I hereby give notice that an ordinary meeting of the Regulatory Committee will be held on:

**Date:** Tuesday, 28 July 2020  
**Time:** 10.00am  
**Meeting Room:** Room 1, Level 26  
**Venue:** 135 Albert St  
Auckland

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**Kōmiti Whakahaere ā-Ture**  
**Regulatory Committee**

**OPEN AGENDA**

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**MEMBERSHIP**

<table>
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<th>Role</th>
<th>Name</th>
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<tbody>
<tr>
<td>Chairperson</td>
<td>Cr Linda Cooper, JP</td>
</tr>
<tr>
<td>Deputy Chairperson</td>
<td>Cr Josephine Bartley</td>
</tr>
<tr>
<td>Members</td>
<td>Cr Dr Cathy Casey</td>
</tr>
<tr>
<td></td>
<td>Cr Fa’anana Efeso Collins</td>
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<td></td>
<td>Cr Shane Henderson</td>
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<td>Cr Daniel Newman, JP</td>
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<td>Cr Sharon Stewart, QSM</td>
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<td>IMSB Chair David Taipari</td>
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<td>IMSB Member Glenn Wilcox</td>
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<td>Cr Paul Young</td>
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*Ex-officio*  
Mayor Hon Phil Goff, CNZM, JP  
Deputy Mayor Cr Bill Cashmore

*(Quorum 5 members)*

---

**Maea Petherick**  
**Kaitohutohu Mana Whakahaere Matua / Senior Governance Advisor**

*23 July 2020*

Contact Telephone: 021583018  
Email maea.petherick@aucklandcouncil.govt.nz  
Website: www.aucklandcouncil.govt.nz

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**Note:** The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Terms of Reference

Responsibilities

The committee is responsible for regulatory hearings (required by relevant legislation) on behalf of the council. The committee is responsible for appointing independent commissioners to carry out the council’s functions or delegating the appointment power (as set out in the committee’s policy). The committee is responsible for regulatory policy and bylaws. Where the committee’s powers are recommendatory, the committee or the appointee will provide recommendations to the relevant decision-maker.

The committee’s key responsibilities include:

- decision-making (including through a hearings process) under the Resource Management Act 1991 and related legislation
- hearing and determining objections under the Dog Control Act 1996
- decision-making under the Sale and Supply of Alcohol Act 2012
- hearing and determining matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002 (this cannot be sub-delegated)
- hearing and determining matters arising under bylaws
- appointing independent hearings commissioners to a pool of commissioners who will be available to make decisions on matters as directed by the Regulatory Committee
- deciding who should make a decision on any particular matter including who should sit as hearings commissioners in any particular hearing
- monitoring the performance of regulatory decision-making
- where decisions are appealed or where the committee decides that the council itself should appeal a decision, directing the conduct of any such appeals
- considering and making recommendations to the Governing Body regarding the regulatory and bylaw delegations (including to Local Boards)
- recommending bylaws to the Governing Body for consultation and adoption
- reviewing local board and Auckland water organisation proposed bylaws and making recommendations to the Governing Body
- appointing panels to hear and deliberate on public feedback related to regulatory policy and bylaw matters
- deciding regulatory policies that are not otherwise the responsibility of another committee
- deciding regulatory policies, standards and controls associated with bylaws including those delegated to the former Regulatory and Bylaws Committee, under resolution GB/2012/157 (dogs) and GB/2014/121 (alcohol)
- receiving local board feedback on bylaw and regulatory policy development and review
- adopting or amending a policy or policies and making any necessary sub-delegations relating to any of the above areas of responsibility to provide guidance and transparency to those involved.

Not all decisions under the Resource Management Act 1991 and other enactments require a hearing to be held and the term “decision-making” is used to encompass a range of decision-making processes including through a hearing. “Decision-making” includes, but is not limited to, decisions in relation to applications for resource consent, plan changes, notices of requirement, objections, existing use right certificates, certificates of compliance, regulatory policy and bylaws and also includes all necessary related decision-making.

In adopting a policy or policies and making any sub-delegations, the committee must ensure that it retains oversight of decision-making and that it provides for councillors to be involved in decision-making in appropriate circumstances.
For the avoidance of doubt, these delegations confirm the existing delegations (contained in the chief executive’s Delegations Register) to hearings commissioners and staff relating to decision-making under the RMA and other enactments mentioned below but limits those delegations by requiring them to be exercised as directed by the Regulatory Committee.

**Relevant legislation includes but is not limited to:**

- All Bylaws
- Biosecurity Act 1993
- Building Act 2004
- Dog Control Act 1996
- Fencing of Swimming Pools Act 1987
- Gambling Act 2003
- Health Act 1956
- Land Transport Act 1998
- Local Government Act 1974
- Local Government Act 2002
- Local Government (Auckland Council Act) 2009
- Maritime Transport Act 1994
- Psychoactive Substances Act 2013
- Resource Management Act 1991
- Sale and Supply of Alcohol Act 2012
- Waste Minimisation Act 2008

**Related Regulations**

**Powers**

(i) All powers necessary to perform the committee’s responsibilities.

   Except:

   (a) powers that the Governing Body cannot delegate or has retained to itself (section 2)

   (b) where the committee’s responsibility is limited to making a recommendation only.

(ii) Power to establish subcommittees.
Exclusion of the public – who needs to leave the meeting

Members of the public

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

Those who are not members of the public

General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

Independent Māori Statutory Board

- Members of the Independent Māori Statutory Board who are appointed members of the committee remain.
- Independent Māori Statutory Board members and staff remain if this is necessary in order for them to perform their role.

Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Other staff who need to because of their role may remain.

Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

Council Controlled Organisations

- Representatives of a Council Controlled Organisation can remain only if required to for discussion of a matter relevant to the Council Controlled Organisation.
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1 Apologies

Apologies from Deputy Mayor BC Cashmore and Mayor P Goff have been received.

2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

3 Confirmation of Minutes

That the Regulatory Committee:

a) confirm the ordinary minutes of its meeting, held on Tuesday, 23 June 2020, including the confidential section, as a true and correct record.

4 Petitions

At the close of the agenda no requests to present petitions had been received.

5 Public Input

Standing Order 7.7 provides for Public Input. Applications to speak must be made to the Governance Advisor, in writing, no later than one (1) clear working day prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of thirty (30) minutes is allocated to the period for public input with five (5) minutes speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

6 Local Board Input

Standing Order 6.2 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to five (5) minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give one (1) day’s notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 6.1 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.
7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"An item that is not on the agenda for a meeting may be dealt with at that meeting if-

(a) The local authority by resolution so decides; and

(b) The presiding member explains at the meeting, at a time when it is open to the public,

(i) The reason why the item is not on the agenda; and

(ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting."

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"Where an item is not on the agenda for a meeting,-

(a) That item may be discussed at that meeting if-

(i) That item is a minor matter relating to the general business of the local authority; and

(ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but

(b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion."
Te take mō te pūrongo

Purpose of the report

1. To request the appointment of Independent Hearing Commissioners to hear submissions and make decisions on the following proposed plan changes to the Auckland Unitary Plan (Operative in Part):

2. PC29 – Amendments to Schedule 10 Notable Trees (re-order, technical errors and amendments to the mapped overlay).

Whakarāpopototanga matua

Executive summary

3. Independent Hearing Commissioners are sought for the above proposed plan change. The commissioners will hear submissions and make decisions on the proposed plan change.

Ngā tūtohunga

Recommendation/s

That the Regulatory Committee:

a) appoint at least two independent commissioners, with expertise in planning, and natural heritage, to hear submissions and make decisions on Proposed Plan Change 29 - Amendments to Schedule 10 Notable Trees to the Auckland Unitary Plan (Operative in Part);

b) delegate authority to the chairperson of the Regulatory Committee (or its equivalent) to make replacement appointments to the hearing panel in resolution a) in the event that members of the hearings panel are unavailable.

Horopaki

Context

4. The appointment of independent hearing commissioners is required for a council-initiated plan change. This proposed plan change is likely to be scheduled for a hearing towards the end of 2020.

5. Proposed Plan Change 29 – Amendments to Schedule 10 Notable Trees (re-order, technical errors and amendments to the mapped overlay) proposes changes to the Auckland Unitary Plan to amend the errors and inconsistencies in the Schedule 10 text and maps.

6. 30 primary submissions were received on Proposed Plan Change 29. The submissions raise planning and natural heritage issues.

7. Given the issues raised in submissions, the following commissioner expertise would be desirable: planning, natural heritage and legal.

8. The commissioners will hear submissions and make decisions on the proposed plan change.
Tātaritanga me ngā tohutohu
Analysis and advice
9. Analysis of the issues raised in submissions and recommendations will be provided in the section 42A hearing report for the proposed plan change.

Tauākī whakaaweawe āhuarangi
Climate impact statement
10. The decision to appoint independent hearing commissioners is an administrative one and does not have any associated climate change impacts.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views
11. The proposed plan change does not have any impacts on the council group.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views
12. As part of the plan change process, memos were sent to relevant local boards advising them of the proposed plan change and enabling them to provide feedback. No feedback was received from the relevant local boards.

Tauākī whakaaweawe Māori
Māori impact statement
13. The relevant mana whenua entities were consulted during the preparation of PC 29. No submissions have been received from mana whenua, no doubt due to the administrative nature of the plan change.

Ngā ritenga ā-pūtea
Financial implications
14. The cost of independent hearing commissioners is covered by the Democracy Services Department budget.

Ngā raru tūpono me ngā whakamaurutanga
Risks and mitigations
15. Hearing commissioners are appointed from the pool of independent commissioners due to their professionalism, expertise and experience. A small number of elected members who hold the ‘Good Decision-making’ accreditation may also sit as commissioners. These processes, in addition to staff reporting, ensure a high quality of informed decision-making and help avoid any procedural or judicial risks.

Ngā koringa ā-muri
Next steps
16. Council staff will commence preparations for the hearing to take place. The key next steps involve:
   • preparing the section 42A hearing report;
   • contacting the appointed Independent Hearing Commissioners to check their availability;
   • notifying submitters of the hearing dates and venue;
   • providing submitters with a copy of the hearing report;
- Independent Hearing Commissioners conduct the hearing; and
- Council’s decision is released.

Ngā tāpirihanga

Attachments

There are no attachments for this report.

Ngā kaihaina

Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Teuila Young - Planner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>John Duguid - General Manager - Plans and Places</td>
</tr>
<tr>
<td></td>
<td>Craig Hobbs - Director Regulatory Services</td>
</tr>
</tbody>
</table>
Request to Appoint Hearing Commissioners for Private Plan Change 38 (522-524 Swanson Road, Ranui).

File No.: CP2020/07354

Te take mō te pūrongo
Purpose of the report
1. To request the appointment of a Hearing Commissioner to hear submissions and make decisions on Private Plan Change 38 (522-524 Swanson Road, Ranui) to the Auckland Unitary Plan (Operative in Part).

Whakarāpopototanga matua
Executive summary
2. Private Plan Change 38 (PPC38) seeks to rezone the site at 522-524 Swanson Road, Ranui from Business – Light Industry to Residential – Mixed Housing Urban and Terrace Housing and Apartment Building zones in Auckland Unitary Plan (Operative in Part) (AUP). No other changes are proposed to the AUP.
3. PPC38 was notified on 5 December 2019 and the submission period closed on 23 January 2020. One submission, from Kiwirail Holdings Limited, was received.
4. PPC38 was notified for further submissions on 27 February 2020 and the submission period closed on 12 March 2020. One further submission, from Kāinga Ora – Homes and Communities, was received.
5. It is proposed that one Independent Hearing Commissioner is appointed to hear and make decisions on PPC38.

Ngā tūtohunga
Recommendation/s
That the Regulatory Committee:

a) appoint an Independent Hearing Commissioner, with expertise in planning, to hear submissions and make the council’s decision on Private Plan Change 38 to the Auckland Unitary Plan (Operative in Part);

b) delegate authority to the chairperson of the Regulatory Committee to make a replacement in the event that the appointee in clause a) above is unavailable.

Horopaki
Context
6. Western Park Village Limited lodged a private plan change request for 522-524 Swanson Road, Ranui. The request seeks to rezone approximately 2.5 hectares of land from Business – Light Industry to Residential Mixed Housing Urban and Terrace Housing and Apartment Building in the AUP.
7. The private plan change request was accepted for notification, and subsequent processing, on 26 November 2019 by the Manager – North West and Islands, Plans and Places under delegated authority, in accordance with the Auckland Council Combined Chief Executives Delegation Register (updated June 2019).
8. PPC38 was notified on 5 December 2019 and the submission period closed on 23 January 2020. One submission, from Kiwirail Holdings Limited (Kiwirail), was received. The main theme of Kiwirail’s submission is the reverse sensitivity effects, particularly noise and vibration, on residential development located adjacent to the rail corridor.

9. PPC38 was notified for further submissions on 27 February 2020 and the submission period closed on 12 March 2020. One further submission, from Kāinga Ora – Homes and Communities, was received. The further submission opposes the relief sought by Kiwirail.

Tātaritanga me ngā tohutohu
Analysis and advice
10. Analysis will be provided in the council officer’s hearings report (section 42A report) for the private plan change request. Key matters that will be considered include planning, urban design, transport, economics, and reverse sensitivity effects.

Tauākī whakaaweawe āhuarangi
Climate impact statement
11. The decision to appoint independent hearing commissioners is an administrative one and does not have any associated climate change impacts. However, this topic was considered in the clause 25 report to accept the private plan change request and will be discussed further in the section 42A report.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views
12. Auckland Council’s Healthy Waters Department, Watercare Limited and Auckland Transport have reviewed the private plan change request and will be involved during the preparation of the hearing report.

13. Healthy Waters was satisfied that the potential adverse effects of subsequent residential development enabled by a change to residential zones could be managed through the assessment of the AUP provisions as part of a later resource consent process. The relevant objectives and policies of the AUP, including those around reducing risk of flooding, stream restoration and enhancement opportunities as raised by Healthy Waters, will be addressed in the hearing report.

14. Watercare Limited was satisfied that there was adequate capacity within the existing infrastructure to accommodate the proposed levels of future residential development on the site.

15. Auckland Transport had some concerns around the connections to Swanson Road, the Ranui Train Station and across the stream which traverses part of the site. These concerns will be addressed in the hearing report in discussion with Auckland Transport.

16. No submissions have been received from either Watercare Limited or Auckland Transport.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views
17. PPC38 is located within the boundary of the Henderson-Massey Local Board.

18. A memo, dated 13 March 2020, was forwarded to the Henderson-Massey Local Board. Informal feedback from the local board has been received. This is generally supportive of the private plan change in that it provides the opportunity for residential development that offers good quality social housing which is affordable. The feedback also raises points around the next stage of the development process such as consideration of design, reverse sensitivity, the provision of a quality interface to Ranui Domain, and connections to Ranui town centre, and public transport.
19. A report to the Henderson-Massey Local Board’s business meeting on 21 July 2020 will provide the opportunity for the local board to provide its formal view. This will allow the local board to present its view at a hearing (if one is required).

**Tauākī whakaaweawe Māori**  
**Māori impact statement**

20. The applicant has engaged with iwi groups with an interest in the area, providing an opportunity for feedback before the request was formally lodged with council. This included Te Kawerau a Maki, Te Ākitai Waiohua, Ngāti Whātua Ōrākei, Ngāti Whātua o Kaipara and Te Rūnanga o Ngāti Whātua. No responses were received from Te Ākitai Waiohua or Ngāti Whātua Ōrākei.

21. Te Rūnanga o Ngāti Whātua deferred their input to Ngāti Whātua o Kaipara. Ngāti Whātua o Kaipara deferred their input to Te Kawerau a Maki. Te Kawerau a Maki provided a letter which supported only the private plan change at this stage and indicated an interest in having further involvement during any subsequent resource consent process.

22. All iwi authorities with an interest in the Auckland region were sent letters when the private plan change was publicly notified. No submissions were received from iwi authorities.

**Ngā ritenga ā-pūtea**  
**Financial implications**

23. The cost of the private plan change will be recovered from the applicant (Western Park Village Limited).

**Ngā raru tūpono me ngā whakamaurutanga**  
**Risks and mitigations**

24. Hearing commissioners are appointed from the pool of independent commissioners due to their professionalism, expertise and experience. This process, in addition to staff reporting, ensures a high quality of informed decision-making and avoids any procedural or judicial risks.

**Ngā koringa ā-muri**  
**Next steps**

25. Council staff will commence preparation for a hearing to take place in August or September 2020. The key next steps involve:

- contacting the appointed Independent Hearing Commissioner to check their availability
- notifying submitters of the hearing date and venue
- providing submitters with a copy of the hearing report
- Independent Hearing Commissioner conducts the hearing (if one is required)
- Auckland Council decision released.

**Ngā tāpirihanga**  
**Attachments**

There are no attachments for this report.

**Ngā kaihaina**  
**Signatories**

<table>
<thead>
<tr>
<th>Author</th>
<th>Jo Hart - Planner - Planning North/West</th>
</tr>
</thead>
</table>
| Authorisers | John Duguid - General Manager - Plans and Places  
                Craig Hobbs - Director Regulatory Services |
Stormwater Bylaw Findings Report

File No.: CP2020/04198

Te take mō te pūrongo
Purpose of the report

1. To agree that the review of the Ture-ā-rohe Wai Āwhā 2015, Stormwater Bylaw 2015, is complete and request an options report that responds to the findings.

Whakarāpopototanga matua
Executive summary

2. Auckland Council Healthy Waters staff have prepared a findings report (Attachment A) to enable the council to complete the review of the Stormwater Bylaw 2015 (the Bylaw).

3. Key findings from the review include:
   - Auckland Council is responsible for the ongoing operation, maintenance, and protection of the public stormwater network, as well as flood protection and control.
   - Stormwater problems still exist, such as damage to the public stormwater network managed by Auckland Council, flooding, contaminant discharges, management of connections and the operation and maintenance of private stormwater systems.
   - The Bylaw is an important tool to minimise risk to the operation of the stormwater network by providing a holistic set of rules, filling a regulatory gap and complimenting other regulations and legislation. The Bylaw covers similar matters as other stormwater bylaws around New Zealand and can contribute to Māori outcomes, aspirations and priorities.
   - The Bylaw is an effective and appropriate regulatory tool to achieve appropriate land drainage and stormwater management by protecting stormwater network from damage, misuse and interference.
   - The current Bylaw approach could be improved by clarifying rules, increase its ability to protect public stormwater networks, more effectively regulate maintenance of private stormwater systems, and align the interaction with the Auckland Regionwide Stormwater Network Discharge consent.
   - The current Bylaw does not give rise to any unjustified Bill of Rights implications.

4. Staff recommend that the Regulatory Committee endorse the findings report, complete the statutory review and request an options report. Taking this approach will progress the review and allow consideration of statutory options to confirm, amend, replace or revoke the Bylaw.

5. If the findings report is endorsed, there is a low risk that members of the public or stakeholders may express concern about suggested improvements, or stakeholder engagement to date. This risk is mitigated by future public consultation on any proposed changes to the Bylaw.

6. If approved, Auckland Council Healthy Waters will develop options that respond to the findings in this report.

Ngā tūtohunga
Recommendation/s

That the Regulatory Committee:

b) agree that the statutory review of the Auckland Council Stormwater Bylaw 2015 is complete, including that:

i) a bylaw is still the most appropriate regulatory tool to protect Auckland’s stormwater network from damage, misuse and interference, as well as regulating the operation and maintenance of private stormwater systems

ii) the current Bylaw does not give rise to any implications and is not inconsistent with the New Zealand Bill of Rights 1990

iii) the current Bylaw approach to manage land drainage for the public stormwater network and ensure maintenance and operation of private stormwater systems is appropriate but could be improved.

c) request that Auckland Council Healthy Waters prepare an options report in response to the findings in Attachment A of the agenda report.

Horopaki Context


8. The primary purpose of the Bylaw is to regulate land drainage including to protect, manage and maintain an efficient and effective public stormwater network, as well as the ensure the maintenance and operation of private stormwater systems.

9. The Bylaw is aligned with the Auckland Plan 2050 by supporting the growth and development strategy and the need for infrastructure to keep up with the pace and scale of regional growth over the next 30 years.

10. The Bylaw is one part of a wider regulatory framework in the management of stormwater. Issues related to water quality and discharge of contaminants into stormwater are managed at source under the Auckland Unitary Plan and the Resource Management Act 1991, while issues related to the construction requirements are addressed by the Building Act 2004.

11. The Bylaw works in conjunction with the Stormwater Code of Practice setting standards to construct appropriate public stormwater infrastructure. This is normally undertaken through the council’s Engineering Plan Approval (EPA) process.

12. The EPA process and the regulations in the Bylaw, contribute to the outcomes of the Auckland Regionwide Network Discharge Consent (NDC) by controlling development and connections to the public stormwater network, and ensure the maintenance of private stormwater network.

The Local Government Act 2002 set out bylaw review requirements

13. A findings review of the Bylaw must be completed by 30 July 2020 to determine whether a bylaw is still necessary, and whether the current Bylaw is well drafted and meets the requirements of the New Zealand Bill of Rights Act 1990.

14. Following the findings review, the council can consider and propose statutory options to confirm, amend, replace or revoke the Bylaw using a public consultative process.

15. If a findings review is not completed by 30 July 2020, the Bylaw will expire on 30 July 2022 and council must (if a bylaw is still necessary) make a new bylaw to avoid a regulatory gap.
Staff prepared a findings report as the first step in reviewing the Bylaw
16. Between December 2019 and May 2020, staff carried out research and engaged with a range of stakeholders to develop a findings report (Attachment A). Engagement methodology includes:

- workshops with internal staff and stakeholders, including council-controlled organisations
- discussions with mana whenua representatives at the monthly hui
- People’s Panel survey on stormwater related elements and the Bylaw
- interviews with affected parties, through video and face-to-face meetings.

Tātaritanga me ngā tohutohu
Analysis and advice

There are existing and new issues which still need to be managed
17. Land drainage problems such as property flooding, contaminant discharges affecting the stormwater network, management of pipe connections and inconsistent operation of private stormwater systems, are still common as evidenced by the feedback from technical experts, operational staff and survey respondents. Auckland Council Healthy Waters department receives thousands of requests every year to attend to issues related to the public and private stormwater network.

18. The Engineering Plan Approval (EPA) applications that council received for infrastructure related work has increased every year since 2015. This is reflective of the growth Auckland is experiencing, which highlights the need for continued management of the stormwater network under the Bylaw.

19. There is an interrelationship between the Regionwide Network Discharge Consent (NDC) granted in 2019, the Stormwater Code of Practice (SWCoP) and the Bylaw where new stormwater assets designed in accordance with the SWCoP are vested with the council to assist in achieving the outcomes of the NDC through the EPA process. Currently, reference to the NDC in the Bylaw is limited and requires strengthening to assist with the NDC implementation.

Some improvements to the Bylaw have been suggested
20. Stakeholders consider the Bylaw to be effective and efficient but suggest improvements which will be considered as part of an options report. Suggested improvements relate to:

- better alignment to the Regionwide Network Discharge Consent (NDC) by explicitly referencing the NDC and including mechanisms for better interrelationship such as conditioning for council approvals
- better protection of the public stormwater network from damage such as burying of manholes affecting access and including water sensitive design devices that form part of the stormwater network
- improved clarity of certain definitions and clauses, and best practice for bylaw writing such as using plain English and adding explanatory notes where applicable for easier understanding
- further exploration of concerns expressed by mana whenua such as Bylaw enforcement, maintenance of private stormwater systems, and infrastructure placed on Māori land historically
- enhancement of provisions related to private stormwater systems to enable council to ensure private stormwater systems are properly constructed and maintained. For example, provisions for regular inspections by council or requirements for submitting maintenance records
- improved compliance and enforcement powers such as inspections and cost recovery as deterrence.
The Bylaw does not give rise to any unjustified Bill of Rights implications

21. The current Bylaw does not give rise to any unjustified Bill of Rights implications. Any limits to rights or freedoms are considered to be proportionate and justifiable.

Staff recommend the Regulatory Committee endorse the findings, complete the statutory review, and request an options report

22. The findings report establishes that the public stormwater network still needs protecting, the private stormwater network requires regulation, and that the current Bylaw is still necessary, appropriate and useful alongside other stormwater management tools. The Bylaw could be improved for clarity, interrelations with other tools, private and public stormwater management, mana whenua considerations, and enforcement.

23. Staff recommend the Regulatory Committee endorse the findings in this report, complete the statutory findings review, and request an options report to consider and propose statutory options to confirm, amend, replace or revoke the Bylaw.

Tauākī whakaaweawe āhuarangi
Climate impact statement

24. While the Bylaw is not specifically about addressing climate change, stormwater is inherently closely related to the climate. The Bylaw review acknowledges climate change elements such as retreat of stormwater infrastructure and adaptability should be considered in the options report.

25. The feedback received from workshops and the survey was that climate change is an important aspect to be considered for stormwater management and the Bylaw.


Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views

27. The Bylaw impacts the operations of Auckland Council Healthy Waters teams. It also impacts Auckland Council teams involved in the regulation, compliance and enforcement of stormwater such as Regulatory Engineering and Regulatory Compliance departments. Relevant staff including Auckland Transport and Watercare provided feedback to the review through interactive workshops and interviews.

28. The options report will take into account the views gathered through the engagement process with the various affected parties within the council group.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views

29. Under the agreed principles and processes for Local Board Involvement in Regional Policy, Plans and Bylaws 2019, the Bylaw has been classified as low interest. It is also considered to be of no impact on local governance for local boards, except for Rodney Local Board.

30. The Rodney Local Board has delegated authority to make decisions relating to stormwater management within the Te Arai Drainage District, the Okahuhura Drainage Area and the Glorit Drainage District.

31. Healthy Waters have recently been in discussion with the Rodney Local Board about the future management of the drainage districts. There will be engagement with the Rodney Local Board for the options report to seek their views specifically on the Bylaw.
Tauākī whakaaweawe Māori
Māori impact statement
32. The Bylaw can contribute to the Māori Plan 2017’s key directions of Manaakitanga - Improve Quality of Life by managing land drainage appropriately and will explore Rangatiratanga – Enhance Leadership and Participation with further engagement especially through the enabling of the Regionwide Stormwater Network Discharge Consent consultations.

33. Views from mana whenua were sought at the monthly Healthy Waters project day hui in April 2020. Operational kaitiaki representing the 19 iwi participates in the monthly hui. The main concerns expressed related to issues such as the effect from decreased stormwater quality, infrastructure developments without mana whenua input, and the enforcement and monitoring of public and private stormwater systems. The options report will consider these concerns in more detail.

Ngā ritenga ā-pūtea
Financial implications
34. The cost of the Bylaw review and its implementation will be met within existing departmental budgets. Existing staff will be dedicated to the project.

35. There will be costs associated with mana whenua engagement though the Infrastructure and Environmental Services hui, as well as public consultation required by the Bylaw review. These costs will be driven by the proposed depth of engagement.

Ngā raru tūpono me ngā whakamaurutanga
Risks and mitigations
36. There is a low risk that some members of the public or stakeholders may express concern about suggested improvements to the Bylaw or stakeholder engagement.

37. This risk is mitigated by future public consultation on any proposed changes to the Bylaw.

Ngā koringa ā-muri
Next steps
38. If approved, staff will prepare an options report for the Regulatory Committee.

39. Options Report will be presented to the Regulatory Committee in November 2020.

Ngā tāpirihanga
Attachments
There are no attachments for this report.

Ngā kaihaina
Signatories

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<thead>
<tr>
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2020 Auckland Council Earthquake-Prone Building Programme Update to MBIE

File No.: CP2020/08914

Te take mō te pūrongo

Purpose of the report


Ngā tūtohunga

Recommendation/s

That the Regulatory Committee:

a) approve the submission of the 2020 Earthquake-Prone Building Monitoring Report (Auckland Council (attached to the agenda report) to the Ministry of Business, Innovation and Employment by the 13 August 2020.

Horopaki

Context

2. Under the provisions of the Building (Earthquake Prone Buildings) Amendment Act 2017 (the Act), territorial authorities are required to provide routine updates to MBIE on their progress in implementing regulatory requirements around earthquake-prone building management. As the Auckland Council region is one of low seismicity, a report is only required once every 3 years. This will be the first report Auckland Council has submitted to MBIE and will cover the period from 1 July 2017 to 30 June 2020.

3. In addition to the default information required for the report, it is important to note that the submission is intended to also reflect that between 2011-2016 Auckland Council conducted an active assessment programme that has resulted in a significant number of buildings (~8000) investigated to determine their seismic performance. To date it is the buildings identified as potentially earthquake-prone through this programme that have been issued with the new earthquake-prone building notices required under the Act.

4. In issuing these notices, care has been taken to brief local boards about affected buildings in their areas and where requested, to provide guidance to assist owners in addressing any concerns. The issue of notices was also carried out in a staged manner based on local board area, starting with those containing larger numbers of affected buildings and moving outwards to areas with only a few.

5. With this phase of work almost completed, the next step will be for any remaining buildings that qualify under MBIE’s profiling categories to be identified and their owners contacted to request they complete their own seismic assessments and notify Auckland Council of the result. This work is expected to take several years, dependent on the quality of data available on Auckland’s built environment, but will be completed within the 15 year period granted by MBIE for these assessments.

Tātaritanga me ngā tohutohu

Analysis and advice

6. As the provision of the attached report is a prescribed statutory obligation established by MBIE for the Auckland Council, there are no additional options to be considered in this case.
**Tauākī whakaaweawe āhuarangi**

**Climate impact statement**

7. The provision of our progress report to MBIE has no direct implications for Climate Change. However, it is worth noting that the eventual retro-fit or demolition of buildings designated as earthquake-prone are likely to be considered on a case-by-case basis by other specialist teams within Auckland Council. At such time, urban re-development patterns and resource/waste management will be considered.

**Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera**

**Council group impacts and views**

8. Auckland Council Building Consents department officials have further developed productive working relationships with colleagues in Watercare, Panuku and Auckland Transport, as well as Auckland Council’s own Community Facilities and Corporate Property departments in order to help them fulfil the Council group’s collective obligations as property owners.

**Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe**

**Local impacts and local board views**

9. Following the 1 July 2017 amendments to the Building Act 2004, Auckland Council’s Building Consents department set out to pro-actively engage with local boards on its progress in implementing the earthquake-prone building regulations. The issuing of the new earthquake prone building (EPB) notices was staged by local board area. Prior to corresponding with owners, the relevant local board(s) were notified which buildings were being affected and given the opportunity to meet with department officials.

10. Of the local boards containing buildings identified to date as potentially earthquake-prone, Puketāpapa, Waitamata, Albert-Eden, Ōrākei, Maungakiekie-Tāmaki and Otara-Papatoetoe chose to hold meetings with department officials.

11. Auckland Council continues to see high levels of interest in building seismic performance by those involved in the property market. Investment behaviour appears significantly influenced by what is a decreased appetite for risk on the part of financial institutions. With 1274 notices issued and still in effect at the time of this report (concentrated largely in the isthmus, Devonport-Takapuna and Papatoetoe), a significant number of buildings owners are affected by the need to at least re-assess, if not retrofit their buildings. While there have been around 300 buildings that have received some level of remediation in recent years, this has predominantly been concentrated in local board areas where building owners can more easily afford the cost of the required retro-fit.

**Tauākī whakaaweawe Māori**

**Māori impact statement**

12. Since work on identifying potentially earthquake-prone buildings was commenced by Auckland Council in 2011, only a few buildings with known Māori interest have been found to be potentially earthquake-prone. A low level of exposure to this issue arises from the fact that buildings owned by local iwi or related Māori businesses are typically either modern or of light-weight timber construction. Such buildings are generally unlikely to be earthquake-prone and are typically outside of the scope of the legislatively established assessment regime.

13. For any buildings of concern to Māori that may require further attention, department officials have engaged with the Regulatory Services Māori Outcomes Lead to provide a briefing on the nature of on-going earthquake-prone building work and ensure their involvement in any subsequent discussions.
Ngā ritenga ā-pūtea
Financial implications
14. There are no financial implications in relation to the provision of the attached report to MBIE.
15. The Financial & Business Performance unit have been briefed on the content of this report and acknowledged that there are no financial implications resulting from the associated recommendation.

Ngā raru tūpono me ngā whakamaurutanga
Risks and mitigations
16. The provision of the attached report to MBIE is a statutory obligation for Auckland Council. Failure to provide the report in a timely fashion would pose a reputational risk in relation to the organisation’s relationship with MBIE. The likelihood of failing to meet the timeframe for this reporting obligation is low.
17. We have been unable to provide all the information that MBIE has requested as part of this report. Unfortunately, we had not previously been aware that some of this information would be requested and it was not information that we have previously been reporting. Although provision of this additional data is not critical for the present report, in looking ahead to the 2023 report, we will need to give consideration as to how we might be able to provide this and any other information that MBIE may express an interest in as part of this reporting cycle.

Ngā koringa ā-muri
Next steps
18. Upon approval of the recommendation in this report, department officials plan to submit the attached report to MBIE by the 13 of August 2020.

Ngā tāpirihanga
Attachments

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<td>Craig Hobbs - Director Regulatory Services</td>
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Memo

10 July 2020

To: John Sneyd, General Manager Building Systems Performance, MBIE
From: Andrew Minturn, Manager Building Consents Capability, Auckland Council


This memorandum is intended to summarise the responses Auckland Council will submit to the Ministry of Business, Innovation and Employment (MBIE) via webform for the 2020 Earthquake-Prone Building Monitoring Report. It will also provide additional commentary for questions where greater context may be of use to the ministry. Responses (in blue) will be limited to only the questions applicable to the low seismicity region managed by Auckland Council.

Q5. As from 1 July 2017, we have a nationally consistent EPB management system. In respect of this, territorial authorities must remove references to a local EPB policy from their local dangerous and insanitary buildings policy. Our records show that: Auckland District Council has not yet provided their correctly amended or replaced local dangerous and insanitory buildings policy.

Please update us on your policy setting as at 30 June 2020:

We have made the policy changes (please see attached the current policy pdf)

Q6. Please attach a pdf of your current policy.

Document to be attached

Q34. Identification of all potentially non-priority earthquake-prone buildings

For LOW seismic risk areas, territorial authorities are required to identify all non-priority potentially earthquake-prone buildings using the EPB methodology by 1 July 2032.

Has Auckland District Council completed a preliminary assessment of buildings on non-priority buildings following the EPB methodology by 30 June 2020?

No - From 1 July 2017 to 30 June 2020 Auckland Council has focused on transitioning assessment results from our previous active programme to align with the requirements of the new EPB management system.

Q36. As at 30 June 2020, please give an estimate of how many buildings fit the earthquake-prone profile as per the methodology, but have not yet been identified by Auckland District Council as being potentially earthquake prone (please enter an integer, if known)?

Unknown at this stage – Auckland Council is in the process of pulling together the datasets necessary to carry out identification of any remaining buildings that fit in the profile categories set by MBIE.

Q37. Of the ‘x’ earthquake-prone buildings not yet identified in the LOW seismic risk area by Auckland District Council; how many buildings are category one historic places or National Historic Landmarks? (please enter an integer, if known):

Unknown at this stage – As per previous answer.
Q42. Identification of potentially earthquake-prone buildings is formalised when the territorial authority sends a letter to the building owner requesting an engineering assessment. For LOW seismic risk area buildings where there are also areas of high and medium seismic risk:

How many letters has Auckland District Council sent from 1 July 2017 - 30 June 2020, requesting an engineering assessment of a potentially earthquake-prone building categorised as:
A: unreinforced masonry buildings
B: pre-1976 buildings that are either three or more stories or 12 metres or greater in height above the lowest ground level (other than URM buildings in Category A)
C: pre-1935 buildings that are one or two stories (other than URM buildings in Category A)
D: anytime: Other basis for identifying as outlined in the EPB methodology

2293 letters have been sent to owners in the Auckland Council jurisdiction. Auckland Council does not currently have the capacity to provide a breakdown report on the number of letters sent.

Q45. Territorial authorities must use the engineering report to determine whether or not a building is earthquake-prone. The engineering report must be provided within 12 months of request, unless an extension (a further 12 months) is agreed, otherwise the building is determined to be earthquake-prone by default.

How many buildings in the LOW seismic risk area has Auckland District Council determined to be earthquake-prone based on an Initial Seismic Assessment (ISA) or Detailed Engineering Assessment (DSA)?

- Earthquake-prone based on an engineering assessment – 1850 (1274 EPB notices issued and the rest awaiting new assessments after 12 months or expiry of extension of time)
- Not earthquake-prone based on an engineering assessment - 6676 (Based on assessments pre & post 1 July 2017)
- Earthquake-prone in the absence of engineering assessment - 0
- No longer EPB remediated or demolished (exclude S124 revokes) – 322 (287 buildings strengthened & 35 EPBs demolished)

Q46. & Q47. Although still present in the online MBIE form, Auckland Council has been informed on 10 July 2020 that these questions are no longer required to be completed.

Q52. Territorial authorities must transfer any s124 notices (issued under local policy pre-1 July 2017) to EPB notices where subpart 6A of Part 2 applies or revoke them. For your LOW seismic risk area, did the territorial authority have any s124 notices current at 1 July 2017?

No - As Auckland Council did not have any s124 notices in effect at the 1 July 2017 the answer to this question will be a negative.

Q54. Territorial authorities must update the EPB register when s124 notice is issued. An EPB or s124 notice is only revoked if the building does not meet the Building Act definition of an earthquake-prone building OR because the building has been remediated or demolished since the s124 notice was issued. Does the public-facing EPB register show the current state of s124 notices for your territorial authority?

Yes – Though as Auckland Council had no s124 notices as of 1 July 2017 this is technically not applicable.
Q57. For your LOW seismic risk area, what is the territorial authority’s level of confidence that there will be no outstanding seismic work for non-priority buildings in the district before 1 July 2032?

Somewhat confident – Having clarified with MBIE that this question relates to a TA having identified potential EPBs and issued notices on them by 1 July 2032, Auckland Council is in a good position to complete what could be reasonably achievable with its current system capabilities.

Q58. What training in the EPB methodology was done during the past 12 months, including engagement with the regional cluster to share EBP expertise?

None – Staff involved in EPB management at Auckland Council have significant experience in the subject and the methodology acquired prior to the past 12 months.

Q59. The Chief Executive must monitor and report annually to the Minister in accordance with section 169; and monitors, in accordance with section 169A, the application and effectiveness of subpart 6A of Part 2 (which relates to earthquake-prone buildings).

How many full time equivalent staff worked on EPB management in the past 12 months? Please enter an integer: 2

Q60. Monitoring engineering capability available to territorial authorities:

1. Does the TA have a designated person or persons to review engineering assessments to verify that the requirements of the EPB methodology are being met? Yes
2. Have these person/persons attended MBIE’s training on the EPB methodology and engineering assessments? Yes
3. Does the TA have access to strategic engineering advice to assist with complex issues relating to the identification of potentially earthquake prone buildings? Consultant engineers are available if required, but strategic engineering advice from the Ministry has been unavailable over recent years.
4. Is the TA experiencing recurring issues where engineering assessments are not meeting the requirements of the EPB methodology? Yes, but only minor and easily rectified administrative issues.
5. Has the TA contracted in engineering services in the past 12 months? No

Q61. Comment on how any significant local, national or global event has diverted efforts from identification of potentially priority earthquake-prone buildings and the effect that might have on your ability to regulate and the ability of building owners to comply (meet timeframes/afford engineering reports or seismic work).

The COVID-19 pandemic has been the only significant event to have an impact on local efforts to address earthquake-prone buildings, but this has had only a minor effect on our regulatory operations. The potential risk however is that the economic impacts of this pandemic affect the ability of building owners to conduct assessments and/or raise the capital to carry out retrofits, though with the significantly longer timeframe for action in Auckland this may be overcome if the economy strengthens.

Q62. Would you like to see MBIE carry out further face-to-face EPB methodology training in your region?

No - This is not a critical need as far as we can see in our area, and other forms of support should take precedence.
Adoption of a Regulatory Committee Policy

File No.: CP2020/09734

Te take mō te pūrongo
Purpose of the report
1. To introduce and obtain approval for the Regulatory Committee Policy (Attachment A).

Whakarāpopototanga matua
Executive summary
2. The committee is invited to receive and adopt a Regulatory Committee Policy. The Policy incorporates the operational policy and sub delegations for the decision-making responsibilities that lie within the areas of the committee's responsibilities.

Ngā tūtohunga
Recommendation/s
That the Regulatory Committee:

a) adopt the Regulatory Committee Policy.

Horopaki
Context
3. The Regulatory Committee has been delegated wide responsibility under a range of legislation including responsibilities relating to hearings, regulatory policy and bylaws. The implementation of a committee policy creates an effective and transparent means of implementing the oversight role of the committee and distinguishing it from the operational aspects of decision making undertaken by commissioners and staff.

4. The Committee primarily has a governance and oversight role across the areas within its terms of reference. Through its Policy, it can distinguish its policy making (governance) functions from the operational matters of statutory hearing and decision making. These operational functions can be delivered effectively by commissioners and staff. For example, the committee will appoint the pools of commissioners who will be available for alcohol licensing and resource management decision making but will leave the appointment of those commissioners to individual hearings to staff, who will make those appointments in accordance with the guidance and direction provided by the Policy.

5. The Regulatory Committee Policy builds on the strengths of the previous Committee polices that were developed and implemented during the previous three terms of Council. The refreshing of the Policy clarifies and recognises the functions of the Regulatory Committee in matters of planning and resource consenting, dog control and alcohol regulation. Both Committee and staff benefit from a clear distinction between governance and operational functions with the policy ensuring that operational matters within the oversight of the Committee remain consistent, transparent and efficient.

6. The Policy provides a streamlined process for the division of decision-making responsibility and determining who the decision maker should be. The delegation for decision making, subject to statutory limits, is allocated to a level that best suits the decisions that need to be made. This reflects the operational nature of regulatory decision making, as contrasted with policy development and approval, which fits more within the governance sphere.
7. This guidance in the operation and division of decision making acknowledges the professionalism of qualified commissioners and staff working within the alcohol licensing, dog control and resource management environments. The Policy continues to align with that of the Chief Executives Delegation Register that provides for sub-delegations to hearing commissioners and council staff.

8. The Policy provides set criteria for the appointment of hearing commissioners by staff on all resource management matters, both regulatory and plan formation. This proposed Policy acknowledges that any subsequent plan appeal, notice of requirement or declarations (as separate from resource consenting matters) lie within the ambit of the Planning Committee.

9. The section covering potential conflicts of interest has been revised to ensure that there are clear processes in place for those appointed to decision making roles. Elected decision makers much disclose any potential conflicts of interest and the General Manager Democracy Services is to determine any alleged conflicts.

10. The streamlining of processes continues to help in the timeliness of resource consent decision making in light of the Resource Management (Discount on Administrative Changes) Regulations 2010. The Policy no longer covers the setting of regulatory fees and charges that is undertaken via the annual plan processes.

Tātaritanga me ngā tohutohu
Analysis and advice
11. Staff advise the Regulatory Policy should be adopted.

Tauākī whakaaweawe āhuarangi
Climate impact statement
12. This report is procedural in nature and any climate impacts attributable directly to the adoption of this policy will be negligible.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views
13. This report is procedural in nature and there are no council group impacts.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views
14. The Policy recognises the various ways in which local boards interface with regulatory matters. Local boards can address the Committee directly on any agenda item. For a matter that may affect the well-being of a local board community, processes are provided where the views and preferences can be expressed to those delegated the responsibility of regulatory decision making. The policy further outlines where local board members can speak to those views and preferences when a hearing is held.

Tauākī whakaaweawe Māori
Māori impact statement
15. The policy recognises the knowledge of Māori as specialists in determining their values and associations. The policy describes how staff should consult on matters of significance to Māori and the desirability of appointing persons with relevant expertise in te Ao Māori, tikianga Māori or Tiriti o Waitangi as part of a decision-making process.

Ngā ritenga ā-pūtea
Financial implications
16. The policy provides effective understanding and guidance for elected members and staff. Delegations to a sub-committee, hearing commissioners and staff allows the most cost efficient and timely means of undertaking council’s statutory decision-making.
17. This report is procedural in nature and any risks attributable directly to the adoption of this policy will be negligible.

18. Implement the Regulatory Policy.

**Ngā tāpirihanga**  
**Attachments**

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**Ngā kaihaina**  
**Signatories**

- **Author**: Robert Andrews - Principal Specialist Planning
- **Authorisers**: Ian Smallburn - General Manager Resource Consents
  Craig Hobbs - Director Regulatory Services
REGULATORY COMMITTEE POLICY

Operational policy and sub-delegations of the Auckland Council Regulatory Committee

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1 PURPOSE AND SCOPE

The Governing Body of the Auckland Council has delegated to the Regulatory Committee responsibility for regulatory hearings (required by relevant legislation), regulatory policy, and bylaws.

The regulatory hearings which the Regulatory Committee is responsible for include decisions under the:

a. Resource Management Act 1991 (RMA) in relation to resource consents, plan changes, notices of requirement and other Environment Court proceedings;

b. Dog Control Act 1996 in relation to the consideration of objections under that Act;

c. Sale and Supply of Alcohol Act 2012 in relation to licensing applications;


e. Reserves Act 1977 in relation to public reserves; and

f. other regulatory legislation that may be enacted after the adoption of this Policy.

The Regulatory Committee decides who the decision-maker(s) should be in relation to regulatory decisions under these Acts. The Regulatory Committee may also delegate decision-making powers unless delegation is prohibited by statute.

In addition, the Regulatory Committee holds responsibility for regulatory policy and bylaws, including recommending bylaws to the Governing Body for consultation and adoption.

Policy and plan making under the Resource Management Act 1991 and appeals or declaration proceedings in relation to plan provisions and plan interpretation are managed by the Planning Committee, or its successor committee.

The purpose of this Policy is to:

a. provide an efficient, open and transparent framework for the decision-making processes for which the Regulatory Committee is responsible, including recognition of te Ao Māori and Te Tiriti o Waitangi;

b. set out sub-delegations from the Regulatory Committee.

The policy applies to elected members, Independent Māori Statutory Board (IMSB) members, local board members appointed to hear matters, independent commissioners and council staff.

2 PRINCIPLES AND STRATEGIC ALIGNMENT

Principles

The key principles which guide this Policy are:

a. Auckland Council values the knowledge of Māori and actively seeks input from Māori in decision-making.
b. Māori are specialists in determining their values and associations.

c. the Regulatory Committee will exercise its delegated responsibility itself but may seek direction and guidance from the Governing Body. Where appropriate, the Regulatory Committee will sub-delegate its responsibilities.

d. suitable decision-makers will be appointed for each matter to ensure high quality and timely decision making.

e. the Regulatory Committee will maintain appropriate oversight of decision-making under the regulatory legislation that it has responsibility for, regardless of who is making those decisions.

f. all people making regulatory decisions on behalf of the Council will consider any views and preferences expressed by a local board, if the decision affects or may affect the responsibilities or operation of the local board or the well-being of communities within its local board area.

Strategic Alignment

The operation of this Policy aligns with Auckland Council strategy in relation to decision-making. It should be read in conjunction with the Auckland Council Combined Chief Executives Delegation Register, which among other things, provides for specific sub-delegations to hearings commissioners and council staff in relation to powers and functions under the Resource Management Act and other relevant legislation. This Policy confirms those delegations, but also limits them by requiring them to be exercised as directed by the Regulatory Committee.

3 POLICY RELATING TO APPOINTMENT OF DECISION-MAKERS

The Regulatory Committee’s policy for the appointment of decision-makers to consider regulatory matters is outlined below. The Regulatory Committee expects that a uniform approach is taken where possible. Differences in approach will, however, result from the requirements of the different statutory regimes.

Process for Resource Management Act, Sale and Supply of Alcohol Act, and Dog Control Act matters

Appointment of independent commissioners or members to a list

3.1 In relation to decisions under the Resource Management Act, Sale and Supply of Alcohol Act and Dog Control Act, the Regulatory Committee:

a. will appoint independent commissioners to a list of commissioners approved to make decisions under the Resource Management Act;

b. will appoint the members of the District Licensing Committee approved to make decisions under the Sale and Supply of Alcohol Act; and

c. may appoint independent commissioners to a list of commissioners approved to make decisions under the Dog Control Act.
3.2 The appointment of independent commissioners or members to each of these lists will follow an advertising and recruitment process, and will comply with relevant legislative requirements. The commissioner/member appointment panel will contain at least one IMSB Member. Unless directed otherwise, council staff will provide recommendations on the appointment of independent commissioners to each list in terms of numbers and range of expertise based on past experience and likely future needs. The Regulatory Committee will have regard to these recommendations when making its appointments.

3.3 Following consultation with the independent commissioners and staff, the Regulatory Committee will designate a number of independent commissioners appointed to carry out RMA functions to be duty commissioners who must be available on short notice to make decisions.

3.4 The Regulatory Committee will review the list of independent commissioners approved to make regulatory decisions from time to time, as required.

**Process for appointing commissioners or members to decide particular matters where there is a list**

3.5 Council staff will be responsible for the appointment of decision-makers from the relevant commissioner or member list.

3.6 Council staff may appoint one or more independent commissioners or members from the relevant list, local board members, staff members, or a mix. If it is appropriate to appoint an independent commissioner, and there are no suitable independent commissioners on the list, council staff may appoint any other suitably qualified independent expert having regard to the matters in 3.7 below.

3.7 Council staff must take the following factors into account when appointing decision-makers:

a. the nature of the matter;

b. the issues raised in the matter;

c. the range of expertise necessary to assess the matter;

d. the desirability of appointing a person with relevant expertise in te Ao Māori, tikanga Māori or Te Tiriti o Waitangi;

e. the potential for suitably qualified local board members to participate in the decision-making process on the matters noted in clauses f. and g. below (having particular regard to the issue of conflicts of interest); and

f. whether the decision involves an element of policy making and has implications for a large number of stakeholders;

g. whether the application is considered highly contentious, such as when the matter involves significant variance in cultural views.

3.8 Where a matter covers areas of significance to Māori, council staff will consult with IMSB staff on the appointments.

3.9 Where other considerations are met, commissioners/members will generally be appointed on a rotational basis.
Process for appointing decision-makers where there is no commissioner or member list

3.10 The Regulatory Committee will decide who should hear submissions and/or undertake consultation, as the case may be, on policies, plans and other matters where relevant commissioner and member lists do not apply. In doing so, the Regulatory Committee will take into account the following matters:

a. the matters set out at 3.7 and 3.8 above;

b. the likely time commitment including pre-reading, attending a hearing(s) and time required to write a decision or recommendation;

c. the availability of potential hearing panel members;

d. whether the policy, plan or matter relates to the entire region or only to parts of the region.

3.11 Where decision-making cannot be or is not delegated, recommendations will be made directly to the Governing Body or the relevant Committee, as appropriate.

3.12 Development and consultation on Resource Management Act policy and plan changes (including plan change appeals) will be the responsibility of the Planning Committee, or its successor committee.

4 CONFLICTS OF INTEREST AND CONDUCT OF HEARINGS

Conflicts of Interest

4.1 Every independent commissioner or member appointed to hear a matter will complete the Disclosure of Interests form (attached at Appendix 1) prior to the hearing of any matter.

4.2 Independent commissioners and members are required to disclose their financial and non-financial interests so that the council may determine whether or not they have a conflict of interest in any matter that they are appointed to make a decision on.

4.3 If an independent commissioner or member is concerned they may have a conflict of interest in a matter before them (either financial or non-financial), they must disclose the interest and/or seek advice from the General Manager Democracy Services (or equivalent role), the Manager, Hearings or Council’s legal team.

4.4 If an independent commissioner or member has a conflict of interest, they must not participate in decision-making on a matter. The independent commissioner or member must:

a. declare the conflict of interest to the General Manager Democracy Services (or equivalent role) or the Manager, Hearings who will determine whether a conflict of interest exists, such that the independent commissioner should not be involved in decision-making on that matter; and if so:
b. refrain from discussion or decision-making on the matter; and

c. ensure that the declaration is recorded in the disclosure of interests form.

4.5 If the General Manager Democracy Services (or equivalent role) or the Manager, Hearings considers that an independent commissioner or member has a conflict of interest, a new decision-maker will be appointed.

4.6 If a conflict of interest is discovered during a hearing or decision-making process, the independent commissioner or member must bring this to the attention of the General Manager Democracy Services (or equivalent role) or the Manager, Hearings and the parties and give them an opportunity to be heard on whether the independent commissioner or member should continue to hear the matter. If the General Manager Democracy Services (or equivalent role) or the Manager, Hearings considers that a conflict of interest exists and the independent commissioner or member should not continue to hear or be involved in the matter, where possible the hearing shall continue without the conflicted member. If the hearing cannot continue, a new decision-maker will be appointed.

4.7 In order to protect against conflicts of interest, independent commissioners and members must not accept any gifts (including hospitality and entertainment) from parties to any matter that the commissioner is making decisions on.

4.8 It is a breach of this Policy if an independent commissioner or member has a financial or non-financial conflict of interest in a decision and does not manage it in accordance with clauses in this Policy.

4.9 In addition to this Policy, independent commissioners or members must also comply with any other legal requirements relating to conflicts of interest (including in any agreement for the provision of independent commissioner or member services).

Conduct of hearings

4.10 All hearings will generally be conducted following the guidelines contained in the Making Good Decisions Programme run by the Ministry for the Environment, with modification as required for hearings on different types of matters.


5 POLICY RELATING TO BYLAWS

5.1 The Governing Body is responsible for making bylaws and approving draft bylaws prior to consultation. It has otherwise delegated responsibility for bylaws to the Regulatory Committee.

5.2 The Regulatory Committee will recommend draft bylaws to the Governing Body for approval to go out for public consultation. If the Governing Body approves the draft bylaw for consultation, the Regulatory Committee will decide, on a case by case basis, how consultation on the draft bylaw will occur. The Regulatory Committee will appoint elected members or IMSB members to a hearing panel to
undertake the required statutory process (including consultation) and to make recommendations after consultation, on behalf of council.

5.3 Recommendations on the draft bylaw will be provided directly to the Governing Body by the hearing panel. The Governing Body decides whether or not to make the bylaw.

6 SUB-DELEGATIONS

The Regulatory Committee makes the following sub-delegations.

Appointments where there is a commissioner or member list

6.1 For Resource Management Act, Sale and Supply of Alcohol Act and Dog Control Act matters that do not relate to policy and plan development matters, council staff will appoint independent commissioners, local board members, staff, or a mix to hear and decide the matter. Staff can appoint decision-makers on Resource Management Act plan changes.

Sub-committee for urgent matters

6.2 For urgent matters that require a decision or direction before the next scheduled Regulatory Committee meeting, a sub-committee of the Regulatory Committee consisting of the Chair or Deputy Chair, one IMSB member and one other member, will make decisions or provide directions. Any urgent decision or direction made by the sub-committee will be reported to the full committee at the next reasonable opportunity.

Policy relating to appeals to courts or tribunals

6.3 In relation to proceedings before a Court or Tribunal that fall within the Regulatory Committee’s responsibility, council staff may:

a. defend the Council’s decision or position;

b. enter into mediation or other dispute resolution process;

c. resolve any proceeding by consent where:
   i. Council’s decision contains an error of law; or
   ii. any resolution and/or settlement does not undermine the Council’s original decision; or
   iii. any resolution and/or settlement is supported by an appropriately qualified expert engaged by Council.

d. where resolution and/or settlement falls outside the scope of 6.3(c) above, an agreement may only be reached in principle and approval is required from the Regulatory Committee prior to confirming any resolution or settlement.
6.4 Appeals on Resource Management Act plan changes and declaration proceedings regarding the interpretation of plan provisions are managed by the Planning Committee, or its successor committee.

7 MAORI INTERESTS IN DECISION-MAKING

7.1 When making decisions, the Regulatory Committee and its delegates take into account Māori interests and the principles of the Treaty of Waitangi. The Regulatory Committee has statutory obligations to recognise and provide for te Ao Māori, tikanga Māori and Te Tiriti o Waitangi.

7.2 Hearings panels have flexibility to adapt formal hearings processes to ensure that they are responsive to Māori as well as meeting the council’s Treaty obligations and statutory requirements.

7.3 The IMSB’s purpose and functions are to assist the Regulatory Committee to make decisions, perform functions, and exercise powers by:

a. promoting cultural, economic, environmental, and social issues of significance for:
   i. mana whenua groups; and
   ii. mataawaka of Tamaki Makaurau;

b. ensuring that the Council acts in accordance with statutory provisions referring to the Treaty of Waitangi;

c. to advise on matters affecting mana whenua groups and mataawaka of Tamaki Makaurau; and

d. to work with the Council on the design and execution of documents and processes to implement the Council’s statutory responsibilities towards mana whenua groups and mataawaka of Tamaki Makaurau.

8 LOCAL BOARDS

8.1 When making regulatory decisions, the Regulatory Committee and its delegates will consider any views and preferences expressed by a local board, if the decision affects or may affect the responsibilities or operation of the local board or the well-being of communities within its local board area.

8.2 Local boards can provide written views and preferences:

a. prior to a notification decision being made on a resource consent application or notice of requirement for a designation.

b. prior to a substantive decision being made or speak to views and preferences at any hearing of a resource consent application or notice of requirement for a designation.
c. in relation to a notified plan change by passing a formal resolution, and can speak to their views and preferences at any hearing of a plan change.

8.3 Local boards do not have a right to be heard in person where there is no public hearing of a matter.

9 **REVIEW OF POLICY**

9.1 The Regulatory Committee may, at its discretion, initiate a review of this Policy at any time.

10 **POLICY DEFINITIONS**

**Decision making** means the making of relevant decisions under any of the enactments stated in this Policy, including through a public hearing, or on the papers, and decision maker has a corresponding meaning.

**Democracy Services** means that part of council with responsibility for Democracy Services.

**Duty commissioner** means a member of the pool of independent commissioners who is available on short notice to make decisions not requiring a hearing under the Resource Management Act 1991.

**Elected member** means the mayor and councillors of the Governing Body and local board members.

**Legal counsel** means the Auckland Council General Counsel or their delegate.

**Making Good Decisions programme** means the programme run under the auspices of the Ministry for the Environment and focused on helping councillors, community board members, (local board members in Auckland’s case) and independent commissioners make better decisions under the RMA. It provides RMA decision-makers with the skills they need to run fair and effective resource consent, plan change and designation hearings, and to make informed decisions.

**Te Ao Māori** means Māori world view.

**Tikanga Māori** means Māori customary values and practices.

11 **RELATED POLICIES**

Resource Consents Procedures Manual

Hearings Practice Notes: Māori participation in hearings
12 RELATED LEGISLATION AND REGULATIONS

Related legislation:
Biosecurity Act 1993
Building Act 2004
Bylaws Act 1910
Civil Defence Emergency Management Act 2002
Dog Control Act 1996
Gambling Act 2003
Health Act 1956
Land Transport Act 1998
Litter Act 1979
Local Government Act 1974
Local Government Act 2002
Te Ture mō Te Reo Māori 2016 / Māori Language Act 2016
Reserves Act 1977
Resource Management Act 1991
Sale and Supply of Alcohol Act 2012
Waste Minimisation Act 2008

Related regulations:
Council Bylaws
APPENDIX 1 - DISCLOSURE OF INTEREST FORM

DISCLOSURE OF INTEREST

Application No.: ____________________________
Address: __________________________________

You are required to disclose the nature and extent (including monetary value, if quantifiable) of all interests that you have, or are likely to have, in matters relating to the decision you have been asked to make.

A "matter" is defined as:

- The subject of the decision you have been asked to make;
- The applicant, submitter, and/or any other person (including a company, trust, incorporated or unincorporated society) involved in the decision you have been asked to make; and
- Any advisors or consultants to any people involved in the decision you have been asked to make.

Without limiting the types of interest, you are interested in a matter if you directly or indirectly:

a) may derive a financial benefit (including as an employee, consultant or as the beneficiary of a trust) from the matter; or
b) are the spouse, de facto partner (whether of the same or different sex), child, parent or close friend of a person who may derive a financial benefit from the matter; or
c) may have a financial interest in a person to whom the matter relates; or
d) are a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
e) may be interested in the matter because of your non-financial association with the matter; or
f) have expressed strong political or personal views that may indicate prejudice or predetermination for or against the matter; or

g) are otherwise directly or indirectly interested in the matter.

However, you are not interested in a matter:

a) only because you are a member or an officer of a wholly-owned subsidiary of an entity or of a subsidiary that is owned by an entity together with another entity or entities; or
b) because you receive an indemnity, insurance cover, remuneration, or other benefits authorised by an Act from a person to whom the matter relates; or

c) if your interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence you in carrying out your responsibilities as a decision maker.

I am not aware of any actual, potential or perceived interests of relevance to my responsibilities as a decision maker.

Please tick □

OR

I have the following interests which may conflict with my responsibilities as decision maker.

Please tick □
Item 12

Attachment A

Please state interests on an additional page

Name: ___________________________ Date: ____________

Address: _________________________ Postcode: __________
Te take mō te pūrongo
Purpose of the report
1. To provide an update of all current resource consent appeals lodged with the Environment Court.

Whakarāpopototanga matua
Executive summary
2. This memorandum provides a summary of current resource consent appeals to which the Auckland Council is a party. It updates the report to the Regulatory Committee on 3 March 2020.
3. If committee members have detailed questions concerning specific appeals, it would be helpful if they could raise them prior to the meeting with Robert Andrews (phone: 353-9254) or email: robert.andrews@aucklandcouncil.govt.nz) in the first instance.

Ngā tūtohunga
Recommendation/s
That the Regulatory Committee:


Horopaki
Context
4. The Regulatory Committee holds responsibility for council’s position on all resource consent appeals lodged before the Environment Court. The principal specialist planners - resource consents and legal services solicitors are tasked to seek resolution of these appeals or defend the council’s decision where resolution through court mediation is not successful.
5. Our practice is to provide a monthly report to the Regulatory Committee that notes the current status of the resource consent appeals and those recently lodged and settled. This update report covers a three-month period due to Covid 19.
6. As at 13 July 2020, there are 25 resource consent appeals to which Auckland Council is a party. These are grouped by Local Board Area geographically from north to south as set out in Attachment A. Changes since the last report and new appeals received are shown in bold italic text.
7. In the period since preparing the March 2020 status report, there have been four new appeals lodged and eleven resolved.
8. Megadairy Limited is an appellant submitter opposing the grant of consent to construct and operate a community cultural centre. The applicant Yogi Divine Society NZ (Inc) seeks to establish the centre at 28 -30 Waipareira Avenue Henderson. Megadairy adjoins the site and opposes the scale of the centre within this Light Industrial Zone.
9. The appeal by G. Agarwal is by a neighbouring submitter against a decision to consent an application to demolish existing buildings and construct and operate a new hotel in a 12-storey building at at 74 – 80 Wellesley Street West, Central Auckland. Issues raised include the close proximity and loss of sunlight to apartments in the adjacent building.
10. The appeal from Anuj Gupta relates to the refusal of resource consent for a new 5-storey apartment building in the Business Mixed Use zone at 88 Remuera Road, Remuera. The application was refused consent due to the effects of a height in relation to boundary infringement on the adjacent submitter. The neighbour joined the appeal as a section 274 party but has since withdrawn. The apartment proposal has since been revised and settlement is likely.

11. HFT Limited appeals the refusal of consent for the construction and establishment of 17 2-storey units within three blocks on a site at 28 Inlet Road Papakura. Each unit is proposed to contain a mix of either industrial, residential, office and storage activities. The primary reason for the refusal relates to the proposed residential activity in 13 of the units and their reverse sensitivity effects to established industrial activities within this Business- Light Industry Zone land.

Tātaritanga me ngā tohutohu
Analysis and advice

12. To receive the report as provided.

Tauākī whakaaweawe āhuarangi
Climate impact statement

13. The report provides an update of consent appeals and seeks no resolution or consideration of the merits associated with them.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views

14. The report provides an update of consent appeals. There are no council group impacts

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views

15. The report provides an update of consent appeals. There are no Local impacts.

Tauākī whakaaweawe Māori
Māori impact statement

16. The decision requested of the Regulatory Committee is to receive this progress report rather than to decide each appeal.

17. The Resource Management Act 1991 includes a number of matters under Part 2, which relate to the relationship of Tangata Whenua to the management of air, land and water resources. Maori values associated with the land, air and freshwater bodies of the Auckland Region are based on whakapapa and stem from the long social, economic and cultural associations and experiences with such taonga.

Ngā ritenga ā-pūtea
Financial implications

18. Environment Court appeal hearings can generate significant costs in terms of commissioning legal counsel and expert witnesses. Informal mediation and negotiation processes seek to limit these costs. Although it can have budget implications, it is important that Auckland Council, when necessary, ensure that resource consents maintain appropriate environmental outcomes and remain consistent with the statutory plan policy framework through the appeal process.
Risks and mitigations

19. The report provides an update of consent appeals. There are no risks.

Next steps

20. The report provides an update of consent appeals and seeks no resolution.

Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A8</td>
<td>Current Resource Consent Appeals as at 13 July 2020</td>
<td>53</td>
</tr>
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Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Robert Andrews - Principal Specialist Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>Ian Smallburn - General Manager Resource Consents</td>
</tr>
<tr>
<td></td>
<td>Craig Hobbs - Director Regulatory Services</td>
</tr>
</tbody>
</table>
### RODNEY – Local Board Area (5 Appeals)

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Bruce C McInnes</th>
<th>Received</th>
<th>2 March 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2020-AKL-000018</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council: BUN20452891 (LUC60011787, SUB60036446, LUS60050703 &amp; DIS60048524)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Moir Hill Forestry Ltd</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>Matthew Road, Woodcocks, Warkworth</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>None</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal from submitter in relation to a hearings panel decision to grant consents to allow a subdivision to create 25 additional rural residential sites and 4 rural balance sites. The appeal relates specifically to the consideration of the effects upon the condition of Matthew Road and the users of the road.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Mediation took place on 1 July 2020. Report to the Court outlining progress to be submitted by 31 July.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Infotech Accountants Ltd</th>
<th>Received</th>
<th>14 November 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2019-AKL-000295</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council: BUN60066984 (LUC60066985 &amp; DIS60066986)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Infotech Accountants Ltd</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>782 Haruru Road, Wainui</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal in relation to a hearings panel decision with respect an objection to fees charged by council for the processing of a resource consent application to establish and operate a Cleanfill, and the working day count relating to the processing of the application.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Court -assisted mediation took place on 20 January 2020. Settlement was no possible at that time and the appeal has been set done for hearing on 7 May. Settled by agreement on 14 May 2020.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Jeanette Schimanski</th>
<th>Received</th>
<th>31 October 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2019-AKL-000284</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Council: BUN60333190 (LUC60332929, DIS60333191, DIS60333193 and DIS60334294)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Northland Waste Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>183 Sandspit Road, Warkworth</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Item 13

<table>
<thead>
<tr>
<th>Other parties</th>
<th>There are four s274 parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
<td>Appeal to resource consents granted to allow the applicant to construct and operate a waste minimisation and sorting facility. The appellant owns an adjoining property that is to be subdivided to create three sites.</td>
</tr>
<tr>
<td>Iwi comments</td>
<td>None received</td>
</tr>
<tr>
<td>Status</td>
<td>Court-assisted mediation took place on 11 February 2020. <em>Further discussion is still taking place between the parties in relation to an altered layout for the waste minimisation and sorting facility and a set of conditions to be agreeable to the parties.</em></td>
</tr>
</tbody>
</table>

#### Attachment A

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Pacey Family No.2 Trust</th>
<th>Received</th>
<th>29 August 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Pacey Family No.2 Trust</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>205 Lake Road, Te Arai</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Six s274 parties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal against council’s decision to decline consent for the existing and future operations (expansion) of the Lake Road Quarry.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>Ngati Manuhiri and Te Uri o Hau are involved as s274 parties to the appeal.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Environment Court hearing to be held on 9-12 December 2019. Environment Court hearing completed on 24 January 2020. <em>Environment Court decision reaffirming Council’s decision to decline consent was issued on 13 March 2020. This matter will no longer be reported on.</em></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Goatley Holding Limited</th>
<th>Received</th>
<th>27 June 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Auckland Transport</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>Land between State Highway 1 and Matakana Road at Warkworth</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Omaha Beach Community Incorporated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal to resource consents associated with the construction, operation and maintenance of the Matakana Link Road – Tuhonhono ki Tai (Pathway to the Sea), a new 1.35km road between State Highway 1 (SH1) and Matakana Road at Warkworth.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>Iwi consultation undertaken and conditions of consents provide for cultural monitoring.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Mediation held on 27 November 2019 without resolution. Discussions between the parties are ongoing. <em>All appeals relating to this consent were withdrawn on 13 March 2020. This matter will no longer be reported on.</em></td>
<td></td>
<td></td>
</tr>
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</table>
Hibiscus and Bays - Local Board Area (1 Appeal)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Auckland Council (Community Facilities)</th>
<th>Received</th>
<th>22 December 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL-00075</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Council – SUB60069647</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>Orewa Beach Esplanade Reserve, between Kohu Street and Marine View</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Four 274 parties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal by the applicant against council’s decision to refuse consent to the construction of a seawall, walkway and accessory access structures at the Orewa Beach Esplanade Reserve, between Kohu Street and Marine View.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>Cultural values assessments were prepared by Ngati Manuhiri and Ngai Tai Ki Tamaki that confirmed conditional support for the application. The environment is highly modified and accidental discovery protocols are sought. The application was publically notified and no submissions from Iwi were submitted.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Court heard from the parties, and by minute of 22 February 2018 set the appeal down for a pre-hearing on jurisdiction over the right to appeal and determined that an amicus curiae should be appointed. Affidavits prepared for the pre-hearing set for 9 April 2018 that proceeded as scheduled. The Court on 2 May 2018 released its decision confirming jurisdiction over the Council’s right to appeal. A pre-hearing of 31 July 2018 discussed timetabling, possible mediation dates and sought the appellant to clarify the appeal issues. Court assisted mediation took place on the 21st and 22nd of February 2019. The substantive issues have been addressed and agreed between the main parties, some s.274 parties have not agreed. The matter proceeded to Court hearing for the full week of 6th May 2019 and on the proposal as redesigned following mediation. At hearing the experts for the respondent council had considered that the amendments addressed the reasons for council’s refusal of consent in relation to adverse effects on coastal processes, landscape and recreation. Primarily the seawall was moved landwards clear of the coastal marine area. The Court released its interim decision on 28 May 2020. Resource consents are granted to Community Facilities subject to finalising conditions of consent. Conditions were filed with the Court as per directions in the interim decision with section 274 parties’ comments. The Court has subsequently directed that ‘Auckland Council’ provides its reply to the s274 parties’ comments by 17 July 2020.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

UPPER HARBOUR – LOCAL BOARD AREA (1 APPEAL)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>M. May</th>
<th>Received</th>
<th>14 January 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2020-AKL-000002</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Council:</td>
<td>LUC60340763.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant:</td>
<td>M. May</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Site address
55 Collings Drive, Lucas Heights

### Other parties
None

### Description
An appeal in relation to an independent commissioner’s decision on behalf of council to refuse consent for the establishment of an oversized, 105.5 m², minor dwelling and the establishment of a new garage.

### Iwi comments
N/A

### Status
Discussions between the parties are taking place with mediation set for 18 March 2020 if needed. This appeal has been settled via the issue of a consent order by the Court on 8 June 2020.

### HENDERSON - MASSEY – LOCAL BOARD AREA (1 APPEAL)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Megadairy Limited</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2020-AKL-000037 Council: BUN30581068</td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Yogi Divine Society NZ (Inc)</td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>28-30 Waipareira Avenue, Henderson</td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

### Description
An appeal by a submitter in relation to a hearing panel’s decision on behalf of council to grant consent to construct and operate a community cultural centre.

### Iwi comments
N/A

### Status
Discussions between the parties are taking place with Court-assisted mediation scheduled for 31 July 2020.

### DEVONPORT TAKAPUNA – Local Board Area (1 Appeal)

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Gull New Zealand Limited Thomas Vauxhall Neighbourhood Society</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>21 February 2019</td>
</tr>
</tbody>
</table>

### Description
Application to demolish existing structures and establish a 24-hour automated service station. An appeal from the applicant to conditions of consent and two appeals from a neighbour and group of neighbours opposing the grant of consent.

### Iwi comments
The application did not trigger any requirement for a Cultural Impact Assessment or raise any iwi or Treaty issues.

### Status
Agreement to resolve appeals reached at mediation in Feb 2020. An Environment Court consent order resolving the appeals was issued on 20 May 2020. This matter will no longer be reported on.

### WAITAKERE – Local Board Area (1 Appeal)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Trustees of Forest Trust and Successors</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>19 July 2018</td>
<td></td>
</tr>
</tbody>
</table>
## ALBERT-EDEN – Local Board Area (1 Appeal)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Panuku Development Auckland v Auckland Council</th>
<th>Received</th>
<th>04 September 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL-000176 Council – LUC60303721 &amp; DIS60303722</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>198-202 and 214-222 Dominion Road and 113-117 Valley Road, Mt Eden</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal against a hearing commissioner’s decision to refuse resource consent for a mixed-use development comprising four new buildings with 102 residential units, nine retail units and 115 carparks. The commissioner’s grounds for refusal related to the bulk and scale of the proposal and the associated visual, shading and dominance effects, and the adverse effects on Special Character values from the loss of the Universal Building (a character-supporting building).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application did not trigger any requirement for a Cultural Impact Assessment, attract submissions from Iwi or raise Treaty issues.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Appeal regarding a development that has generated media, political and local interest. Council has met on a without prejudice basis with the appellant (18 and 24 September 2018). Court assisted mediation occurred on 31 October 2018, no agreement reached between the parties. Further informal discussion between the parties (December 2018). Second court-assisted mediated occurred on 16 January 2019. Mediation agreement reached – subject to various conditions being satisfied. Council to report back to the Court as to progress by 15 February 2019. A number of the s274 parties have requested further time to consider their positions. Council has filed a memorandum with the Court seeking a judicial conference on the first available date after 15 March 2019. Pre-hearing conference scheduled for 2 April 2019. The pre-hearing conference held on 2 April 2019 confirmed that the matter will proceed to a hearing on or after 15 July 2019. A timetable for evidence exchange has been issued. The Court has issued a notice of hearing confirming that the hearing will commence of 19 August 2019. Hearing commenced 20 August and was adjourned 27 August 2019. Closing submissions to be filed with the Court by 25 September 2019.</td>
<td></td>
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</tr>
</tbody>
</table>
Court issued an interim decision on 9 March 2020. The Court determined that the parties should be given an opportunity to reconsider what is proposed to avoid, remedy or mitigate adverse construction noise and vibration effects in accordance with the issues the Court has identified as problematic in the section of its interim decision about construction noise and vibration issues. A court-facilitated meeting between the parties was held on 23 June 2020. Further expert conferencing is scheduled for 1 July 2020 and a second court-facilitated meeting is scheduled for 22 July 2020.

WAIHEKE – Local Board Area (3 Appeals)

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Cable Bay Wines Ltd v Auckland Council</th>
<th>Received</th>
<th>2 February 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL-000010</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council – LUC60127798</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>12 Nick Johnston Drive, Waiheke Island</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Cable Bay Wines Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Stephen &amp; Suzanne Edwards, Julie Loranger &amp; Lindsay Niemann, Michael &amp; Christine Poland.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Cable Bay appeal Council’s decision to refuse retrospective consent relating to the unlawful establishment and use of an additional dining area known as ‘The Verandah’. The principal issues in contention relate to the scale and intensity of the activity and the general amenity / noise effects associated with the use of the structure.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application was limited-notified to neighbours. No iwi group indicated a need for a cultural impact assessment. The Hearing Commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular, Part 2 of the RMA.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>The Environment Court directed court-assisted mediation after the expiry of the section 274 period on 15 March 2018. Three s274 parties have joined. Environment Court mediation held on 2 July 2018 on both the consent appeal and the enforcement order application. No agreements reached between the parties. Caucusing between noise experts to on 5 July 2018. No agreement reached at second mediation. The Court has confirmed a joint resource consent appeal and enforcement order hearing commencing on 7 November 2018. The appellant’s evidence is due by 7 September and the Council’s evidence is due by 21 September. Council to call Planning and Noise expert witnesses. Council’s evidence was filed with the Court on 21 September 2018. The hearing commenced on 7 November 2018 and an interim decision on the resource consent was issued on 21 November to convey the Court’s refusal of part of the application, particularly in relation to the use of the lawn for outdoor dining and drinking, and make further directions about the refinement of conditions of consent to aspects of the proposal which might attract consent. An interim decision on the application for enforcement order was issued on 28 November 2018 ordering Cable Bay to undertake various steps to limit their activities. The Court intends that the orders will substantially mirror the final resource consent.</td>
<td></td>
<td></td>
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</tbody>
</table>
conditions. Further monitoring and testing work order by the Court is ongoing. A second interim decision on the resource consent appeal was issued 22 February 2019 confirming the Court’s earlier decision to refuse consent in part. Further collaborative noise monitoring and assessment has been undertaken by the parties’ acoustic engineers and a report on this work is to be provided to the Court by 8 March 2019. This will assist the court in determining whether or not consent can be granted to a modified proposal for the restaurant, alfresco dining and outdoor functions. A judicial teleconference held on 28 March 2019. A further 1-2-day hearing to be scheduled after June. The Court has indicated that the hearing will resume for 2 days in the week of 26 August 2019. A timetable for evidence exchange issued. Evidence has been exchanged and the hearing was re-convened on 29 and 30 August 2019. The court issued a third interim decision on 15 October 2019, indicating that consent to the activity is possible, subject to the finalisation of conditions after the grant of any building consents and resolution of the dispute about ongoing conditions attaching to the 2006 consent. The parties are to provide their comments to the Court on the remaining issues by 29 November 2019. The Court issued a fourth interim decision on 10 June 2020 following consideration of the various sets of consent conditions put forward by the parties, confirming that consent is likely to be granted in part, subject to the finalisation of conditions as set out in the interim decision. The Council is directed to provide an updated version of the draft conditions by 30 June 2020 to satisfy the Court’s express requirements.

<table>
<thead>
<tr>
<th>Appellants</th>
<th>1. Walden v Auckland Council</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. SKP Incorporated v Auckland Council</td>
<td>9 June 2017</td>
</tr>
<tr>
<td>References</td>
<td>ENV-2017-AKL-000076</td>
<td>Received</td>
</tr>
<tr>
<td></td>
<td>ENV-2017-AKL-000077</td>
<td>9 June 2017</td>
</tr>
<tr>
<td></td>
<td>CIV-2020-404-000096</td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>Donald Bruce Road, Kennedy Point, Waiheke Island</td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Kennedy Point Boat harbour Limited</td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Over 30 parties have joined the appeal under section 274 of the RMA.</td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Two separate appeals opposing the construction, maintenance and use of a 186-berth marina within the coastal marine area adjacent to Kennedy Point. The marina includes floating attenuators for wave protection and floating pontoons for car parking, office and a public/café building. The council hearing canvased a large range of issues and potential effects including landscape, traffic and transport, ecology.</td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The applicant consulted with iwi, including Ngati Paoa Iwi Trust and Ngai Tai ki Tamaki Tribal Trust. A cultural values assessment was provided by Ngati Paoa Iwi Trust and a cultural impact assessment from Ngai Tai ki Tamaki. Iwi sought to have input into conditions, but no submissions were lodged by iwi. The independent hearing commissioners had regard to all the information before them and considered the application in accordance with the relevant statutory requirements and in particular Part 2 of the RMA 1991.</td>
<td></td>
</tr>
</tbody>
</table>
Status
The Environment Court has set down the appeals for a court-assisted mediation on 4 and 7 August 2017. Mediation on 4 and 7 August 2017 has now been completed. Mediation narrowed down some issues but did not resolve all the issues for the appellants and request for adjournment, all the section 274 parties. A timetable for exchange of evidence, caucusing of expert witnesses and Environment Court hearing date has been confirmed. All evidence and witness caucusing are complete with the hearing set for the week of 26 February 2018. Hearing commenced on Monday 26 February 2018. Hearing completed. Environment Court decision received dated 30 May 2018 granting consent to the application for a marina subject to a comprehensive set of conditions. On 31 August 2018 appellant Save Kennedy Point Inc. (SKP) filed a late appeal to High Court and an application for re-hearing in the Environment Court for reasons of lack of consultation by the applicant and Council with Ngati Paoa Trust Board. High Court declined SKP Inc. application to appeal to the High Court out of time on 24 April 2019. Further reasons filed by SKP Inc on 12 August 2019 and 23 August 2019 relating to cultural grounds, traffic and costal processes. On September 2019 SKP Inc also files request to recuse the Judge, adjournment and inclusion of Maori Land Court Judge on the Court panel. Environment Court in a decision dated 5 October 2019, declined the request for recusal of the judge, adjournment of hearing and appointment of a Maori land Court judge. In a decision dated 13 December 2019, the Environment Court declined SKP Inc. application for a rehearing. At the same time Ngati Paoa Trust Board’s earlier application to join the Environment Court proceedings was also declined. SKP Inc. appealed the Environment Court decisions to the High Court on 24 January 2020. The High Court in its decision dated 19 June 2020 has dismissed the appeal by SKP.

Waitematā (4 appeals)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Govind Agarwal</th>
<th>Received</th>
<th>3 July 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2020-AKL-000081</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>74-80 Wellesley Street West, Auckland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Hotel Grand Chancellor (Auckland) Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>None</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal by a neighbour submitter against a decision to consent an application to demolish existing buildings &amp; construct &amp; operate a new hotel in a 12-storey building plus partial basement. Issues raised include close proximity and los of sunlight to apartments in the adjacent building.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application did not trigger any requirement for a Cultural Impact Assessment or raise any iwi or Treaty issues.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>New appeal.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Appellants

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Received</th>
</tr>
</thead>
</table>

## References

<table>
<thead>
<tr>
<th>References</th>
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</thead>
<tbody>
<tr>
<td>ENV 2019 AKL 000087</td>
</tr>
<tr>
<td>ENV 2019 AKL 000088</td>
</tr>
<tr>
<td>CST60323353</td>
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</tbody>
</table>

## Site address

<table>
<thead>
<tr>
<th>Site address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wharf/ 11-99 Brigham Street Auckland Central</td>
</tr>
</tbody>
</table>

## Applicant

<table>
<thead>
<tr>
<th>Applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Panuku Development Auckland Limited</td>
</tr>
</tbody>
</table>

## Other parties

<table>
<thead>
<tr>
<th>Other parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Various 274 parties in support of applicant Devonport Heritage in support of Urban Auckland</td>
</tr>
</tbody>
</table>

## Description

Appeal against council’s decision to grant consent to construct two ship mooring dolphins and wharf access structures from the end of Queens Wharf and undertake alterations to the existing Queens Wharf structure including strengthening, bollard replacement, new piles and modifying the sub-structure.

## Iwi comments

Submissions by various Mana whenua groups opposed or supported the application however were neutral by the end of the hearing. Appeal by Ngāti Whātua Orakei Whaia Maia Limited in terms of the condition on primacy.

## Status

Appeals proceed to mediation on 6 August 2019 and evidence timetabling agreed. Evidence from the applicant now exchanged and that of the Council is due 29 November. The Court has released its decision on the preliminary jurisdictional question of primacy of mana whenua status regarding the setting of mana whenua conditions of consent. See Westhaven breakwater appeals below. The primacy matter has since been appealed on points of law by other Iwi and was heard by the High Court on 18 June 2020. Meanwhile Panuku have surrendered the mooring dolphin consent and the appeals to that decision are therefore moot. The Court has since closed its file on 18 June 2020 and the appeals finalised.

---

## Appellants

<table>
<thead>
<tr>
<th>Appellants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ngāi Tai Ki Tāmaki v Auckland Council</td>
</tr>
<tr>
<td>Te Ākitai O Waiohua, Ngaaiti Whanaunga, Ngāti Tamaoho, Ngāti Tamaterā, Te Patukirikiri, And Ngāti Maru v Auckland Council</td>
</tr>
<tr>
<td>Ngāti Whātua Orakei Whaia Maia Limited v Auckland Council</td>
</tr>
</tbody>
</table>

## Received

<table>
<thead>
<tr>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>30 January 2019</td>
</tr>
</tbody>
</table>

## References

<table>
<thead>
<tr>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENV-2019-AKL-000014 - withdrawn</td>
</tr>
<tr>
<td>ENV-2019-AKL-000015 - withdrawn</td>
</tr>
<tr>
<td>ENV-2019-AKL-000016</td>
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</tbody>
</table>

## Site address

<table>
<thead>
<tr>
<th>Site address</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Westhaven Drive, Auckland Central</td>
</tr>
</tbody>
</table>

## Other Parties

<table>
<thead>
<tr>
<th>Other Parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ngāti Te Ata</td>
</tr>
</tbody>
</table>

## Description

Appeal against the decision of hearing commissioners to grant resource
Item 13

consents for the redevelopment of existing pile moorings within the Westhaven Marina, including land reclamation, installation of new pile berths, a new car park, and a new observation deck and public open space area

Iwi comments
The applications were publicly notified. Submissions from appellant iwi were received, along with other iwi who have not lodged an appeal against these decisions.

Status
ENV-2019-AKL-000014 and ENV-2019-AKL-000015 were withdrawn on 13 January 2019. Mediation scheduled with remaining appellant (Ngāti Whātua Orakei Whaia Maia Limited) and s274 parties on the 29 April 2019. Mediation for 29 April cancelled at the agreement of all parties, appeal will proceed to a hearing, to be held on or after 19 August. A s116 application was made to allow consents to commence while appeal is determined, this was approved by EC on the 27 March 2019. Following a judicial conference in late June it was determined that:

- The Westhaven Marina appeal, and the related Mooring Dolphin appeal will be heard together;
- A declaration will be filed by Ngāti Whātua Ōrākei that addresses the jurisdictional issue as to whether the Environment Court has the jurisdiction to determine primacy issues where relating to the wording of consent conditions. This will be determined prior to the appeal proceedings being heard.

The current status is that the appeal is on hold. The Court has released its decision on the preliminary jurisdictional question of primacy of mana whenua status regarding the setting of mana whenua conditions of consent. This decision has been appealed by iwi groups to the High Court.

ORAKEI (2 appeals)

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Drive Holdings Limited v Auckland Council</th>
<th>Received</th>
<th>21 October 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2019-AKL-000283</td>
<td>BUN60324987</td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>75-79, 81-87, &amp; 89-97 Tamaki Drive, 6, 8-10, 12 and 14 Patteson Avenue, 26, 28, and 30 Marau Crescent, Mission Bay</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Drive Holdings Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>A. Nathan, S. O. Family Trust, Mission Bay Kohimarama Residents Association Inc, Support Mission Bay Inc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal against a decision to refuse an application to construct a mixed-use development comprising basement carparking, servicing, storage and circulation areas, seven multi-level buildings, commercial, entertainment and residential activities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The resource consent application was publicly notified and determined by commissioners in accordance with the RMA. No submissions from iwi.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>New appeal. The first mediation occurred on 5 February 2020. The appellant</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
advised that design changes would be explored and presented to the parties ahead of the second mediation scheduled for 16 March 2020. The were unable to agree to settle the appeal. The Court has directed that a pre-hearing conference be held on 28 August 2020 to discuss the outstanding issues and make timetable directions required to progress the appeal to a hearing.

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Anuj Gupta</th>
<th>Received</th>
<th>17 April 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2020-AKL 000034 Council – LUC60330205, SUB60330206, WAT60330207 and WAT60344977</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>88 Remuera Road, Remuera</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Anuj Gupta</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>The original submitter joined as a section 274 party but later withdrew.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal against a decision to refuse consent for a new 5 storey apartment building with basement parking in the Business Mixed Use zone. The application was limited notified to one adjoining neighbour who made a submission and appeared at the hearing. The application was refused consent due to the effects on the infringement on the submitter. The main issue related to the height in relation to boundary infringement.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application did not raise any iwi issues. The commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>After the lodgement of the appeal, the applicant revised its proposal to fully comply with the height in relation to boundary. The section 274 party withdrew their interest in the appeal. Based on the revised proposal which addressed the Hearing Commissioners’ concerns, agreement was reached on the revised plans. A draft consent order has been filed with the Environment Court on 10 June 2020 to settle the appeal.</td>
<td></td>
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</tr>
</tbody>
</table>

### HOWICK (1 appeal)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Box Property Investments Limited</th>
<th>Received</th>
<th>9 September 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2019-AKL-000176</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>30 &amp; 40 Sandspit Road and 2 &amp; 4 Reydon Place, Shelly Beach, Auckland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Parties</td>
<td>Reydon Place Residents Society Incorporated; Howick Ratepayers and Residents Assn.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal against a decision declining an application for consent for a 71-unit residential development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application was limited-notified to neighbours. No iwi group indicated a need for a cultural impact assessment. The Hearing Commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular, Part 2 of the RMA.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Appeal proceeded to a brief mediation on 26 November 2019. The appellant has informed the court that they seek to place the appeal on hold and explore a</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The applicant has now lodged a revised application with council for a 60-unit development with a request for direct referral.

### PAPAKURA – Local Board Area (2 Appeals)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>HFT Limited</th>
<th>Received</th>
<th>25 May 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2020 -AKL 000053</td>
<td>- Council – BUN60304805, LUC60304921, SUB60328123</td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>28 Inlet Road, Takanini</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>HFT Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>- Stuart Monteith</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal against a decision to decline consent for the construction and establishment of 17 two storey units across three blocks that will contain a mix of industrial, residential, office and storage activities. Each unit is proposed to provide for a mix of activities within the unit either being a combination of industrial and residential or industrial and commercial (office/storage) on a Business- Light Industry Zone site. The consent was publicly notified, with 2 submissions in opposition received and 7 in support.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>No iwi group indicated a need for a cultural impact assessment and no submissions were received from iwi. The commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>New appeal - mediation set down for 13 July 2020.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Wallace Group Limited, BJ Wallace Trust and SJ Wallace Trust</th>
<th>Received</th>
<th>14 March 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2019-AKL 000043</td>
<td>- Council – LUC60311805, DIS60303201, DIS60303159</td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>3 Popes Road, Takanini</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Alpha Dairy Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>- Spark NZ Ltd</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>An appeal against a decision to grant consents for the construction, operation and maintenance of a new dairy processing facility for the production of infant formula on a Business- Light Industry Zone site with an area of 22,372m². The consent was publicly notified, with 4 submissions in opposition received.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>No iwi group indicated a need for a cultural impact assessment and no submissions were received from iwi. The commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Mediation set down for 28 May has since been vacated. High Court proceedings on related matters scheduled for October 2019. High Court hearing held 7-9 October. Further report to the Environment Court on the appeal required 10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
days following the release of the High Court decision. **Decision of the High Court on CIV-2018-404-2455 was issued on 30 June and therefore a minute to the Env Court will be filed imminently.**

### FRANKLIN – Local Board Area (2 Appeals)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Signature Building Ltd</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>References</strong></td>
<td>ENV-2019-AKL 000009</td>
<td>22 January 2019</td>
</tr>
<tr>
<td></td>
<td>Council – LUC60313362</td>
<td></td>
</tr>
<tr>
<td><strong>Site address</strong></td>
<td>17A Bell Road, Beachlands</td>
<td></td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Signature Building Ltd</td>
<td></td>
</tr>
<tr>
<td><strong>Other parties</strong></td>
<td>- Beachlands Neighbourhood Voice Inc.</td>
<td></td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Appeal by the applicant against the Council decision to decline consent to establish a childcare facility for 105 children and 17 staff. The consent was publicly notified, with 83 submissions received (82 in opposition)</td>
<td></td>
</tr>
<tr>
<td><strong>Iwi comments</strong></td>
<td>No iwi group indicated a need for a cultural impact assessment and no submissions were received from iwi. The commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA</td>
<td></td>
</tr>
<tr>
<td><strong>Status</strong></td>
<td>Mediation held 29 March. No agreement reached at mediation however parties have agreed to attend further mediation in May. A revised proposal was the subject of a second mediation on 15 May 2019. Agreement was not reached, and the matter is to be timetabled for evidence exchange and hearing. Hearing scheduled for December 2019, with caucusing and evidence exchange to occur within August to November. Following expert caucusing, a judicial settlement conference has been scheduled for 18 December with evidence to be provided by planning and landscape/urban design witnesses on 29 November. The judicial settlement conference was held, as scheduled, but adjourned due to some experts not being present to answer questions from the judge. It is to be reconvened in early 2020 unless agreement between all parties is reached in the meantime. <strong>The appellant met with the Council on 24 January 2020 and revised their proposal on 29 January. The revised proposal addressed the reasons for refusal to an extent where Council could support the grant of consent, subject to conditions. The JSC was resumed on 5 May and again on 12 May and a consent order was signed by the Court on 25 June 2020, granting consent. This matter is now concluded.</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Ahuareka Trustees (No. 2) Ltd</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>References</strong></td>
<td>ENV-2015-AKL-000147</td>
<td>19 November 2015</td>
</tr>
<tr>
<td></td>
<td>Council – 42081</td>
<td></td>
</tr>
<tr>
<td><strong>Site address</strong></td>
<td>650-680 Whitford Maraeatia Road, Whitford</td>
<td></td>
</tr>
<tr>
<td><strong>Other parties</strong></td>
<td>Whitford Residents and Ratepayers Association</td>
<td></td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Appeal against Council’s decision to refuse consent to establish a hamlet of 186 households and ancillary buildings, a country pub and restaurant, retail and commercial units and carpark in the Whitford Rural B zone.</td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>No iwi submissions</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
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<td></td>
</tr>
<tr>
<td><strong>Status</strong></td>
<td>Appeal reported to the Committee in December 2015. Mediation held 11 February 2016. Appeal reported to the Regulatory Committee on 1 December 2016. Evidence exchange occurred in February/March 2017. Judicial teleconference held 30 March. Court hearing proceeded within the week 3 July 2017, with the applicants reply to be filed in writing. Decision of the Court received 15 December 2017 – appeal declined. Significant policy-based decision supporting provisions of AUP (OP). Court costs being sought, otherwise appeal matters complete. The Environment Court decision since appealed by the appellant to the High Court on 26 January 2018. A case management conference is scheduled for 6 March. Council filed its submissions on 31 August and a hearing has been set for 9 October 2018. The appellant’s lawyer requested a deferral for health reasons, which was agreed to. The hearing will now not be held until early 2019. High Court hearing held 9 May 2019 and awaiting decision. Decision of the High Court released 2 December 2019, dismissing the appeal on all grounds. The appellant has since sought leave to appeal the decision to the Court of Appeal. Council is opposing their leave and submissions are due March 2020. <strong>The Court of appeal declined to grant leave to appeal on 28 May 2020. The consent is declined, and this matter is now final, subject to an application for costs by the Council against the appellant.</strong></td>
<td></td>
</tr>
</tbody>
</table>
Te take mō te pūrongo
Purpose of the report
1. To provide a quarterly update of regulatory hearings under the Resource Management Act 1991.

Whakarāpopototanga matua
Executive summary
2. This report provides a summary of resource consent hearings held in the quarterly period 1 January 2020 to 31 March 2020 and the commissioners appointed to those hearings.

Ngā tūtohunga
Recommendation/s
That the Regulatory Committee:

a) receive the Resource Consents: Quarterly Hearings Report 28 July 2020

Horopaki
Context
3. The Regulatory Committee holds the responsibility for regulatory hearings required by relevant legislation. The majority of these fall within the area of resource consents and notices of requirement under the Resource Management Act 1991. The Committee oversees who the decision maker(s) should be in relation to the matters that need to be heard, and the position to be taken in regards to any appeals of those decisions.

4. The delegation to appoint hearing commissioners has been delegated to staff. Guidance for the assignment of commissioners to a particular hearing follows clauses 3.7 to 3.12 of the Regulatory Committee Policy. The staff in assigning commissioners must therefore take into account the nature and issues raised by an application, and hence the need for particular expertise including te Ao Māori, tikanga Māori and Te Tiriti o Waitangi.

5. Local Board members as commissioners can also be considered for matters that are significant or contentious. Local Boards often seek to express their views and preferences at hearings and to avoid any perceived conflict of interest, Local Board members have not been appointed as hearing commissioners in these circumstances.

6. The assignments of the hearing commissioners for the three-month period 1 January to 31 March 2020 are as set out in Attachment A. The assignments occur well in advance of the hearing and therefore an assigned alternate will often be part of the actual hearing panel due to availability.

7. The reporting of resource consent appeals occurs separately as part of a monthly up-date appeals report.

Tātaritanga me ngā tohutohu
Analysis and advice
8. To receive the report as provided.
Tauākī whakaaweawe āhuarangi
Climate impact statement

9. This report is procedural in nature and any climate impacts attributable directly to the outcome of this report will be negligible.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera
Council group impacts and views

10. This report is procedural in nature. There are no Council group impacts.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views

11. Local Boards are not involved with the appointment of commissioners.

Tauākī whakaaweawe Māori
Māori impact statement

12. The decision requested of the Regulatory Committee is to receive this report rather than appoint commissioners to hearings. The Committee policy at 3.7 includes “the desirability of appointing a person with relevant expertise in mātauranga Māori and tikanga Māori” as a consideration in the appointment of hearing panel members. Further policy 3.8 states “Where a matter covers areas of significance to Māori, council staff will consult with IMSB staff on the appointments”.

Ngā ritenga ā-pūtea
Financial implications

13. The cost of independent hearing commissioners is covered by the applicants of those applications that are required to be heard.

Ngā raru tūpono me ngā whakamaurutanga
Risks and mitigations

14. This is a procedural report. There are no risks.

Ngā koringa ā-muri
Next steps

15. This is a procedural report.

Ngā tāpirihanga
Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Hearings Held 1 January 2020 - 31 March 2020</td>
<td>69</td>
</tr>
</tbody>
</table>

Ngā kaihaina
Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Robert Andrews - Principal Specialist Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>Ian Smallburn - General Manager Resource Consents</td>
</tr>
<tr>
<td></td>
<td>Craig Hobbs - Director Regulatory Services</td>
</tr>
<tr>
<td>Hearing Date: 10 12 February 2020</td>
<td>Location and Proposal: 74 Seagrove Road, Pukekohe. Groundwater take (200m3/day &amp; 162,000m3/year for kiwifruit orchard</td>
</tr>
<tr>
<td>Hearing Date: 10 February 2020</td>
<td>Location and Proposal: 86 Remuera Road, Remuera. Five level, eight residential unit apartment building.</td>
</tr>
<tr>
<td>Hearing Date: 12 February 2020</td>
<td>Location and Proposal: 10 and 12 Sidmouth Street, Sidmouth Street, Montrose Terrace and Maireangi Bay Beach Reserve. New wastewater pump station.</td>
</tr>
<tr>
<td>Hearing Date: 12 February 2020</td>
<td>Location and Proposal: 28-30 Waipareira Avenue, Henderson Community Cultural Centre.</td>
</tr>
<tr>
<td>Date</td>
<td>Location</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>13 February, 7 April 2020</td>
<td>240 Sutton Road, Drury, Rural contractor's yard</td>
</tr>
<tr>
<td>14 February, 2020</td>
<td>6 Kalmia Street, Ellerslie, Alterations and Additions to existing church.</td>
</tr>
<tr>
<td>17 February, 2020</td>
<td>1053B Whangaparaoa Road, Matakana, Additions to dwelling.</td>
</tr>
<tr>
<td>24,26, 27 February, 11, 12 March 2020</td>
<td>Huia Replacement Water Treatment Plant (WTP) Project.</td>
</tr>
<tr>
<td>2 March 2020</td>
<td>104-106 Rutherford Road, Pukekohe, Chicken Farm expansion to 231,000 birds</td>
</tr>
<tr>
<td>3 March 2020</td>
<td>48 Orere Point Road, Orere, Subdivision in the rural and coastal settlement zone</td>
</tr>
<tr>
<td>10 March 2020</td>
<td>Bayswater, Pine Harbour and West harbour marinas.</td>
</tr>
<tr>
<td>Date</td>
<td>Location Details</td>
</tr>
<tr>
<td>---------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>24 March, 3 April 2020</td>
<td>28 Inlet Road, Takanini. 17 two-level mixed industrial, residential and office buildings.</td>
</tr>
<tr>
<td>30 March 2020</td>
<td>40 Mountain Road, Epsom. Removal of protected Pohutukawa tree.</td>
</tr>
<tr>
<td>30 March 2020</td>
<td>127 Green Lane East, Greenlane. Free-standing digital billboard.</td>
</tr>
</tbody>
</table>

*Regulatory Committee meeting on 28 July 2020*