately 8,000m² of land is required along the edge of the Te Atatu Rd interchange for the SH16 upgrade. Due to the large scale of Harbourview – Orangihina, this is unlikely to have a significant negative impact on the wider park use or development.
22. However, NZTA also requires a 4 hectare area in the centre of Harbourview – Orangihina during the construction phase of the project as a lay down area for approximately two years. This lay down area is expected to include the main site office for the project, staff car parking, construction vehicle parking, storage and other project services. Due to the prominence of the site, this will have a significant visual impact during the construction phase. In addition to the visual impact this will cause, the Te Atatu Pony Club will be affected, as this lay down area is within the centre of their leased area. Council officers will need to work alongside NZTA staff to resolve operational issues this will cause the Te Atatu Pony Club.
23. Council will need to negotiate compensation for reserve land lost and/or affected by the SH16 upgrade. Officers will initiate these negotiations and provide updates to the current Council and the new Auckland Council as these proceed and issues arise.
24. Undergrounding of power lines – The Council seeks that NZTA's designs provide for the undergrounding of overhead power lines wherever possible, particularly where the project passes through residential areas.

Urban and Landscape Design Framework

25. The Council has reviewed an early draft of NZTA's Urban and Landscape Design Framework for the project. Given the complexity of the project and its evolving designs, the Council generally seeks flexibility in the design to allow for the incorporation of local input, for example artwork features to reflect local character.
26. Coastal experience – The Council supports the protection of key view shafts of the coastal experience and landscape gateways along SH16 and seeks provision for the connection and integration with the North West Wild Link, through planting and species selection. The Council supports the use of a grassed 'clear zone' rather than barriers, to retain views of the harbour and coast, and recommends the use of stormwater swales planted in natural vegetation instead of mown grassed areas.

27. Planting – Planting low growing species between the cycleway and the motorway could also provide increased sense of separation from the motorway, retain views, and provide environmental benefits. The Council supports the removal of all invasive or environmentally damaging weed species. The Council seeks to collaborate with NZTA to undertake integrated weed control and restoration on connected bush and esplanade areas to achieve better ecological outcomes and reduce re-infestation of the motorway corridor (especially Pixie stream, Harbourview - Orangihina, Jack Colvin Park, Bridge Avenue Reserve). The Council supports the use of vegetation to soften views of any planned noise walls (and to assist with noise mitigation), and to reduce opportunities for graffiti. The sea wall design should be investigated for opportunities to use vegetation to soften the hard edge and to provide ecological benefit. The Council supports the use of eco-sourced seed and plant stock and recommend the use of the Council's eco-sourced plant selection audit process.
28. Urban design treatments – The Council seeks to collaborate with NZTA on integrating arts opportunities into motorway structures and gateway opportunities. The Council also supports the use of earthworks to reduce dominance of noise walls. The Council supports NZTA's consideration of landscape, connectivity, and urban form as part of the design process, and seeks that ecological (natural ecology and ecosystem services) analysis and opportunities also be provided.

Lincoln Road Interchange

29. Separate from the SH20 Waterview components of the Western Ring Route project, an upgrade of Lincoln Road interchange is progressing. This is part of the general widening project between Te Atatu Interchange and the Huruhuru Bridge. The intention is to provide for multiple modes at the interchange and improve the capacity to move people and freight, rather than vehicles. Utilising the existing designation, NZTA has applied to the Auckland Regional Council and the Council for consents in order to commence construction of Lincoln Interchange as part of an 'early works' programme. It is expected that this will be processed in parallel with the much larger designation and a hearing date for the Lincoln Road application is tentatively planned for November 2010.
30. NZTA has finalised property requirements as part of the upgrade and engaged with affected property owners. Consultation with residents affected by a planned noise wall design is on-going, and the Council expects a high quality design, which meets appropriate noise standards. NZTA is in continuing discussions with the Toroa Boat Preservation Society to reach an agreed resolution, which may include constructing around the boat or moving it to an alternate location. Council officers have raised NZTA's awareness of an issue with restricted access at 329 Lincoln Road and requested that the project provides this property with alternative access to Central Park Drive.
31. Council officers have requested NZTA to consider a design solution that addresses the problem of bridge strikes at the interchange and Huruhuru Bridge by providing sufficient height clearance that prevents this as much as practicable and allows for the possibility of over dimension vehicles using SH16.
32. Council officers have requested NZTA to investigate reconfiguring the eastbound off-ramp to provide better for pedestrian safety and bus priority. Improvements are required which enable drivers to make earlier lane selection and avoid weaving at the westbound off-ramp, through the use of advanced directional signs or linemarkings. Council officers have requested NZTA to consider a design with two lanes westbound on SH16 dedicated to the Lincoln Road exit rather than the currently planned single lane exit, due to the diverge to four lanes shortly after the off-ramp.

33. The Regional Land Transport Strategy 2010-2040 defines the Quality Transit Network in this area as including both Lincoln Road and SH16, and Auckland Regional Transport Authority is currently investigating whether the Lincoln Road corridor (and onwards to SH18) should operate at quality transit or rapid transit levels in the future. Regardless, it is vital that NZTA future-proofs for a future busway along SH16, including a possible station at the Lincoln Road Interchange. Where possible the interchange design should provide options for continuous bus shoulder lanes and bus priority on the off-ramps and on-ramps.
34. The current pedestrian and cyclist provision at the interchange is poor. As part of the Lincoln Road interchange upgrade, Council officers are seeking the provision of a high quality pedestrian/cyclist environment (both following the upgrade and in the longer term, should a busway be built).
35. Council officers also seek the incorporation of the pedestrian and cyclist access at HuruHuru Bridge, including a staging of these works to ensure any pedestrian and cyclist improvements at the interchange are continued into the local road network.
36. In the longer term, the full benefit of the upgrade of Lincoln Road interchange will only be achieved by upgrade of the Lincoln Road corridor, including improvements to the reliability of bus services. The Council seeks NZTA's support for the funding and implementation of this upgrade, as part of the package of works required on the wider network to capitalise on NZTA's investment. The Council seeks that NZTA's designs provide for bus, high occupancy vehicle, emergency vehicle and heavy commercial vehicle bypass facilities at the interchange.

HuruHuru Bridge to Westgate

37. NZTA is proposing to lodge a NOR in relation to a future widening of SH16 between HuruHuru bridge and the Westgate Interchange. This involves an additional traffic lane in each direction, extension of the walk and cycle way and an upgrade of Royal Road Interchange. NZTA is not proposing to add an on-ramp and off-ramp facing Westgate. NZTA's plans for this stretch are less developed and Council officers have provided initial comments only on the proposed concept design.

STRATEGIC CONTEXT

38. The Transport Strategy for Waitakere recognises the importance of completion of the Western Ring Route and the need to integrate Waitakere's local road solutions with those being developed by NZTA. NZTA's project contributes to the vision of a sustainable multi-modal transport system that is integrated with land use and contributes to Waitakere as an eco city.
39. The completion of the Western Ring Route is expected to bring economic development opportunities and jobs to Waitakere and the region.

CONSULTATION

40. This report has received input from Transport Strategy, Transport Assets and Parks officers with no dissenting views.
41. As noted earlier, public notification of the application is expected to occur towards the end of September 2010, with a hearing likely between February and April 2011 and a final decision on the application due in June 2011. The fast-tracked nature of the process and the timing of the upcoming council amalgamation mean that the Council will not have an opportunity to undertake public consultation on its submission.

RESOURCES

42. The Annual Plan 2010/2011 provides a budget for the next design phase of the upgrade of Te Atatu Road. The Long Term Council Community Plan 2009-2019 does not include a budget for construction of the proposed upgrade of Te Atatu Rd. There is now greater justification for an upgrade of Te Atatu Rd given NZTA's confirmed upgrade of Te Atatu Rd interchange as part of the Western Ring Route project.

IMPLEMENTATION ISSUES

43. Auckland Transport and Auckland Council will need to reconcile submissions from the relevant councils in the Auckland region in relation to NZTA's NOR. Local roading projects, (such as the upgrade of Te Atatu Road, widening of the Tiverton to Wolverton link, and introduction of bus lanes along Great North Road in Waterview) will need to be coordinated with NZTA's project. Council officers have provided plans for the proposed upgrade of Te Atatu Road to ensure tie ins fit with the proposed upgrade of Te Atatu interchange.

AUCKLAND COUNCIL TRANSITION ISSUES

44. 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: Kevin Wright, Manager Transport Strategy.



8 NOTICE OF REQUIREMENT FOR A DESIGNATION - NORTHSIDE DRIVE EAST

GLOSSARY

Long Term Council Community Plan 2009 -2019	(LTCCP)
Notice of Requirement for a Designation	(NOR)
The Resource Management Act 1991	(the Act)

EXECUTIVE SUMMARY

This report seeks the approval from the Planning and Regulatory Committee to lodge a Notice of Requirement for a Designation (NOR) to construct Northside Drive East.

Approval to lodge this NOR will enable the Resource Management Act 1991 (the Act) statutory process to occur. This includes public notification of the NOR. The construction of Northside Drive East is necessary to enable development of Massey North and to better integrate local roads with the state highway network.

RECOMMENDATIONS

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

1. **Receive** the Notice of Requirement for a Designation - Northside Drive East report.
2. **Note** that the Notice of Requirement proposes to designate Northside Drive East from the vicinity of the new State Highway 16 alignment, to Trig Road.
3. **Agree**, in accordance with Section 168A of the Resource Management Act 1991, that a Notice of Requirement for Northside Drive East, be lodged with the Waitakere City Council, as soon as practicable.
4. **Note** that the Notice of Requirement for Northside Drive East will be publicly notified in accordance with the Resource Management Act 1991.
5. **Note** that resolution 3 above is subject to confirmation by the Auckland Transitional Authority.

BACKGROUND

1. Northside Drive is proposed to run from the existing State Highway 16 to link with Trig Road and thus the new State Highway 18 currently under construction. Northside Drive is necessary to enable development of Massey North.
2. The NOR will include and provide for that part of Northside Drive that runs from the new State Highway 16 alignment to Trig Road. This is referred to as Northside Drive East in this report. The route of Northside Drive East runs across private property within the Countryside Environment. In other words, it provides for that part of Northside Drive that is outside of the Plan Change 15 – Massey North area.
3. The NOR does not include that part of Northside Drive within the Plan Change 15 – Massey North area. An application for resource consent has been lodged for construction of the western part of Northside Drive within the Plan Change 15 – Massey North area. Direct negotiations with landowners are occurring with respect to land needed for the western part of Northside Drive.
4. A designation is an operative provision in a district plan that arises from an NOR (the formal proposal to carry out a public work or project) made by a requiring authority. In this instance, Council is the requiring authority that proposes to construct Northside Drive East. A designation enables the requiring authority to undertake the necessary public works (in this instance construction of a new road). The works arising from the NOR are included in the Long Term Council Community Plan 2009-2019 (LTCCP). It should be noted that once in place, Council can withdraw a designation at any time if it considers the public work to be unnecessary, too expensive, or unable to be completed.

DECISION MAKING

Issues

5. Construction of Northside Drive East is necessary to enable development of Massey North. A NOR is the appropriate statutory tool because the land is privately owned. Maps that identify the area of the NOR will be tabled at the meeting.

6. A notice of requirement has an interim effect from the time that the Council lodges it. The interim effect protects the land from other activities that may hinder or prevent the work that the designation seeks to achieve. However, lodging a NOR does not give the requiring authority (Council) any rights to undertake work prior to purchasing land. The Council will also need to obtain a subsequent approval for Outline Plan of Works under section 176A of the Act before construction can start.
7. Council is somewhat limited in terms of planning options available to it other than the NOR. Case law confirms that a designation is the most appropriate planning tool where the intention is to acquire private land for a public work which will not generate any immediate further land development benefits for the land owners.
8. Section 168A of the Act requires that Council as the requiring authority must consider alternative sites, routes and methods of undertaking the work if it does not have an interest in the land. The consideration of alternative sites, routes and methods will be provided in the NOR when it is lodged with Council for public notification.

Consideration of Community Views

9. The community (both affected land owners and other interested parties) will have the opportunity to make a submission on the NOR. This process will provide sufficient opportunity for community input. In addition, the Council has held discussions with affected land owners regarding its intention to purchase property and the forthcoming NOR.
10. It is recommended that the Council lodge the NOR under section 168A of the Act, to provide certainty that the Council has the ability to construct Northside Drive East in the future.

STRATEGIC CONTEXT

11. The NOR and consequent construction of Northside Drive East will facilitate development of Massey North and improved interconnections in the transport network. The NOR will be consistent with the Council's Growth Management, Transport and Economic Wellbeing strategies.
12. NOR will provide certainty, to both Council and existing and future landowners in the area, about access to land and provisions for all transport in the vicinity of Massey North.

CONSULTATION

13. Following public notification, the submission process provides opportunities for the public to make submissions. Council has already contacted affected land owners regarding its intention to purchase property for Northside Drive East.

RESOURCES

14. The costs associated with the implementation of the NOR (the statutory process of submissions and consideration of those submissions through to a decision) are able to be met within existing budgets. The costs of the works enabled by the NOR are identified in the Council's LTCCP.

IMPLEMENTATION ISSUES

15. There are no issues involved in implementing the recommended decision.

AUCKLAND COUNCIL TRANSITION ISSUES

16. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on Waitakere City Council's decision making capabilities in respect of Council expenditure in the Northern Strategic Growth Area. The NOR seeks to commence the implementation of some expenditure provided for in the Best of the West – Waitakere's Ten Year Plan. The NOR statutory process will commence the need to enter into contracts (land acquisition and physical works) that will impose obligations after 30 June 2011. This means that this report is subject to section 31(4)(i) of the Local Government (Tamaki Makaurau Reorganisation) Act 2009.

Report prepared by: Christopher Turbott, Senior Planner.



9 PROPOSED PLAN CHANGE 29: HERITAGE

GLOSSARY

Auckland Transition Agency (ATA)

EXECUTIVE SUMMARY

The Council has information on several additional buildings that are worthy of heritage listing as a result of the buildings being historic or outstanding modernist designs. These items have been nominated either by the landowners, as a result of subdivision or selected by Council.

RECOMMENDATIONS

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

1. **Receive** the Proposed Plan Change 29: Heritage report.
2. **Agree** that Waitakere Central Civic Centre, Japanese Garden and sculptures should be listed. The heritage protection should cover the interior of the Council Chamber, its public lobby and art works.
3. **Note** that the Council Civic building contributes to the sense of place of the area not only because of its civic functions but also due to its association with the Eco-City concept.
4. **Agree** that Proposed Plan Change 29: Heritage, should be publicly notified. The following items will be added to the Heritage Appendix:
 - Shadbolt House, 35 Arapito Street, Titirangi legally described as Lot 4 DP 15824, Category II;
 - Brake House, 73 Scenic Drive, Titirangi, legally described as Lot 1 DP81114, Category I;
 - Former Mangere Schoolhouse, 9 Kukupa Road, Sunnyvale, Lot 3 DP 204422, ¼ SH in Lot 5 DP 204422, Category II;

- 75 Candia Road, Swanson, Lot 2 DP 61555, Category III; and
 - Lion Rock Plaques, Category II.
5. **Note** that subject to the Auckland Transition Agency's approval as landowner, that the Council Civic Building legally described as Lot 2 DP 370255 should be listed as Category II in accordance with resolution 2 above.

BACKGROUND

1. The Waitakere Central Civic Centre is considered to be a notable modernist building designed by Architectus in association with Athfield Architects. The design excellence was recognised in 2008 with an NZIA Resene NZ Award in the 'Community and Cultural' category. Both of these architectural practices have attracted several awards for their work. In 2004 Ian Athfield received the New Zealand Institute of Architects Gold Medal, the supreme award in architecture.
2. Architecture New Zealand, the journal of the New Zealand Institute of Architects, described the building in its May/June 2008 issue:

"The project's careful integration of administrative and civic wings with a busy public transport interchange makes for a humming building which actively brings the council together with its local community. A strong pedestrian link to Henderson town centre and sympathetic response to the existing urban fabric has brought life to what was previously industrial land and signals a new beginning for what used to be the rough side of the tracks. The rigorously planned building displays a somewhat robust exterior while within, the soft curves and warmth of the council chamber create a delightful heart to the otherwise staunch building. The success of this project has raised the bar for future rejuvenation of the Henderson central area."

A133-A178

3. A copy of the heritage assessment is attached at pages A133 to A178. The heritage architect recommends that the Civic Centre is scheduled as a Category II building and that the listing should include the interior of the Council Chamber, its public lobby, and the external artworks associated with the building as well as the Japanese garden.
4. Council purchased Shadbolt House in 2006 for \$550,000 with the idea of establishing a writer's residence. Maurice Shadbolt died at age 72 and was one of New Zealand's most prolific writers. His novels and collections of short stories never strayed from New Zealand themes and locations. The property at 35 Arapito Street, Titirangi was purchased by Maurice Shadbolt on 7 July 1964. The house that was constructed on the property was a modest 'Californian Bungalow'. Council records show that the garage was built on the site in 1960 and building permits for additions and alterations to the house during Shadbolt's ownership were issued in 1966 (addition), 1972 (office), 1972 (addition) and 1973 (addition). The resulting house is eclectic and has an unusual form. The house is a tangible link with Maurice Shadbolt and his extensive writing. While not architecturally notable, the house reflects the growth in Shadbolt's family. It is recommended that the exterior of the house be listed as Category II.
5. The Brake House at 73 Scenic Drive, Titirangi was purchased by John Brian Brake, photographer, based in Hong Kong. John Brian Brake (1927-1988) was regarded as an outstanding photographer. The Brake House was designed by well-known Auckland Architect Ron Sang of the firm Mark-Brown, Fairhead, Sang and Carnachan. The house has been recognised as being among the top 20 modern buildings in New Zealand. Allan Wild, former Head of the School of Architecture at the University of Auckland, wrote an entry in the recent publication 'Long Live the Modern' in which he described the process and result of the design:

6. 'Sculptor Guy Ngan introduced Brake to Auckland architect Ron Sang, who proceeded to design the house by correspondence with Brake over six months, with eighteen revisions. The result was a brilliant combination of spaces and places of exquisite quality and beauty, designed for the Waitakere bush, but including a distant outlook to the city. The house is in two distinct parts, sleeping and entertaining, linked by a glass bridge. Most of it is only one room wide. Protruding from the main linear form is a deck, supported on a single post, and a glass-walled tātāmi room, reflecting Brake's love of Asia.'
7. The Brake house is an exceptionally good example of modern domestic architecture by a well known architect, Ron Sang, with equally significant associations in terms of its original owner Brian Brake. It warrants a Category I level of protection.
8. The Old Mangere Schoolhouse was relocated to 9 Kukupa Road, Sunnyvale in 2002 by its present owners Brent and Tracy Withers. The Schoolhouse was originally constructed in 1859 on an acre of land granted by the Crown to Major Joseph Greenwood. In 1879, the Auckland Education Board agreed to take over responsibility for the school and construct a new school building. The new school was built in 1881, and the old building removed to another site about 100m to the west in Kirkbride Road.
9. The building has had several uses as a post office and telephone exchange and from the mid-1980s it operated as a greengrocery until the site was acquired by the Manukau City Council for open space purposes. The building was beyond its economic life and the alternatives were demolition or relocation. The Council gifted the building to Brent Withers who relocated the core of the building (the schoolmaster's house and schoolroom) to its current site and he commenced an extensive repair and restoration process that is nearing its completion.
10. The house is a good example of the early colonial era. As a recently relocated building it does not have any association with the history of west Auckland but is nonetheless a significant building within the Auckland region. The heritage architect recommends a Category II listing.
11. The house at 75 Candia Road, Swanson has come to the Council's attention as a result of a non-complying subdivision application. The existing house is a single level bungalow dating from the 1920s. The house is located within an area that the government originally set aside in 1898 as a kauri gum digging reserve. By World War I the reserves had been cleared of gum and were surveyed and put up for ballot in 1914. The house came into the ownership of Florence Belaich, an orchardist living in McLeod Road Henderson at the time with her husband, carpenter Peter Belaich. Although the house is not regionally significant with respect to architectural and historical values it is of historical significance to the local Swanson area. The landowner has agreed to a heritage listing. Its only practical use is as a minor household unit and it is recommended for a Category III listing.
12. There are three plaques on Lion Rock, Piha. One marble plaque records the men mainly from the Piha sawmill who fought in WWI. The second marble plaque commemorates WWII. The third bronze plaque commemorates preservation of the Waitakere Ranges and Kawerau descendants. The largest plaque commemorates the 17 men from the Piha Mill who died in the First World War, as well as those who were wounded and who served in the war. The plaque was unveiled in or around 1920. A second plaque commemorates men living at Piha and surrounding districts who died or served in the Second World War. This plaque was unveiled on February 1950.

DECISION MAKING

Issues

Resource Management Act – Section 32 and landowner discussions

13. A section 32 report for this proposed Plan Change recommends listing the buildings nominated. There is one building where further discussions with the landowner are planned: the Civic building. A heritage listing would enable the key elements of the Council Chamber and associated art works to be protected. It would mean that the values associated with the public spaces and art works would require resource consent to be removed or altered. However, no discussion on the proposed listing has taken place yet with the Auckland Transition Agency (ATA). The Council's Planning and Regulatory Committee has a policy of seeking landowner approval prior to scheduling heritage items, as a way of ensuring that there is minimal risk of challenge at the Environment Court. It is therefore recommended that the Council seeks urgent approval from the ATA.

A179-A184

14. A copy of the maps is attached at pages A179 to A184.

Consideration of Community Views

15. Most of the buildings that have been assessed for their historic merit have been nominated by the community or in some cases, the landowners have approached Council to recognise their heritage value. However, the ATA has not yet given its approval to list the Civic building. It is considered that there is little point in Council notifying a plan change that will result in conflict.

Preferred Option

16. It is considered that Council should list those heritage buildings and plaques that have the support of the landowners. The Waitakere Central Civic Centre, Council Chamber, Japanese Garden and associated art works are worthy of listing. Therefore the Council should seek urgent approval from the ATA for this to occur.

STRATEGIC CONTEXT

17. The Strategic Platform aligns most closely with heritage is the vibrant arts and culture platform whereby:

"Waitakere City's arts and culture is reflected and appreciated in our everyday life and the City is itself a work of art. We participate in creative pursuits and have a deep and wide perception of arts and culture in our City."

CONSULTATION

18. Council has generally consulted with landowners in preparing this report affected by the proposed listings. The only exception to this is the proposed listing of the Civic building. It is considered that the Civic building, the Japanese garden and art works should be recognised and protected for future generations. The building has several artworks of spiritual significance to Maori and it is important that their context within a civic space should remain.

RESOURCES

19. There is sufficient resource within existing budgets to notify Proposed Plan Change

IMPLEMENTATION ISSUES

20. If the ATA does not agree to listing the Civic building, then rest of the Proposed Plan Change should still proceed.

AUCKLAND COUNCIL TRANSITION ISSUES

21. The Local Government (Tamaki Makaurau Reorganisation) Act 2009 imposes restrictions on Waitakere City Council's decision making capabilities in respect of decisions that may have a negative impact on Council assets transferred to the Auckland Council under section 31(1)(iii). Therefore the Council is obliged to seek the approval of the ATA before listing the Civic building as part of Proposed Plan Change 29: Heritage.

Report prepared by: Alina Wimmer, Principal Advisor: Heritage .



10 PROPOSED PLAN CHANGE 34: RE-IDENTIFICATION OF PART OF ROYAL RESERVE

GLOSSARY

The Resource Management Act 1991	(the Act)
Planning and Regulatory Committee	(the Committee)
Proposed Plan Change 34: Re-identification of Part of Royal Reserve	(PPC 34)

EXECUTIVE SUMMARY

The purpose of this report is to present to the Planning and Regulatory Committee (the Committee) the outcome of the public notification process relating to Proposed Plan Change 34: 'Re-identification of Part of Royal Reserve' (PPC 34). The report seeks that the Committee resolve to make PPC 34 operative subject to the Council granting a resource consent application to subdivide adjacent residential land at 74b and 76 Royal Road, which includes part of the Council owned Royal Reserve land.

PPC 34 will re-identify approximately 1.8 hectares of Council owned Royal Reserve land at 5 Beauchamp Drive, Massey from 'Open Space' to 'Living' Environment. The re-identification is part of a proposed land exchange between the Council and the owner and developer of the adjacent land at 74b and 76 Royal Road. The exchange involves swapping part of Royal Reserve for an equivalent, more useable area of land (currently identified as 'Living' Environment) adjoining the eastern part of Royal Reserve. This will assist the Council in giving effect to its strategic objectives to expand and upgrade Royal Reserve. That part of Royal Reserve which is subject to the exchange will be re-identified as Living Environment, enabling residential activities to be established on what is currently part of the existing reserve.

PPC 34 was publicly notified on 18 September 2009. No submissions were received in relation to this plan change. Pursuant to Section 10 of the First Schedule to the Resource Management Act 1991 (the Act), the Council is required to make and notify its decision on PPC 34 within two years of notifying the plan change.

The developer (MC2 Properties Ltd) with whom the Council has agreed the exchange, has lodged a resource consent application to subdivide 74b and 76 Royal Road, which includes the Royal Reserve land. The Council is currently processing this application which is subject to a limited notification process involving one affected party. It is recommended that notification of the Council's decision to re-identify the Royal Reserve land to Living Environment be subject to the resource consent for subdivision being granted.

RECOMMENDATIONS

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

- A185
1. **Receive** the Proposed Plan Change 34: Re-identification of Part of Royal Reserve report.
 2. **Agree** pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991, that the Council adopt, and notify its decision on, Proposed Plan Change 34: Re-identification of part of Royal Reserve from Open Space to Living Environment subject to the Council granting a resource consent application for subdivision of 74b–76 Royal Road as marked attached at page A185 which includes part of the Royal Reserve land at 5 Beauchamp Drive, Massey.

BACKGROUND

- A185
1. PPC 34 seeks to re-identify part of Royal Reserve from Open Space to Living Environment, as shown on the plan titled 'Plan Change No. 34 – Change from Open Space Environment to Living Environment Royal Reserve Land Exchange' attached at page A185. The reason for re-identifying this land is so that it can be exchanged for an equivalent, more useable area of land adjoining the eastern boundary of Royal Reserve.
 2. The subject land is approximately 1.8 hectares and is located adjacent to the southern boundary of Royal Reserve, behind the existing changing/toilet block. The exchange of land at Royal Reserve forms part of a wider strategic objective the Council has to improve and expand the recreational facilities at Royal Reserve.
 3. At its 8 September 2009 meeting, the Committee resolved to publicly notify PPC 34. PPC 34 was publicly notified on 18 September 2009. The submission period closed on 16 October 2009. No submissions were received in relation to this plan change.
 4. The Council is currently processing an application for resource consent to subdivide an adjacent ten hectare site for residential purposes at 74b-76 Royal Road. This application includes the subject reserve land at 5 Beauchamp Drive, Massey. Pursuant to Section 95 of the Act, the application is subject to a limited notification process involving one affected party. It is recommended that re-identification of the subject land be made operative once the subdivision consent has been granted.

DECISION MAKING

Issues

5. Pursuant to Section 10 of the First Schedule of the Act, the Council is required to make and notify its decision on PPC 34 within two years of notifying the plan change. Where there are submissions, the decision must include the reasons for accepting or rejecting the submissions. The decision may also include any consequential alterations or other matters relevant to the proposed plan change arising from submissions.
6. There were no submissions received in relation to PPC 34. Therefore it is recommended that PPC 34 be adopted as notified.

STRATEGIC CONTEXT

7. The proposed land exchange will assist the Council in upgrading and expanding its existing reserve facilities servicing Massey North. This work is consistent with the Council's Social Strategy (April 2010) which seeks to prioritise community infrastructure investment across the City to meet the needs of the community.
8. Under the draft Parks and Open Space Strategic Plan 2009, the Council seeks to provide equitable public access to Citywide parks which include multiple recreational activities. Royal Reserve is classified as a Citywide park and serves a broader geographical area than just the immediate neighbourhood. In addition Royal Reserve has a multi-use function in that it provides both active (existing sports fields) and passive (walking, informal recreation) forms of recreation.
9. There is an existing reserve management plan for Royal Reserve which was adopted in 1993. The reserve management plan is programmed for renewal and will include strategic outcomes for Royal Reserve arising from Council workshops for Massey North/Westgate held in 2004. Renewal of the reserve management plan will be carried out following the approval of the land exchange, the adoption of PPC 34 and the granting of relevant subdivision and land use consents.

CONSULTATION

10. Prior to notification of PPC 34, the Council publicly notified its intention to exchange the subject reserve land in accordance with Section 15 of the Reserves Act 1977. This included direct consultation with the owners of neighbouring properties and local iwi. Seven objections were received. These objections, along with the Council responses were set out in a report to the Infrastructure and Works Committee in March 2009.
11. In accordance with the First Schedule to the Act, the Council has publicly notified PPC 34. This included direct notification to owners of properties adjacent to, and surrounding the Royal Reserve land. No submissions were received in relation to PPC 34.

RESOURCES

12. Processing of PPC 34 through the statutory process has been resourced from existing budgets. The costs associated with the land exchange will be funded in part by the Council which is currently budgeted for, and in part by the developer.

IMPLEMENTATION ISSUES

13. There are no implementation issues associated with this report.

AUCKLAND COUNCIL TRANSITION ISSUES

14. 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: Deanne Rogers, Senior Planner: Policy Implementation.



PART D - PUBLIC EXCLUDED MATTER

11 WHENUAPAI DEVELOPMENT AREA FUTURE GROWTH PLANNING

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 parts of the proceedings of this meeting, namely, Whenuapai Development Area Future Growth Planning.

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

General subject of the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
Whenuapai Development Area Future Growth Planning	The withholding of information is necessary in order to: <ul style="list-style-type: none">• enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	That the public conduct of the whole 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)(i) of that Act which would be prejudiced by the holding of the whole part of the proceedings of the meeting in public as follows:

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

