

Before the Environment Court at Auckland

ENV-2013-AKL-000174

In the Matter of the Resource Management Act 1991

And

In the Matter of a Notice of Motion under Section 87G requesting the granting of resource consents to Waiheke Marinas Limited to establish a Marina at Matiatia Bay, Waiheke Island, in the Hauraki Gulf

**Statement of Rebuttal Evidence by Robert James Pryor
On behalf of Waiheke Marinas Ltd
Dated 23 September 2014**

Introduction

1. My full name is Robert James Pryor. I have the qualifications and experience set out in my evidence-in-chief.
2. This statement of rebuttal evidence has been prepared in accordance with the Code of Conduct for Expert Witnesses.
3. This statement of rebuttal evidence responds to matters covered in the evidence of the following witnesses:
 - Ms Bridget Gilbert on behalf of Direction Matiatia Inc.
 - Mr Denis Scott on behalf of Direction Matiatia Inc.
 - Mr Robert Greenaway on behalf of Direction Matiatia Inc.
4. My rebuttal evidence focuses on the matters that remain in contention between the landscape, visual and open space witnesses following the conferencing and issue of the Joint Witness Statement – Landscape, Natural Character, Amenity, Recreation and Open Space.
5. I have prepared the evidence under headings which identify the issues which I wish to address when responding to evidence of one or more of those witnesses and/or the joint witness statements. The issues are:
 - (a) The existing landscape character and values found within Matiatia Bay.
 - (b) Moderation of adverse effects of the marina by its specific design and location.
 - (c) The degree to which the proposed marina would be absorbed or integrated by its surrounds.
 - (d) The degree of effect of moored vessels on natural character.
 - (e) The significance of the viewing point on Nick Johnstone Drive (at the Rocky Bay Store sculpture) and the informal viewing point at Delamore Drive.

- (f) The future environment of the Matiatia Bay area enabled through the Operative 2013 District Plan HGI provisions for the Mixed Use/Transport zone.
- (g) Recreational users and tourists as an audience.

The existing landscape

- 6. In paragraph 14 of Ms Gilbert's evidence she notes that to enable an assessment of landscape and visual effects of a proposed development it is necessary to commence with a clear understanding of the landscape (and visual) values of the existing environment. I agree this is standard practice and note that this is in accordance with the NZILA's Best Practice Note: Landscape Assessment and Sustainable Management 10.1 (2010).
- 7. In her opinion, in paragraph 14, she considers that the landscape description that underpins my landscape and visual effects assessment is deficient in that it does not address the following landscape matters which she considers to be relevant to an understanding of the landscape values of Matiatia Bay (i.e. the landscape):
 - (a) the past, present and likely future (permitted or consented) activities in the area;
 - (b) the memorability of the area; and
 - (c) the values to tangata whenua.

Past, present and future activities

- 8. Ms Gilbert considers that while I mention the transport, rural and open space zoning context at Matiatia, I have omitted to refer to the evolution of the zonings and the vision for the area that has been developed in concert with the local community over the last 25 years. I disagree. The physical and visual landscape which is present today is very much a product of those zonings. In particular she considers that I have failed to acknowledge the Comprehensive Development Plan strategy throughout the hill

slopes around Matiatia Bay that has enabled the transformation of degraded pastoral hill slopes to predominantly regenerating bush cover in exchange for rural residential subdivision. However I make mention of this in my EIC at paragraph 22 where I state:

'Large-lot residential development has established on the surrounding slopes and the previously open pastoral landscape has been transformed into one with prominent and large dwellings set into a densely vegetated and maturing landscape. A number of olive plantations have been planted, contrasting with the prevailing indigenous revegetation patterns. Pasture is still prevalent on some of the upper slopes, although largely maintained by mechanical methods.'

9. I concur with Ms Gilbert's observation in paragraph 24 that over time the regenerating bush cover will enhance the aesthetic and natural character values associated with the bay. She considers that this bush will also filter and potentially screen views of many of the large-scale residences that are currently visible. While the bush may partially filter views of the dwellings from certain angles, it is unlikely that the bush would screen views. The dwelling locations, by their very nature, have been selected to gain elevated views across the bay and out towards the panoramic wider outer gulf and islands. It is unlikely that the owners would allow vegetation to block these high-value views.
10. In paragraph 29, Ms Gilbert considers that neither Mr Brown nor I have had regard to the approved building platforms on the headlands and hill slopes that are as yet unbuilt. I am aware of these and note that once these sites are developed they will increase the modified characteristics of the bay.
11. In terms of future activities, Ms Gilbert fails to recognise that the Operative 2013 District Plan promotes change in a significant area of the bay as defined in Figure 10a.1 (Matiatia) in the Plan. I discuss this further later in this evidence.

The memorability of the area

12. In paragraph 30, Ms Gilbert states that I make no mention of the memorability of the Matiatia Bay landscape. I disagree. While not specifically referred to as 'memorability', I consider the physical

components and their associated activities that shape the immediate neighbourhood character of the Matiatia Bay marina site and its wider coastal setting as outlined in paragraph 34 in my EIC add to the memorability of the bay. I considered these components when undertaking the assessment of landscape and visual effects of the proposal. **Rebuttal Annexures 1, 2 and 3** illustrate a number of representative views of the physical components and associated activities present within the bay.

13. Further, at the expert witness conferencing the experts agreed that the memorability values of Matiatia Bay include:¹
- a) its function as the main gateway to Waiheke Island, linked to the character and aesthetic qualities of the Bay, and
 - b) the experience and sequence of arrival and departure (including the sense of enclosure as one enters the Bay, and the reverse as one departs).

Values to tangata whenua

14. Ms Gilbert considers that I have not referenced the values of Matiatia Bay to tangata whenua. I do not consider, as a landscape architect, that I can make comment and have deferred this to the evidence of the cultural experts.

Moderation of adverse effects of the marina by its specific design and location

15. In paragraphs 76-78, Ms Gilbert states that I make no specific mention of mitigation or remediation in my discussion of visual effects. I concur that in my effects ratings I refer to the rating scale provided in the NZILA Best Practice Note 2010. For example my 'moderate' effects rating is described as:

*The proposal may form a visible and recognisable new element within the overall scene and may be readily noticed by the viewer. The proposal may cause an adverse impact but could potentially be mitigated or remedied.*²

¹ Joint Expert Witness Statement – Landscape, Natural Character, Amenity, Recreation and Open Space, 22 August 2014

² Pryor EIC, Paragraph 49

16. I agree that in the case of marinas, unlike land-based developments, traditional mitigation in the form of screen planting or the use of recessive colours and materials is largely not achievable or has more limited effectiveness. Planting may have a role with respect to any land based marina facilities – in this case amenity planting is proposed on the reclamation or parking deck. Recessive colours and materials may be specified for marina buildings, as I have recommended for the floating office proposed. Other parts of the marina can utilise recessive or colour matched materials – for example in this case the rock proposed to be used will be broadly matched in colour to the surrounding shoreline rock, and various wooden parts of the pile and pontoon structures will be left to weather. However ‘mitigation’ of potential adverse effects of marinas is primarily based on appropriate design and siting.
17. At the expert witness conferencing the experts agreed that the majority of mitigation which addresses any marina's landscape and visual effects must be built into the fundamental design and location of that marina.³ In my opinion the design and location of the proposed marina has resulted in landscape and visual effects that are acceptable in this maritime environment.
18. In terms of visual effects, the visibility of a development in the landscape does not constitute an adverse effect in itself. The visibility of a development may result in adverse effects in terms of amenity and appreciation of the landscape values if the development detracts from the qualities that would otherwise be viewed or experienced. A development may be highly visible, but may have minor visual effects or vice versa, depending largely on the context in which the development is seen.
19. The Matiatia Bay coastal environment and foreshore within which the marina is proposed to be located is dominated by the existing recreational and commercial maritime structures and activities. The ferry terminal, wharves, transportation network and associated infrastructure are an established component of this coastal

³ Joint Expert Witness Statement – Landscape, Natural Character, Amenity, Recreation and Open Space, 22 August 2014

landscape and in conjunction with the commercial developments and residential activities surrounding Matiatia Bay, contribute to the character of the area. In my opinion the proposal is consistent with this established character and use of the area, and the proposed marina will integrate into the coastal setting. In addition, future development enabled by the new District Plan provisions for the Matiatia Gateway land unit will result in significant changes and modifications to the surrounding land.

The degree to which the proposed marina would be absorbed or integrated by its surrounds

20. At the expert witness conferencing the experts agreed on a number of the key elements which assist the visual absorption capacity (the ability of a landscape to visually absorb or integrate new development) of the bay.⁴ These included the enclosed and contained configuration and nature of the bay; maturing vegetation patterns, both natural and planted, which reinforce the sense of enclosure by constraining views; vegetation generally, which has an effect on the sense of enclosure, and more-so as the vegetation matures; and man-made elements, like the moored vessels, transport hub and residential development, which also contribute to the bay's visual absorption capacity.
21. The experts' views varied on the degree to which these affect visual absorption capacity. I consider that the bay has a good visual absorption capacity. From sea and foreshore viewing locations looking towards the head of the bay the diverse characteristics of the coastal edge, dynamic and changing nature of the water surface, as well as the existing wharves, ferry terminal, car parking areas and associated activities exert a significant influence on the prevailing landscape character and assist integrate the proposed marina into the mixed maritime environment. Future developments enabled by the District Plan provisions for the mixed used area will increase the diverse characteristics at the head of the bay and

⁴ Joint Expert Witness Statement – Landscape, Natural Character, Amenity, Recreation and Open Space, paragraph 10

further assist to integrate the built elements into this more modified environment.

22. From closer viewing locations, on the eastern slopes and residential area, although the marina and associated moored boats will be highly visible they will be viewed in the context of the existing maritime environment within which moored boats, boating activity and ferry movements are existing and prevailing features of this part of the bay. From these elevated locations expansive views over the bay and beyond to the Hauraki Gulf and islands are gained. While the marina will introduce an appreciable change to the character of the outlook, the visual amenity values of the wider views will not be diminished.
23. I note that Ms Gilbert agrees with Mr Brown and I that for some viewing audiences the marina will form an interesting and attractive part of the coastal environment that contributes positively to the outlook.⁵ She notes however that for others the marina is likely to be read as an 'urban and regimented form'. In my opinion this could be the case if a marina was located in a bay with high levels of natural character (or one classified as an outstanding natural landscape). That is not the case here. In paragraph 155, Ms Gilbert agrees with Mr Brown and myself that Matiatia Bay does not rank as having high or outstanding natural character.
24. The experts also agreed that the natural character values of the bay in its entirety are not high or outstanding and that the elements of the landscape that have higher natural character values include the rocky headlands and shoals; mouth of the bay; water area of the outer bay; mature pohutukawa; land and sea interface; and birdlife and other marine wildlife.⁶ In my opinion, these natural character elements will not be adversely affected by the proposed marina, being located in the highly modified inner bay.

⁵ Gilbert EIC, paragraph 70

⁶ Joint Expert Witness Statement – Landscape, Natural Character, Amenity, Recreation and Open Space, paragraphs 2-3

The degree of effect of moored vessels on natural character

25. In paragraphs 55 and 56 of Ms Gilbert's evidence she makes reference to the contribution that the swing moorings impart on the bay. Whilst she accepts that the presence of boats suggests a degree of modification to the open waters of the bay, she considers that the character of the modification (i.e. the swing moorings) is quite different to the modification associated with the transport hub.
26. I consider that the boats on the swing moorings and activities associated with the wharf reinforce the maritime characteristics of the bay.⁷ At the expert witness conferencing the experts agreed that the visual values of the swing moorings included their charm and their history as an established part of the Bay; how they reinforce the maritime characteristics of the Bay; that the moorings exist in their own right, separately from the transport hub of the Bay, and that they do not dominate the Bay and are visually permeable.⁸
27. I concur that the moorings are not read as an integral component of the transport hub and are separate in their own right. In my EIC I noted that the marina would introduce more modified characteristics to the coastal landscape and the ordered nature of the vessels moored side by side would somewhat lessen the more sporadic character of the existing boats on the swing moorings.⁹ While the swing moorings in the vicinity of the proposed marina will be removed, the moorings on the southern side of the bay are to be retained and will retain the level of charm and low key character Ms Gilbert refers to.

The significance of viewing points

28. Mr Greenaway at paragraph 27 of his evidence notes that two tourist viewing sites of Matiatia Bay do not include views of the ferry terminal, but would include the proposed marina as a highly

⁷ Pryor EIC, paragraph 52

⁸ Joint Expert Witness Statement – Landscape, Natural Character, Amenity, Recreation and Open Space, paragraph 11

⁹ Pryor EIC, paragraph 64

conspicuous element of the scenery. Ms Gilbert makes reference to these viewpoints in paragraph 116 of her evidence and describes these as two of the most important public views of the bay which the applicant has not elected to model.

Nick Johnstone Drive

29. I concur that the views from the Rocky Bay Store sculpture itself on Nick Johnstone Drive do not include views of the ferry terminal, wharf and associated infrastructure. However as the viewer moves a short distance away from the viewing structure, the ferry terminal and wharf become increasingly visible. Viewpoint 7 attached to my EIC was taken from the coastal walkway between Matiatia Bay and Church Bay, immediately below the Rocky Bay Store sculpture and clearly shows the ferry terminal and wharf at the head of the bay.
30. I do not agree with Ms Gilbert's assertion that from here that the visual effects of the marina will be high. From here, the view is extensive and includes the wider coastal panorama which serves to reduce the visual importance of the bay within the view. From these elevated locations the viewer's eye is drawn towards the outer gulf and layered islands. I also note that the southern slopes are regenerating (albeit slowly and not assisted) which, over time may affect views towards the marina.
31. Mr Greenaway's photograph from the Rocky Bay Store sculpture only focuses on the head of the bay rather than the extensive panoramic views.¹⁰ **Rebuttal Annexure 4** is a panoramic photograph taken from the Rocky Bay Store sculpture and illustrates the full extent of the view gained from the viewing point. As illustrated, the view is extensive and encompasses Matiatia Bay, the northern headland and outer Gulf and islands. The marina will form but a small component of the wider coastal panoramic view.

¹⁰ Greenaway EIC, Attachment 2

Delamore Drive

32. In paragraph 120, from the informal viewing location in Delamore Drive, Ms Gilbert considers that *"a considerable portion of the marina berths, piers and breakwaters are likely to be seen in this view within the context of a seemingly uncluttered, low key and charming bay"*. She rates the effects from here as high. I do not agree. Again from this elevated location the viewer's eye is drawn towards the outer gulf, layered islands and towards Auckland CBD. The marina forms a small component of the wider view and is located in the lower foreground. The eastern slopes are regenerating rapidly which will eventually screen views from this viewing location. **Rebuttal Annexure 5** is taken from the viewing location and **Rebuttal Annexures 6 and 7** are taken from adjoining locations on Delamore Drive illustrating the diminishing views due to the increased height of the regenerating vegetation.

Recreational users and tourists as an audience

33. Mr Greenaway at paragraph 72 of his evidence refers to my EIC reference to recreational users and tourists as an audience of the proposed development.¹¹
34. Mr Greenaway's conclusion in his paragraph 77 states that the marina has the potential for significant impact on both visitors entering the bay and walkers on the surrounding tracks. I disagree. In terms of visitors entering the bay, the marina would be viewed in the context of the existing maritime characteristics of the bay – the wharves, ferry terminal and moored vessels. The degree of intrusion that the marina offers is therefore limited by these elements that are already an established part of the Matiatia Bay environment. Future development enabled by the District Plan in the mixed-use area at the head of the bay will add to the modified characteristics of the bay.
35. In terms of walkers on the tracks surrounding the bay, the views are highly variable. The coastal walkway from Matiatia to Church Bay ascends through the vegetated Atawhai Whenua Reserve towards

¹¹ Pryor EIC, paragraphs 32, 68, 73

Nick Johnstone Drive. Views are progressively opened up as the vegetation thins out. From here the views are panoramic and focussed across the bay towards the open waters of the outer gulf, islands and Auckland's skyline. I agree with Ms Gilbert's assertion that the wider coastal panorama that is available from the south side of the bay, serves to reduce the visual importance of Matiatia within the view.¹²

36. Travelling from Church Bay towards Matiatia views are more 'inward' directed towards the ferry terminal and wharf and built elements at the head of the bay. Views from here will encompass the proposed marina seen as part of the modified characteristics of the transport hub. Views are highly variable as one approaches the head of the bay due to the topography and intervening vegetation. From the coastal walkway the views are expansive, particular in the vicinity of the headland where 270 degree views are gained. **Rebuttal Annexure 8** is taken from the walkway towards the headland and illustrates the extensive views. While the marina will be visible, in my opinion its presence in a maritime environment would not reduce the walker's experience and appreciation of the wide and panoramic coastal views. Furthermore it would not reduce their perception and memorability of the overall seascape/landscape.
37. The coastal walkway from Matietie Reserve to Owhanake Bay traverses the rear of the foreshore in close proximity to the proposed marina which will expose views across the moored boats. Beyond the foreshore, a walker heads away from the marina along a narrow track then traverses the slope though the densely vegetated slopes before opening out to expose the panoramic outer gulf, islands and Auckland skyline views. The track then continues around the headland towards Owhanake Bay, passing close to the large-scale prominent residential dwellings and curtilages.
38. Travelling in the opposite direction towards Matiatia, again the proposed marina will be viewed in the context of the modified characteristics at the head of the bay.

¹² Gilbert EIC, paragraph 101

39. The marina will only be visible from a very short section (approximately 65m) of the Matietie Reserve track as one descends into the bay due to the existing regenerating bush. **Rebuttal Annexure 9** is taken from the walkway towards the headland and illustrates the view as one approaches the foreshore.
40. The marina itself will provide a good viewing opportunities from the viewing platforms and the primary breakwater providing pedestrian access out into the bay.

The future environment of the Matiatia Bay area

41. Ms Gilbert fails to recognise that the Operative 2013 District Plan promotes change in a significant area of the bay as defined in Figure 10a.1 (Matiatia) in the Plan.
42. This will result in a significant number of buildings (between 8m and 13m in height), other structures and activities in the future. Mr Scott's evidence also fails to recognise this. This omission would appear remiss given Mr Scott's involvement in the DJ Scott and Hillery Priest Architect's winning design for the 'Vision for Matiatia' in 2007. **Rebuttal Annexures 10 and 11** illustrate the winning design.
43. In order to gain an understanding of potential development enabled by the District Plan, Buildmedia has prepared a photo-simulation of the 'Vision for Matiatia' scheme prepared by DJ Scott and Hillery Priest Architects. **Rebuttal Annexure 12** is taken from the coastal walkway to Church Bay looking towards the head of the bay. This clearly illustrates the change in character that would result from the additional built development. I note the plan provisions for the Mixed Use area allow for a mix of activities including retail, offices, residential, restaurants and cafes, visitor accommodation and function facilities to meet the needs of both residents and visitors.

Conclusion

44. Overall, my assessment and conclusions set out in my evidence in chief have not altered having read the evidence of Ms Gilbert and Messrs Scott and Greenaway.

45. From my review of her evidence, I consider that Ms Gilbert has placed too much emphasis on the existing landscape character and values of Matiatia without acknowledging the future development anticipated in the District Plan.
46. I also consider in her assessment of visual effects that she has narrowly focussed on views of the marina per se without cognisance of the wider panoramic views gained from the surrounding slopes.
47. I remain of the opinion that in the context of the established maritime environment the proposed marina could be visually accommodated without adversely affecting the character, aesthetic value and integrity of the coastal environment.

Robert James Pryor
23 September 2014



Annexure 1: Matiatia Bay Characteristics (1)



Annexure 2: Matiatia Bay Characteristics (2)



Annexure 3: Matiatia Bay Characteristics (3)



Annexure 4: Panorama from Rocky Bay Store Sculpture on Nick Johnstone Drive





Annexure 5: Delamore Drive Viewing Location (1)





Annexure 6: Delamore Drive Viewing Location (2)





Annexure 7: Delamore Drive Viewing Location (3)





Annexure 8: Panorama from Matiatia to Church Bay Walkway





Annexure 9: Matietie Reserve Track

Detail Plan - 1:500

Legend

1. Taxi Stands
2. Drop off and disabled parking
3. Public transport (bus) hub
4. Continuous pedestrian shelter
5. Kowhai trees
6. The promenade, Waiheke rock aggregate
7. Urupa (sacred burial sites)
8. Pohutukawa
9. Wet weather urban space/ transport hub
10. Wooden planks
11. Layered rock and pooled water
12. Stormwater pooling and transitional system
13. Open shelter
14. Stormwater pooling and transitional system
15. Wooden decking
16. Rock wall detail
17. Foreshore events shelter
18. Kanuka grove
19. Existing Morton Bay Fig tree
20. Crushed shell bed
21. Wetland system
22. Stormwater pooling and transitional system
23. Grass mound
24. Raised boardwalk
25. Wind turbines
26. Verandah
27. Grass lawn
28. Lobby space verandah
29. Interior trees
30. Grass mound
31. Shared surface
32. Bicycle stands
33. Carpark, (36 spaces)
34. Matiatia Peach orchard grove
35. Primary Matiatia carpark, 85 spaces
36. Raised boardwalk
37. Pedestrian footpath
38. Vehicle entrance to the Gateway Village



Matiatia gateway village...

The **Matiatia Gateway Village** is the celebration of the **people, space and place, Waiheke Island.**

Matiatia is the gateway to Waiheke, the point in the journey where Waiheke touches the rest of the world.

Matiatia is a transport hub.

A series of well-defined public open spaces and a cluster of buildings **serves the local community and visitors** with a range of day-to-day activities and for special events and festivals.

Buildings and landscape frame views into the site and from the village toward Matiatia Bay, Rangitoto and beyond, ensuring that users are aware of their surrounds at all times.

Matiatia celebrates the **special character of Waiheke** by drawing inspiration from the vernacular of the Island.

The surrounding native vegetation is integrated into the heart of the development.

Waterways that are currently hidden under the surface of the carpark are **exposed and celebrated.**

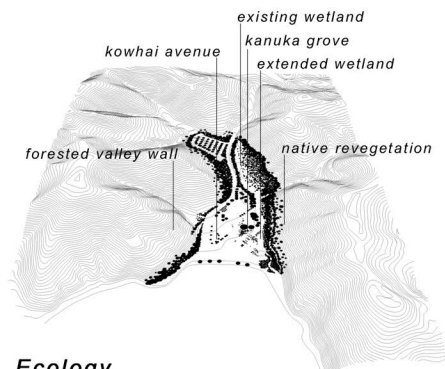
Local materials, such as Waiheke stone and rammed earth are utilized and expressed throughout the design to draw attention to the valuable resources that are available on the island and remind us of its geological heritage.

The buildings speak of the **relaxed coastal kiwi lifestyle** with open and flexible floor plans that blur the boundary between inside and out, **architecture and landscape.**

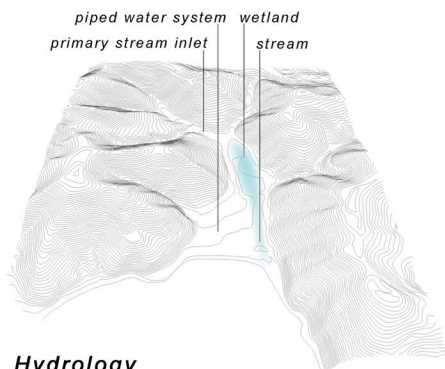
The buildings define the public open spaces, enhancing the **experience of being on the coast** by creating threshold experiences of enclosure to openness and framing views out to sea.



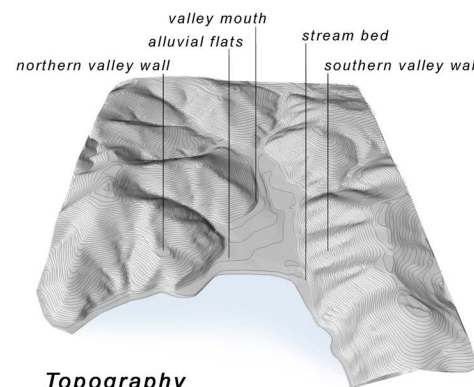
Heritage



Ecology



Hydrology



Topography



Elevated view of entrance

Design Philosophy

Progression toward sustainability requires concurrent changes in both our landuse patterns and the cultural systems that generate, develop and ultimately manage these systems over time. Acknowledging the need for this change, recognises we are a part of the natural systems that sustain our environment and requires that people engage with the land in a different way. It requires that humans live interdependently with the environment.

Education

The celebration of Waiheke Island and an emerging sustainable culture means that the Gateway Village is inherently embedded with educative experiences. These include the visibility of natural systems such as the stormwater feature and energy production in the form of photovoltaic's and wind turbines.

There is an overt demonstration of sustainability in the information centre, which displays energy production and use, water collection and use, and waste generation of the development on large LED panels.

Environmental Protocol

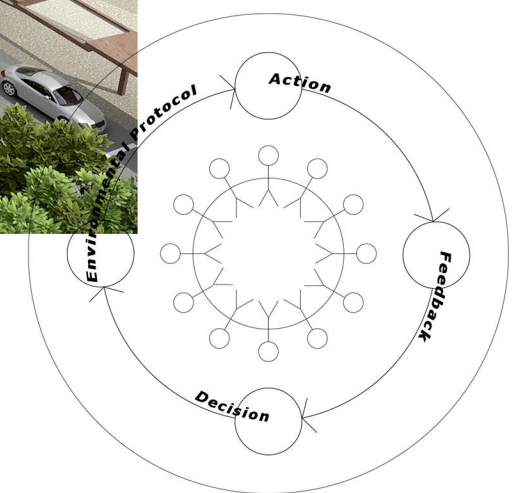
The Gateway Village recognises principles of sustainability, requiring people using the facilities to comply with a number of environmental provisions. This will ensure that the environmental systems utilised to clean water, bring nature to the site, produce power and will continue to do so over the long term.

The protocol is a critical component of a feedback system that will require the participation of all occupants to continually update and refine the document over time. It is anticipated that the document would be signed by all the occupants of the site. The protocol will be based on the British BREEM² rating tool:

- Energy
- Transport
- Pollution
- Materials
- Water
- Landuse and Ecology
- Health and Wellbeing
- Management

The protocol will include provisions that pay regard to issues such as sorting recyclables and organic wastes, using biodegradable detergents and cleaning products, and using energy efficient lighting.

² BRE's Environmental Assessment Method: www.breem.org





Annexure 12: Potential Development Scenario Enabled by the District Plan