



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

HEARINGS COMMITTEE

I hereby give notice that an Ordinary Meeting of the Hearings Committee will be held on:-

DATE: **Thursday, 23 September 2004** **TIME:** **9.30 am**

VENUE: **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

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

14 September 2004

Owena Schuster
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

Councillors	GE	Nash, QSM, JP (Chairperson)
	DA	Yates, JP (Deputy Chairperson)
	DQ	Battersby, JP
	BA	Brady, JP
	PA	Hulse
	VS	Neeson, JP

Ward Representative			
	Ms	C	Nakhid (Henderson Community Board)
Alternate Representative			
	Mr	DB	Shaw, JP (Henderson Community Board)

(Quorum 4 members)

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

**AGENDA FOR AN ORDINARY MEETING OF THE HEARINGS COMMITTEE TO BE HELD
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON THURSDAY, 23 SEPTEMBER 2004, COMMENCING AT 9.30 AM.**

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1 APOLOGIES



2 URGENT BUSINESS

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

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

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

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



3 CONFIRMATION OF MINUTES

Ordinary - Tuesday, 6 July 2004
Ordinary - Thursday, 15 July 2004
Reconvened - Thursday, 12 August 2004
Ordinary - Monday, 26 July 2004 at 9.36 am
Ordinary - Monday, 26 July 2004 at 1.05 pm
Ordinary - Thursday, 29 July 2004

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Hearings Committee held on Tuesday, 6 July 2004, the Ordinary Meeting held on Thursday, 15 July 2004 and reconvened on Thursday, 12 August 2004, the Ordinary Meeting held on Monday, 26 July 2004 at 9.36 am, the Ordinary Meeting held on Monday, 26 July 2004 at 1.05 pm, and the Ordinary Meeting held on Thursday, 29 July 2004, as circulated, be taken as read and now be confirmed.



4 **NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY CDL NEW ZEALAND LTD TO SUBDIVIDE LOT 1 DP 76399 AND PT LOT 12 DP 20167 AT 187-189 AND 191 MCLEOD ROAD TO CREATE THIRTY THREE ADDITIONAL RESIDENTIAL LOTS AND ONE "MIXED USE" MULTI UNIT SITE.**

HENDERSON WARD

RMA 20040318 (sub), SPW 21994, RMA 20040296 (luc)

N.B. This report sets out the advice of Consent Services to the Hearings Committee on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the Hearings Committee.

1.0 INTRODUCTION

1.1 Nature of the Application

Consent is sought to subdivide an existing property at 187-189 and 191 McLeod Road, Henderson to create a thirty three new residential Lots of between 387m² and 587m², a large multi unit mixed use (light industry with associated accommodation). The existing residential unit is to remain on the site within a separate lot.

Under the Operative District Plan, the site falls within the Working Environment. There are no minimum lot sizes specified in the Plan, but rear sites/sites with a shared driveway are to be served by an access not less than 6.5 metres wide (with a 5.5 metre carriageway), which the 14 of the proposed lots fail to meet, thus the subdivision must be assessed as a Limited Discretionary Activity. The subdivision of a site adjoining the Coastal Marine Area which creates a 20 metre Esplanade Reserve requires a Controlled Activity consent.

The use of thirty three of the proposed sites for new dwellings not associated with Non-Residential activity (on the same site) would require a Discretionary Activity consent under the Rules of the Working Environment. The existing residential dwelling is also to remain on a separate lot.

The earthworks and vegetation clearance necessary to effect the above development proposal would be non-complying under the Coastal Edge Rules.

Overall the application must be assessed as a **Non-Complying** activity.

Public Notification of the application attracted 5 submissions, 4 of which were in objection, the remaining one was in support.

Further details regarding the submissions are contained later in the report.

1.2 Resource Management Issues Raised

The application raises a number of resource management issues:

- The use of a scarce resource for purposes other than that intended under the District Plan.
- The overall amenity values and protection/enhancement of the landscape character of the Coastal Edge.
- Traffic Impacts
- Reverse Sensitivity

1.3 Planner's Recommendation

- A The planner who has prepared this report recommends that **consent be granted** to the application to create 33 additional residential lots and a multi-unit mixed used site at 187 - 189 and 191 McLeod Road. It is considered that the actual and potential adverse effects of the subdivision on the environment would be no greater than that of a permitted activity, particularly in respect of amenity and cumulative effects. The granting of this application would not compromise the integrity of the relevant objectives and policies of the District Plan as the site is remote from Strategic transport routes (where most other Working Environment areas are located). Jurisdiction to grant consent has therefore been established.

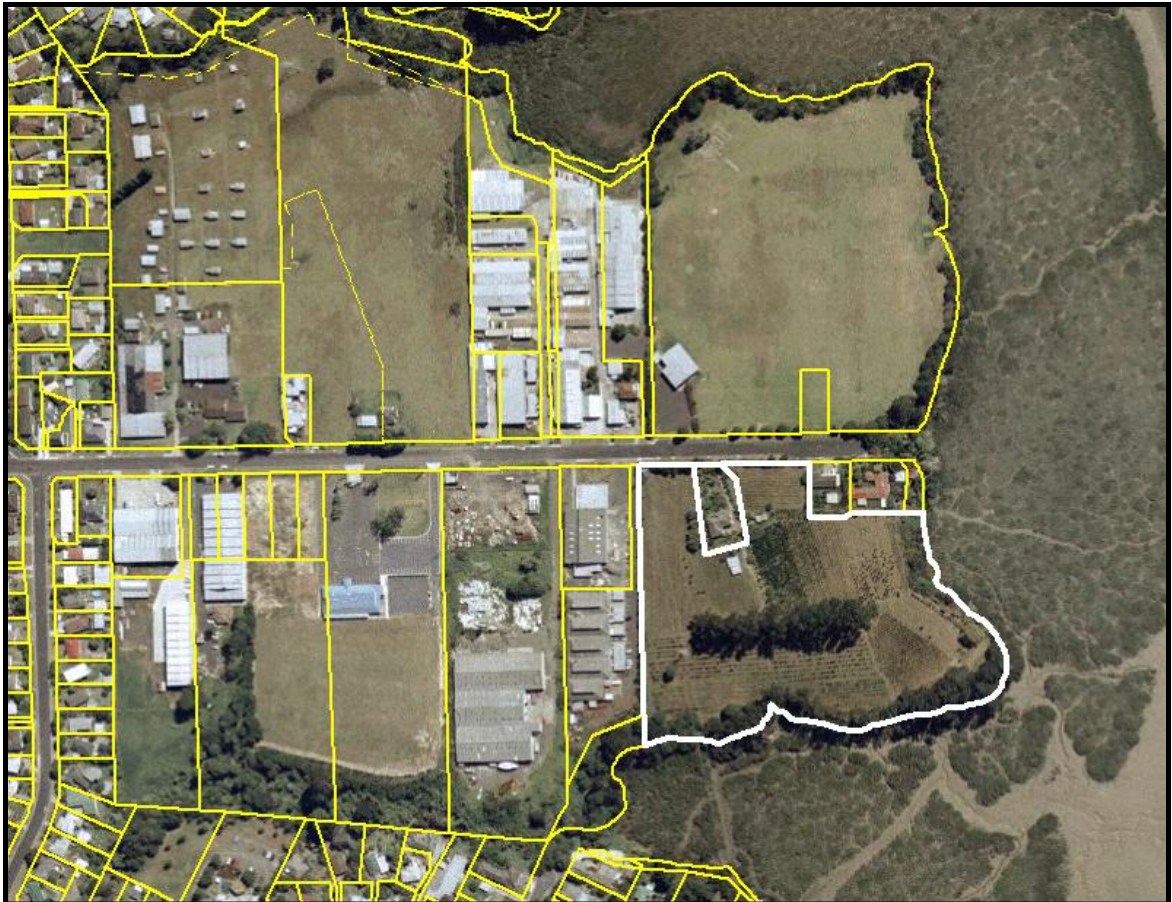


Figure 1: Site Plan

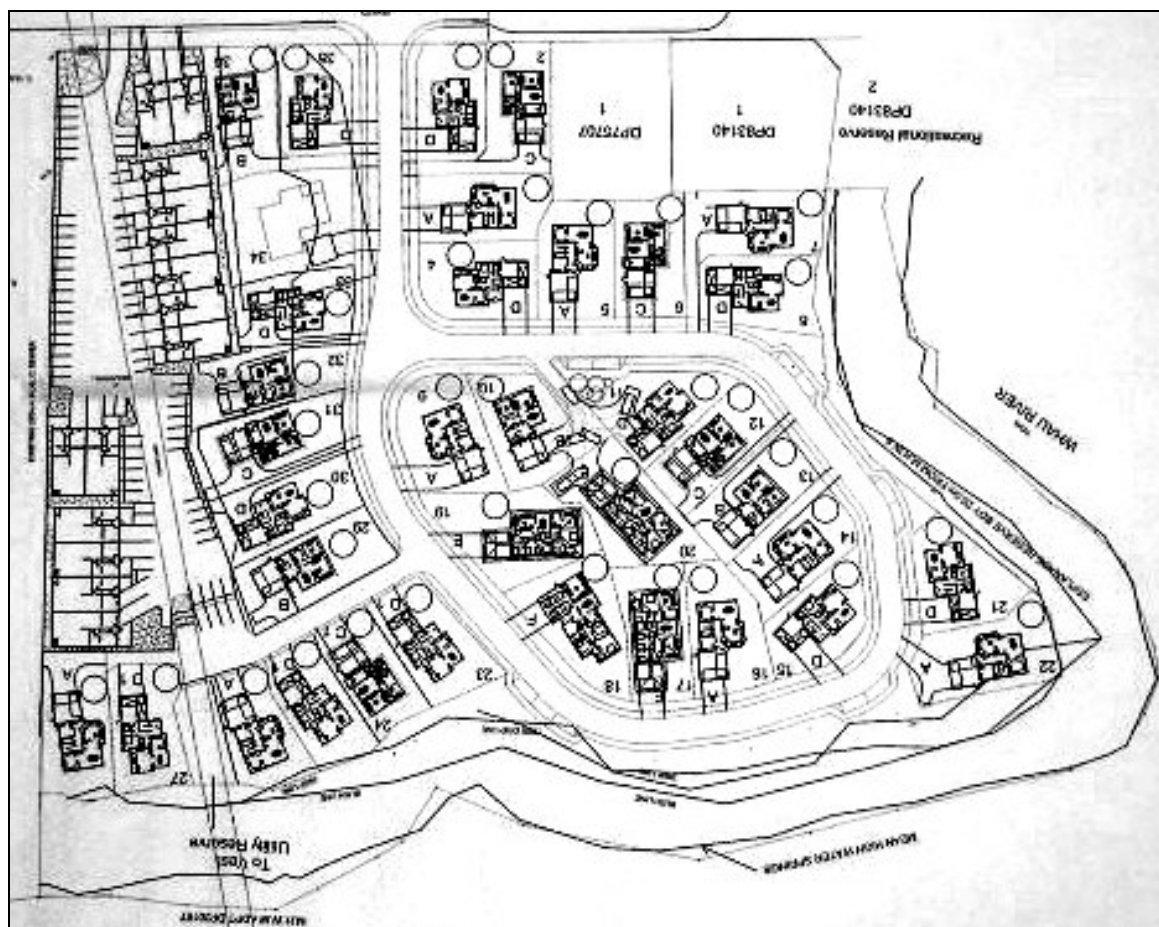


Figure 2: Proposed Subdivision and Development

2.0 LOCATION PLAN

Legal Description: Lot 1 DP 76399 and Pt Lot 12 DP 20167

Human Environment: Working

Natural Area: General

Landscape Elements: 20 metre Coastal Edge and Ecological Linkage Opportunities

3.0 PROPOSAL

The proposed subdivision is at 187-189 and 191 McLeod Road, Henderson. Consent is sought to subdivide two existing titles into thirty three new residential lots, with lot sizes between 387m² and 587m². The existing dwelling would remain with a site of 714m², and a 5239m² site would be created for multi unit, light industrial development with associated residential units. As the site adjoins the Whau River, a 20m esplanade reserve would be created. Two further sites originally proposed for residential use are to become reserve land also. The site is located within the Working Environment, and the property has most recently been used for growing Christmas Trees, although this appears to have been discontinued. There is one line of large pine trees running through the middle of the site and there is another row along the southern boundary of the site. Among these pines there is a mixture of mature native vegetation and undergrowth. The eastern tidal edge is generally weed infested. Removal of the pines and weeds with the re-planting of the esplanade reserve is proposed as part of the application.

4.0 BACKGROUND

4.1 Section 94 Report - Decision to Notify

The Section 94 Report prepared by Chris Gorman determined that the adverse effects on the environment of the activity for which consent is sought may be more than minor because the residential use of the site is inconsistent with the character of the immediate surrounds and may place greater demands on the infrastructure than would be anticipated under the District Plan "zoning". Also written approval had not been obtained from every person who may be adversely affected by the activity.

A265-A289

It is considered that the decision to notify the application was correct and has enabled Council to carry out a more detailed and accurate assessment of the actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the District Plan instruments pursuant to Section 104 of the Resource Management Act. In light of carrying out a more detailed assessment of the effects of the proposal, and the findings of the specialist reports, as attached at pages A265 to A289, it is considered that the proposal would in fact have an adverse effect upon the environment.

4.2 Background of Site

The applicant's agent undertook a pre-application meeting with Council Staff on 31 July 2003 with an initial proposal. At the meeting Council staff emphasised concerns regarding the use of Working Environment land for residential use, but this would be investigated further. Also, Council asserted the requirement for the esplanade reserve to have the maximum available road frontage. While Council maintains its reservation on the loss of Working Environment land for "working" purposes, the assessment contained within this report demonstrates that residential use of this site is not inappropriate (for the reasons given in this report). The application plan submitted for approval has incorporated much of Council's recommendations at pre-application stage, and the requirement for Lots 21 and 22 to be incorporated into the reserve area provides two-thirds (approximately) of the reserve frontage onto the road.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site comprises a peninsula on the southern side of McLeod Road, Henderson, and comprises two certificates of title with a combined area of 3.6808 hectares. The site is bounded to the east and south by the tidal mangrove environment associated with the Upper Waitemata Harbour and the Whau River. To the north is McLeod Road and two residential properties (201 & 203 McLeod Road), along with a small area of recreation reserve. On the northern side of McLeod Road is McLeod Park, a local recreation reserve also containing the Waitemata City Sports Club.

187-189 McLeod Road is vacant of dwellings and was recently used for growing Christmas Trees. A storage shed is located on the site. 191 McLeod Road contains a brick dwelling.

The subject site is of a generally flat to gently sloping topography, with moderate and steep slopes down to the coastal edge.

In addition to the numerous pine trees which cover the property, other vegetation is present. Along the western boundary of the site is a lemonwood hedge of approximately 5.0m in height. A macrocarpa shelter belt is located along the northern road boundary. The southern coastal edge of the site contains predominantly pine trees with a native under storey. The eastern side is mainly covered with weed species.

In the immediate vicinity of the subject site are a number of non-residential activities. To the west at 181 McLeod Road is the 'Aquapro' factory which manufactures and sells swimming pools and accessories. To the rear of this property at 185 McLeod Road are five units, which tenanted by 'The Stair Company'; 'Art Spray Polishers and Kitchen Fitters'; 'Custom Cabinets'; 'Mel Frank Engineering' and 'Powerhouse Engineering'. On the opposite side of McLeod Road, to the west of McLeod Park is the 'Extreme Trampoline Club' (196 McLeod Road) with a mechanical workshop and window and door manufacturers at 188 McLeod Road. The remainder of McLeod Road is characterised by a mixture of residential dwellings, a retirement village (St Clair Park Village), and non-residential activities including manufacturing (upholstery, kitchens, furniture and hospital equipment, paper), civil engineering (March Cato Contractors), boat storage, customs and freight operations, window and door services and a community centre (the Croatian Centre).

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

6.1 Submissions

	Submitter	Address	Support / Oppose
1	CH & T Peung	183 McLeod Road Henderson	Support
2	York Corporation	150 McLeod Road Henderson	Oppose
3	Royal Forest and Bird Protection Society	PO Box 45 144 Te Atatu Peninsula	Oppose [†]
4	M R Jacomb	23 Edmonton Road Henderson	Oppose
5	Transpower New Zealand Limited	C/- Burton Consultants P O Box 33-817 Takapuna	Oppose [‡]

A216-A232

Public notification of the application for subdivision consent attracted 5 submissions, as attached at pages A216 to A232 from the parties, which are listed above. Four submissions were in opposition and 1 was received in support of the application. The Auckland Regional Council also made a submission requesting that Council delay the determination of the application until the applicant also sought the necessary consents from the Auckland Regional Council. This has been done, and satisfies the concerns of the Royal Forest and Bird Protection Society[†] whereby they expressed concern about potential effects if the development was not considered in an integrated manner between the Regional and City Councils.

The applicant had originally sought advice from an agent working on behalf of Transpower NZ Limited, and had incorporated the recommendations of the agent into the application. However, it would appear the agent was not fully briefed on Transpowers current requirements for working near pylons. The applicant is now working on the concerns of Transpower NZ Limited[‡] which relate to earthworks and activity around the two power pylons located within the multi unit "mixed use" site.

The main issues arising through the statutory submission process can be summarised as follows:

6.1.1 Support of Proposal

- No specific reason for supporting the proposal was indicated, but the support would appear to acknowledge that the residential development was adjoining light industrial activity to provide a buffer from the existing industry on neighbouring properties.

Opposition to Proposal

- Dwellings/residential subdivision is inappropriate for a site in an industrial area.
- Additional traffic would have effects on the existing activities in the area.
- Cumulative effects of traffic on the roading network.
- Increased stormwater run-off and sediment entering the Whau River.

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activities

A1-A11

The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail as attached at pages A1 to A11. This should be referred to as the legal framework within which the application should be addressed.

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 104D of the Resource Management Act 1991 sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent, having regard to the matters specified in Section 104. In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of the District Plan. Council may disregard an adverse effect of an activity on the environment if the Proposed Plan permits an activity with that effect.

The matters to be considered when assessing an application for resource consent are set out in Section 104 of the Resource Management Act 1991. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the District Plan instruments. All considerations are subject to the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

However it should be noted that for council to grant consent to a non-complying activity application there should generally be some exceptional or unusual element to the proposal. If such unusual circumstances do not exist, then the proposal would effectively compromise the integrity of the District Plan and public confidence in the consistent administration of the plan may be undermined.

Council also has discretion to consider any precedent issues that may arise for a non-complying activity. According to the Court of Appeal decision in *Dye v Rodney District Council*, an adverse precedent effect can arise where the grant of a non-complying consent would influence the approach taken by Council to similar consent applications.

The District Plan has been prepared with an "effects based" emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that a number of the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

8.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991

In order to make a decision in terms of Section 104B of the Act it is necessary to undertake an analysis and assessment to determine whether the purpose and principles of the Act are being met (Part II) having regard to the matters set out in Sections 104, 104A - 104D as relevant, the Fourth Schedule and any other statutory considerations.

Section 104(1) of the Act requires that Council have regard to any actual or potential effects on the environment, any relevant objectives, policies, rules or other provisions of a plan or proposed plan and any relevant regional policy statement and regional plan or proposed plan, and any other matters the consent authority considers relevant and reasonably necessary to determine the application.

When considering an application Council must not have regard to any effect on a person who has given their written approval to the application (section 104 (3)(b)) and may disregard an adverse effect of an activity on the environment if the Proposed Plan permits an activity with that effect (Section 104(2)).

8.1 Assessment of Environmental Effects (104(1)(a)): Actual and Potential Effects on the Environment

8.1.1 Permitted Baseline

In terms of determining adverse effects on the environment and whether a person would be adversely affected by the proposed activity, Section 94A and 94B gives Council the discretion to make permitted baseline comparisons ie. a comparison between the environment as it exists at the time the application is considered and (the effects) of activities that are permitted by the Operative Plan even if hypothetical, as compared with the effects of the proposed activity. Case law has established that any such hypothetical developments must be not be "fanciful" in terms of what could reasonably be expected to establish there.

Section 104D confers a discretion on Council; to consider what activities may take place as of right under the Operative Plan.

The site is within the Working Environment. As the District Plan is "effects based" there are no activities specifically included or excluded from the Working Environment, or subject to specific controls/restrictions (apart from Retailing and Residential activities). However, the Working Environment Rules do place requirements that would affect the scale and intensity of any activity, and these would give some guidance as to the likely effects of an activity otherwise permitted under the District Plan, and the agent for the applicant made such a "permitted baseline" comparison.

The assessment of the likely "permitted" development under the Working Environment would appear to overestimate the intensity that could occur "as of right". It should also be noted that any activity would need to consider the Coastal Edge, and an esplanade reserve would be required regardless, as the scale of such a "possible" development would invoke the need for an esplanade reserve under the development provisions of the Local Government Act 1974. Also, as demonstrated by this application, there could be some physical limitations on the site (such as servicing) that would require additional work (such as earthworks) that would take the level of development beyond the scope of a permitted activity.

However, in terms of an industrial use that would likely gain approval, the assessment is useful in establishing anticipated effects such as stormwater runoff and visual effects.

The applicant's agent also, at the request of Council, provided a brief "permitted baseline" assessment specifically on the traffic generation, which is a common element of concern amongst those opposing the application. Cato Bolam have assessed the traffic generation from the residential development would be 306 vehicle movements a day against 1288 - 9017 movements for industrial/commercial activities (depending on whether the site was developed with a small number of larger premises or a greater number of small scale factories).

While this is not an in depth assessment of the development capacity of the site, Council again considers the assessment as to the level of permitted "industrial" development to be optimistic. Nevertheless, if the assessment was scaled back to commercial/industrial development occupying a quarter of the site, it would still be about the same as the level of traffic generated by the proposed residential development. Council also concurs with the comments from Cato Bolam Consultants that an industrial use of the site would have a higher proportion of heavy vehicles than would a residential use.

Therefore it is considered that the proposed residential use would have the same or less traffic, visual and stormwater effects to development otherwise permitted under the District Plan.

8.1.2 Earthworks, Water Quality and Quantity and Eco System Stability

8.1.2.1 Effects of Earthworks

In order to allow the proposed sites to drain sewage back to a proposed pump station in the south west corner of the site, it would be necessary to elevate the building platforms, requiring fill to be brought onto the site. This could result in adverse effects if soil is not stockpiled in a manner that is not contained during heavy rain or dry windy periods (causing either sediment runoff into the Whau River or dust). As the subdivision is being done in stages, there would be unworked areas that material could be stored within in a manner that can contain sediment run-off or dust.

The Auckland Regional Council has processed a consent for earthworks (dated 1 September 2004) and a copy has been supplied to Waitakere City Council staff to assist with consistency between the two consents.

8.1.2.2 Effects of Stormwater

Subdivisions have the potential to alter the patterns of stormwater generation due to increases in impermeable surfaces from new roads and the subsequent development on the new individual sites. As approximately half the site bounds the Whau River, management of the stormwater is critical to ensure the resultant increase in run-off does not degrade the water quality of the river or the river bank/coastal edge.

The main issue for servicing the site is the topography, which slopes away from all existing reticulation networks. This necessitates a new stormwater discharge to the coastal environment and a new wastewater pumping station. Outcomes of the Auckland Regional Council resource consent have also been taken into account with respect to stormwater quality treatment and the new coastal discharge.

The upper Waitemata Harbour and Whau River are considered sensitive coastal receiving environments, therefore contaminant loadings in stormwater need to be reduced prior to discharge. The proposal includes an Ingal Storm Filter to remove contaminants, which would become public infrastructure and be maintained by EcoWater in the future. Conditions relating to the proposed public infrastructure and stormwater quality treatment are included below to ensure that Council standards are met.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

It is proposed to remove the pine trees and other weed species within the site. A planting plan has been submitted to re-plant the coastal margin and for landscaping within the development itself. Subject to conditions on the implementation of vegetation clearance and re-planting it is considered that the proposed subdivision/development application as submitted would have no more than minor effects on native vegetation and fauna habitat, and would improve the quality and quantity of native vegetation in the area.

8.1.4 Outstanding Landscapes and Outstanding Natural Features

The subject site is not identified in the District Plan as being within an area identified as containing "outstanding landscapes" or "outstanding natural features" within the City. The activity would not therefore adversely affect any identified outstanding landscape or natural features.

8.1.5 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

As noted in 8.1.3 above, the coastal margin would be improved through the planting within the esplanade reserve. Earthworks and Stormwater disposal would need to be managed in a manner that would not degrade the Whau River (tidal margin). It is noted that these issues are also addressed in the consent from the Auckland Regional Council.

8.1.6 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

Landscape, Visual, Natural and Neighbourhood Character

The Resource Management Act defines the term "amenity value" to mean *"those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, cultural and recreational attributes"*.

The residential development would be separated from existing residential development (located 350m west of the site) by the existing commercial/industrial activities. However, the ongoing construction of the retirement village on 168-170 McLeod Road would improve the connection between the subject site and other residential areas.

It is considered the subdivision and development would result in a general improvement in the amenity of the area as a result of the planting in the coastal margin, the creation of the esplanade reserve (and recreational reserve at the south eastern tip of the peninsula) which would provide passive recreational opportunities and would allow a future pedestrian link to be made from the northern end of Tirimoana Road to McLeod Park (located on the northern side of McLeod Road, opposite the site). While, it is noted that the esplanade would be created upon any subdivision (or larger development), whether Residential or Non-Residential, the residential use of the land may provide greater surveillance of the reserve areas, particularly during mornings, evenings and weekends as the residential dwellings would make use of the outlook onto the reserves for their own amenity, whereas an industrial activity would possibly be closed during these times, and is less likely to look out onto the reserves.

The dwellings on the western third of the site have been designed to maximise the separation between habitable rooms (and to a lesser extent, outdoor living areas) and the existing/proposed industrial development along the western boundary by positioning the garaging closest to the industrial activities.

To further “buffer” the proposed residential development from the existing industrial activity, the applicant has proposed a multi-unit light industrial development with associated residential accommodation. This development would essentially block the noise from the existing industrial sites. The applicant has offered to place restrictions on the types of activity that may occur within the industrial units to minimise any effects on the proposed adjoining residential dwellings.

Additional acoustic controls are to be incorporated in the western-most dwellings, particularly those facing “corridors” between the proposed industrial units and the existing development, the noise level measured within the dwellings is kept within those expected in a residential environment.

The proposed Lot 28 would create a residential site adjoining the existing industrial site (No. 183 McLeod Road). While the applicant has proposed a 1.8 metre high fence along the boundary, re-planting would be needed along the boundary to maintain the screening of noise and light from the existing activity on the adjoining site should the existing vegetation along the boundary become damaged during construction.

8.1.7 Cumulative Effects

Section 3 of the Resource Management Act states that the term ‘effect’ includes:

“Any cumulative effect which arises over time or in combination with other effects, regardless of scale, intensity, duration or frequency of the effect, and also includes:

*Any potential effect of high probability; and
Any potential effect of low probability which has a high potential impact”.*

An effect is generally taken to mean the result or consequence of an activity. Cumulative effect is a broad term, which may cover a single effect which grows over time, or to which other effects are added. It is not only the effects in the immediate term which must be taken into account but also those which may arise in the future from the activity under consideration and in combination with other existing activities.

The concept of cumulative effect presupposes the setting of environmental thresholds. In other words, there is an environmental limit up to which development will be allowed. Thresholds may be absolute, such as Environmental Bottom Lines beyond which the effects of an activity would cause irreparable or irreversible damage to the environment. On the other hand, many environmental thresholds will be those determined by community preference, eg. thresholds of amenity values. In determining the cumulative effect of an activity, the effects of the activity itself, combined with the effects of existing and future activities should be taken into account. Each subsequent activity should be evaluated with respect to its own effects on the environment, together with the effects of existing and future activities, and a determination made whether an acceptable threshold has been exceeded.

It is relevant to consider the issue of cumulative effects. According to the Court of Appeal decision in *Dye v Rodney District Council*, cumulative effects are effects that would happen as a result of the proposed subdivision. In this case, it is considered there would not be a cumulative effect of residential development encroaching into the working environment as the “Working Environment” sites immediately to the west and north-west are developed to a relatively intensive level and appear to be fully occupied. There is a sports field on the northern side of the road, opposite the site, and the subdivision would result in the creation of an esplanade reserve along the eastern and southern boundaries. Therefore the development would be bounded on three sides by open space, with the outlook over the Whau River increasing the sense of openness that would not be available on the surrounding sites. Given the surrounding sites would not be able to provide the same level of amenity for residential uses and the existing industrial activities appear to be successfully operating, it is unlikely there would be further encroachment of residential activity into the working environment.

According to recent case law (Clifford Bay v Marlborough District Council^{*} and Emerald Developments v North Shore City Council) the concept of cumulative effects should also allow for limited consideration of future potential effects arising from proposed subdivision.

8.1.8 Precedent Effect

According to the Court of Appeal decision in *Dye* a 'precedent effect' is concerned with the influence that granting approval to this application may have on future applicants, and on Council, as consent authority, to grant approval to similar applications. Precedent effect is a relevant consideration under both Section 104B and Section 104(1)(c) of this Act. If an applicant can demonstrate that its proposal has evident unusual qualities then it may be able to demonstrate that no precedent effect arises.

Based on the test for precedent, it is considered that the subject site does have a sufficiently unusual characteristic in that its location does not present a strategic location for an employment node, there is already a mixture of "Working", "Community", recreational and residential activities in the area, and as described in 8.1.7 above the existing and required reserves would provide the site with "residential" amenities that would not be available to residential development within other "Working" Environment sites.

8.1.9 Plan Integrity

Plan integrity is a relevant consideration under Section 104B and 104(1) involves consideration as to whether the proposal would challenge public confidence in the integrity of the plan. In this case, having regard to the report's assessment that the proposal would not be contrary to relevant objectives and policies in the Operative District Plan, it is considered that an adverse plan integrity effect will not arise.

While the graph below demonstrates land for Working Environment is a scarce resource within the city, it is acknowledged that this site has characteristics different from most other areas classified as Working Environment (as described in parts 8.1.7 and 8.1.8 of the report).

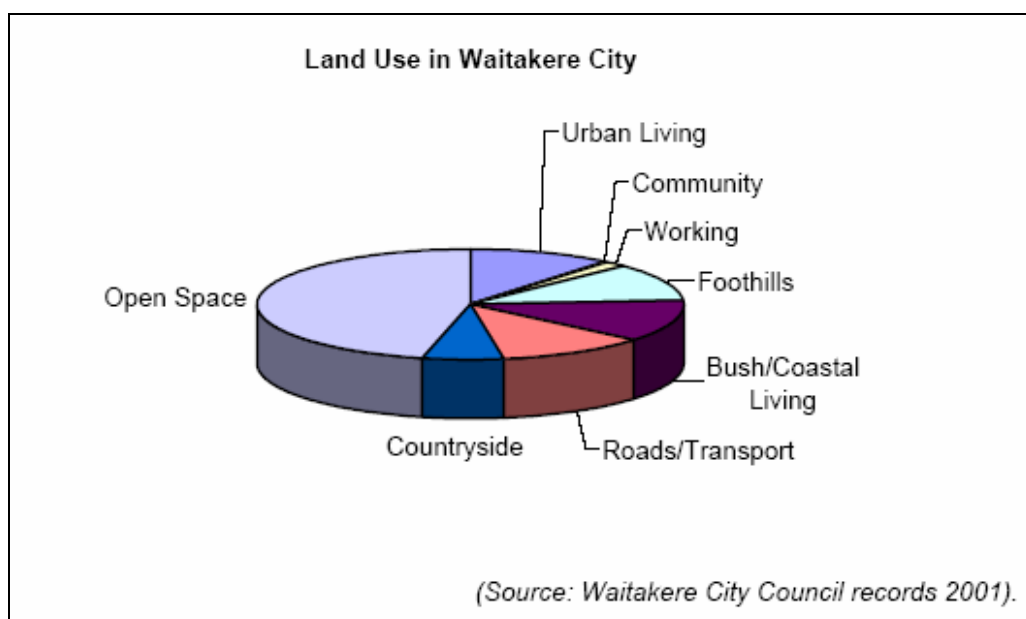


Figure 3: Land Use (Environments) in Waitakere City from "City form and Design" September 2002

^{*} This decision has recently been the subject of a decision in the High Court in relation to a different issue to cumulative effects hence the decision of the Environment Court on cumulative effects remains good law.

The majority of other areas set aside for "Working" activities are located on or near major transport links (Strategic/Regional Arterial roads/motorways, and rail lines). As detailed in the Objectives and Policies detailed below, it would be shown that this would not be a "prime" site for working uses. Thus approval of residential development on this site would not undermine the integrity of the District Plan.

8.2 Any Relevant Provisions of the District Plan 104(1)(b)(iv):

The Working Environment Rules and the Rules for Subdivision within the Working/Community Environments were deemed Operative in March 2003 as all appeals against these rules had been resolved. Consequently the Transitional District Plan Provisions need not be considered.

8.2.1 District Plan Objectives, Policies, Rules and Assessment Criteria

The Operative District Plan is "effects-based" in its approach to the management of natural and physical resources. The objectives, policies and rules reflect this emphasis.

A1-A11

The relevant policies and objectives of the Proposed District Plan are attached at pages A1 to A11. Of most relevance are Policies 1.1, 1.20, 2.13, 5.4, 10.4, 10.7, 10.17, 10.18, 10.23, 10.27, 11.1, 11.2, 11.5 and 12.4, which state as follows:

Policy 1.1

Settlement should be of a type and density that avoids, remedies or mitigates adverse impacts on water quality. In particular, settlement should be:

- located away from coastal edges, riparian margins and areas prone to flooding, and these flood hazard areas within the Oratia, Opanuku and Swanson stream catchments;
- urban development should not occur in locations where such development will lead to significant adverse impacts on water quality and quantity. Urban development shall be avoided in the following general locations -
 - The Waitakere Ranges and West Coast;
 - The Foothills of the Waitakere Ranges;
 - The Countryside Area through Redhills, Hobsonville and Whenuapai;

provided that the consolidation of population within the urban area is within the capacity of any stormwater and waste management infrastructure. Limited settlement may occur outside the urban area where such settlement does not cause adverse impacts on the City's waterways and their margins.

Policy 1.20

Where possible, an esplanade reserve or esplanade strip of 20m in width should be taken on all subdivision which adjoins the coast, a stream 3m wide or greater, a wetland or lake, to protect and enhance the water quality or quantity of the water body. There will be no grazing of stock on these esplanade areas.

Policy 2.13

Subdivision design should:

- provide a level of protection of significant and outstanding native vegetation and fauna habitat, and restoration areas, that, where possible avoids clearance of, and damage to, this resource;
- minimise adverse effects arising from subsequent placement of structures, roads, and other infrastructure, on the overall resilience, biodiversity and integrity of the Green Network;
- minimise adverse effects during the course of establishing the subdivision, including those arising from surveying;
- provide for the recognition of the natural values of native vegetation and fauna habitat and linkages between these areas.
- provide for an esplanade reserve or esplanade strip of 20m in width where subdivision of sites adjacent to the coast, river or lake occurs and it is considered that the protection of native vegetation and fauna habitat would benefit from public ownership or a legal protection covenant.

Policy 5.4

Activities (including subdivisions) should be designed, be of a nature and scale, and be located and managed in a way that avoids or minimises adverse effects on the overall resilience, biodiversity and ecological integrity of the Green Network and its constituent parts, and enhances linkages between natural resources in all parts of the City. Particular regard should be had for the design of subdivision and the placement of structures in maintaining the linkages between native vegetation, fauna habitats, natural features, landforms and waterways.

Policy 10.4

Wherever possible, buildings should be located on residential sites in a way that provides for an adequate area of outdoor space for recreation and leisure, including providing:

- sufficient outdoor space for the anticipated number of occupants of the dwelling; outdoor space which is of a usable shape for recreation;
- sunlight access to the outdoor space area. Where such outdoor space cannot be provided on-site, the offsetting of consequent adverse effects on public open space that arise from increased usage may be required. Such an offsetting of effects would be in addition to any other requirement to contribute to the provision of public open space made under Policy 10.7.

Policy 10.7

New public and semi-public spaces should be designed in a way that ensures the safety of all users and, in particular, should provide for:

- overlooking (surveillance) of public and semi-public spaces from surrounding buildings during the day and where possible at night;
- direct and efficient movement routes through such spaces;
- adequate signage indicating connections with other routes, and the location of the space within the surrounding area for public reserves, walkways, and within Community Environments;
- adequate lighting;
- integration of pedestrian systems with vehicle routes;
- the minimisation of any physical barrier to the reasonable movement of people within any public space.

Policy 10.17

Sediment in all parts of the City should be at a density that is within the capacity of water supply, stormwater, wastewater and solid waste infrastructure to safely absorb the effects of that sediment, and to provide for the health of all residents, visitors and workers.

Policy 10.18

Subdivision should be designed and laid out in a way that ensures:

- sufficient access for any emergency vehicle;
- adequate provision of necessary infrastructure;
- safe movement of pedestrians, motor vehicles and cyclists through an area.

Policy 10.23

Where possible, an esplanade reserve or esplanade strip of 20m in width should be taken where land is subdivided and it is necessary and appropriate to maintain and/or enhance public access or public recreational opportunities.

Policy 10.27

The Council will consider requiring a financial contribution where a land use or subdivision:

- (a) may create adverse effects on any or all of the following:
- (i) roads;
 - (ii) car parking;
 - (iii) wastewater treatment or disposal systems;
 - (iv) stormwater treatment or disposal systems;
 - (v) public water supply systems;
 - (vi) reserves;
 - (vii) legitimate public access to and along water ways or public land;

and/or

- (b) results in increased demands on or for any of the items (i.) to (vii.) above;

and/or

- (c) uses excess capacity in any of items (i.) to (vi.) above.

Such a financial contribution should:

relate to the adverse effect(s) on items (i) to (vii) which are likely to be, or would have been, generated by the activity, and
be taken for the purpose of avoiding, remedying, mitigating or offsetting that adverse effect(s), and
be determined in an open and accountable manner in accordance with financial contribution rules 1, 2 and 3.

Policy 11.1

Settlement should be of a type and a density that protects amenity values, including neighbourhood character of different parts of the City, by:

- maintaining the low density of sites with high levels of private planting, large areas of open space around dwellings and detached housing characteristic in the Glen Eden, Green Bay and New Lynn local character areas and the Coastal and Rural Villages;
- allowing for development within the Kelston, Te Atatu South and Te Atatu Peninsula local character areas, provided that it maintains the existing low-density character high levels of planting, and openness of the area;
- providing for more intensive settlement in other parts of the Living Environment in a way that protects the wellbeing of residents and enhances the amenity of these areas;
- ensuring that settlement densities are consistent with the dispersed pattern of settlement within the Countryside Environment;
- providing for a pattern of settlement in the Foothills Environment that is in keeping with complex, varied and overall natural character of the area;
- maintaining the characteristic patterns of settlement within the Rural Villages Environment and Coastal Villages Environment.

Policy 11.2

Activities should be managed in a way that avoids the clearance of or damage to trees and vegetation, to the extent that the following characteristics are adversely affected:

- the visual dominance of trees on private property within the neighbourhoods of the Living Environment;
- the remnant native vegetation within the urban Human Environments
- the remaining native vegetation along riparian margins and coastal edges in the urban area and Foothills Environment;

...

Provided that nothing in this policy should prevent the removal of species identified in the Environmentally Damaging Plants List.

Policy 11.5

New public open space should be designed and located in a way that:

- minimises isolation and separation of such space from public roads;
- maximises access to local neighbourhoods (where that is compatible with the role such open space may have within the Green Network);
- where possible, creates or contributes to a neighbourhood focal point;
- ensures, where appropriate, integration with the objectives and policies relating to the Green Network;
- enhances practical public access linkages between areas of public open space, roads, and to and along waterways and the coast;
- enhances the amenity values of the surrounding Environment and neighbourhood character.

Policy 12.4

Activities on sites containing heritage items listed in the District Plan, should be managed and located, and be of a scale, form and appearance which does not detract from the appearance and integrity of the listed heritage item. Particular regard should be had for signs, structures and exterior lighting placed on or adjacent to a heritage item, the location of vehicle access points and parking areas, the design of paths, fencing and gates and the retention of vegetation. Subdivision should be managed to ensure that any land closely associated with the value or significance of a heritage item in the Plan, is maintained within the same site.

Discussion

In determining whether the residential use in a Working Environment, Objective 11 would be the prime measure for such an assessment. Objective 11 states;

“To achieve a quality of settlement and associated activities within each of the City’s Human Environments which is sympathetic to, and protects and enhances, the dominant natural and physical (including building) features which contribute to the amenity value and the neighbourhood character of an area including maintaining and enhancing: (first and third bullet points listed as relevant) -

- *the quality and character of different patterns of settlement within the City’s intensively settled residential areas;*
- *the utilitarian nature and character of the industrial areas;”*

While exclusive residential development in the Working Environment would be inconsistent with the outcome sought by this objective, for the reasons discussed elsewhere in the report it has been shown there are sufficiently unique characteristics of the site (existing mixture of use in area, site not a prime “industrial” site in relation to access to main transport routes) that would allow Council to consider such a residential development within this site. Also, a residential development in an existing urban location would to some extent lessen development pressure on the urban fringe and foothills. Residential development for the site is also suitable in context of the residential facilities within reasonable distances (Sports Field, Tirimoana and Arohanui Schools, Roberts Road shops and the Glendene Shopping Centre).

Although any subdivision (whether residential or non-residential) or mid - large scale industrial/commercial development would require an esplanade reserve to be set aside under the Resource Management Act (or via Local Government Act 1974 for development), the esplanade would provide a buffer between the development and the tidal river and improve the amenity of the residential development, and the residential dwellings may provide greater surveillance onto the reserve than an industrial use of the site might as the dwellings would look out onto the reserve and are more likely to be occupied during times the reserve may be used (mornings, evenings and weekends).

The esplanade would also provide a connection between existing esplanade/reserves/road reserve extending from the north-western motorway (with the proposed “Peoples Park” on the northern side of the motorway) to Glenmarine Esplanade to the south-east. There may be further potential for esplanades to continue this connection through to Archibald Park or Ken Maunder Park - giving continuous reserve/esplanade along the City’s north-eastern coastal edge.

While the eastern edge of the esplanade is weed infested (and is proposed to be replanted), the southern edge of the reserve is a mixture of pines, mature native vegetation and native undergrowth. The pine trees may not be appropriate given their height, age and proximity to any development on the site but the existing native vegetation does provide immediate amenity to the proposed sites, both as a general tree cover for the area and some screening from existing residential development on Meadow Crescent. Therefore, the removal of the pines, and the installation of any infrastructure within the reserve should be undertaken in a manner that would minimise damage to the native vegetation.

Council has also requested that Lots 21 and 22 be set aside as recreation reserve (which has been acknowledged by the applicant). The reasons for this request are:

- Development between public road and reserves should be avoided, with public reserves being provided with road frontage.
- An archaeological site is located at the south-eastern tip of the site, and setting aside the adjoining land as reserve would ensure protection of this site both during construction and future use of the area.
- While policy 10.27 has a slant towards cash contributions, Council is also bound by Section 285 of the Local Government Act, where case law (*McFetridge v Papakura City - 1978* and *Peninsula Investments Limited v Waitemata County - 1971*) has demonstrated that setting aside land for reserve should be the first preference, with the cash contribution in lieu of reserves being considered when it is not practical to provide land, or the area is already adequately served by existing reserves. In this instance, Lots 21 and 22 adjoin the proposed esplanade reserve, thus provide a total reserve area of 8681m². While McLeod Park is located on the opposite side of McLeod Road, this is used as a sports field and would not meet the informal recreation needs of the subdivision. Lots 21 and 22 would provide a relatively level area (suitable for picnics etc) with a vista along the Whau River.
- Securing these sites as reserve would also reduce the need for fill in the south-east corner of the site and negate the need to extend public services to this part of the development. This would slightly elevate the residential sites opposite the reserve above the road, improving surveillance without compromising privacy of these sites.

The design of the proposed residential units, while not bound by the controls of the Living Environment Rules, do by and large, comply with these Rules (including outdoor space), thus each of the residential sites are considered to provide the degree of amenity anticipated for residential living. As noted in part 8.1.6 of this report, additional design consideration has been given to those units that would adjoin the existing and proposed industrial activities to ensure that the residential amenity is not reduced, and to minimise "reverse sensitivity" issues between the residential properties and the non-residential activities. The circular road would provide alternative access to many of the sites as well as providing good frontage to the reserves.

The proposed light industrial/mixed use development along the western boundary provides a suitable transition from the existing industrial activities adjoining the western boundary to the proposed residential development. The proposed layout also ensures that there is no dwelling or outdoor space located directly below the high tension power lines.

In order to provide wastewater services much of the proposed development, it would be necessary to raise the level of the site (in the order of 1 metre), requiring a net importation of fill. While this is accepted as necessary in order to develop the site, the earthworks are to be undertaken in a manner that would not affect the existing mature native vegetation along the southern boundary.

Both the Auckland Regional Council and this Council have assessed the proposed earthworks and are satisfied, subject to conditions that the earthworks can be carried out in a manner that would not adversely affect the existing native vegetation along the southern coastal edge or impact on the coastal/tidal environment of the Whau River.

The eastern side of the coastal edge is to be replanted with native vegetation, replacing mainly weed species infesting this edge. It should be noted that the removal of the pine trees and weeds need to be undertaken with care to prevent damage to the remaining native vegetation and to prevent the river bank being exposed to erosion or slippage.

Having considered all the relevant objectives and policies of the District Plan, it is considered that the proposed residential subdivision is not consistent with the policy direction of the Plan, but the site has unique features in terms of its location within the City and along the Coastal Edge which would make consideration of such residential development appropriate. Having determined this, the level of amenity and protection and enhancement of the coastal environment provided by the residential development and reserves is considered to be in accordance with the objectives and policies of the District Plan.

8.3 Auckland Regional Policy Statement, Plan or Proposed Regional Plan (104(1)(b)(iii) and (iv))

The Auckland Regional Policy Statement sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the Region, under which the Waitakere City Proposed District Plan has been prepared.

As the applicant has obtained the necessary consents from the Auckland Regional Council to give effect to the proposal, it is considered that the proposal would be consistent with the Regional Council's Policy Statement and Proposed Regional Plan.

9.0 Part II of the Resource Management Act 1991

It is considered that the proposal would be inconsistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991.

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are to be maintained and enhanced.

The proposal is considered to be consistent with this as the esplanade reserve and residential development are complimentary to each other (the reserve provides amenity to the dwellings and the dwellings provide surveillance onto the reserve) and the quality of the environment would be enhanced, particularly with the weeds along the eastern coastal edge being replaced with native vegetation.

10.0 Evaluation In Accordance With Section 104d of the Resource Management Act 1991

The threshold test in Section 104D of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (104D(a)), or the activity will not be contrary to the objectives and policies of a plan and proposed plan (104D(b)).

It is considered that the threshold test for a non-complying activity has been met for the proposed subdivision. It is considered that the adverse effects on the environment are considered to be no more than minor and while it is considered that the activity is not consistent with the Objectives and Policies of the Operative District Plan it would not be contrary to these, given the site specific circumstances detailed in the report above. Jurisdiction to grant consent has been established.

CONCLUSION

While Council is concerned about the loss of Working Environment land for "Working" activities, the site is not located in a strategic position for industrial activity and residential development alongside the esplanade reserve is seen as a complimentary use of the site and is therefore an appropriate use of the site. The effects of the development can be contained on the site and design measures have been proposed to prevent any "reverse sensitivity" issues arising from the neighbouring industrial activities.

RECOMMENDATIONS

- A** As a consent authority established under the Resource management Act, Council is charged with managing natural and physical resources in a wise and efficient manner for the benefit of the environment and the community as a whole. Decisions need to be carefully considered to ensure that the environment can be sustained for future generations.

While residential use in the Working Environment (apart from the Lincoln Working Environment) is generally not seen as a wise use of the limited amount of Working Environment land, the site is not located in a strategic location for "Working" uses, there is already a mixture of industrial, recreational, community and residential in the immediate vicinity and the proposed residential development is at a scale and design that is complimentary to the esplanade reserve that would be created upon subdivision. Therefore, the proposed residential use is considered an appropriate use for this site.

For these reasons, it is recommended that the application by CDL LAND NZ LTD to create thirty four (34) Lots with residential development (including the existing dwelling) and one lot for a multi-unit, mixed use light industrial development at 187 & 191 McLeod Road, Henderson being Pt Lt 12 DP20167, Lot 1 DP76399 **be granted consent.**

Conditions imposed on the Land Use Consent RMA 22040296 are as follows:

General Conditions

1. The development shall proceed in accordance with the plans titled "McLeod Rd, Subdivision" prepared by Miller Architects Limited and dated Sept 2003 and the "Erosion and Sediment Control Plan" and the "Cut to Fill Plan" (Sheets E3 and E2) prepared by Cato Bolam Consultants **except where modified by the conditions below** and all of the information submitted with the application (including further information), all referenced by Council as RMA20040296.
2. Pursuant to section 125 of the Resource Management Act 1991, this consent shall lapse after a period of five years after the commencement of the consent. This is to recognise that the subdivision is to be undertaken in 3 stages.
3. Lots 21 and 22 are to become part of the esplanade reserve. This will negate the need for fill within these lots, and Council considers this will also make the proposed fill alongside the eastern portion of the esplanade reserve unnecessary.
4. All reticulated services, including power and telephone, shall be provided underground.

Monitoring Conditions

- (Mon 1) **Before commencement of any works and until completion of exposed earth site works**, adequate sediment and erosion control measures shall be constructed and maintained by the consent holder. The control measures must be maintained until the site has been adequately stabilised against erosion. The construction and maintenance shall be in accordance with Erosion and Sediment Control Measures Appendix to the Natural Area Rules of the Waitakere City Council Proposed District Plan.

Please **advise Council's Environmental Monitoring Officer when the controls are in place and await the approval of the monitoring officer** before commencing work. **The applicant should book an inspection at least 48 hours prior to the required inspection.**

- (Mon 2) No earthworks are allowed to take place within the drip line of protected vegetation and in particular Lots 23-28 and the adjoining proposed esplanade reserve. This includes any trenching, but excludes the work required to give effect to Condition (EW 3) i) of the subdivision consent below.
- (Mon3) Any fill within Lots 7 and 8 shall be battered to ensure the levels along the boundaries with the esplanade reserve and Lot 1 DP 83140 are kept at the original ground level. Note: Council considers fill within these lots to be unnecessary as it appears the fill is outside the building platforms and the need to fill along the eastern edge of the esplanade reserve is redundant as the levels Lots 21 and 22 do not need to be raised as they are to become reserve and do not need to be serviced.
- (Mon 4) Prior to the commencement of works the edge of earthworks including trenching along the eastern and southern boundaries is clearly defined to ensure compliance with condition (Mon 2).
- (Mon 5) Any weed management on the coastal edge must consider issues and effects of erosion and sediment deposition and ensure that any methodology provide proves that erosion and sediment deposition is kept to a minimum. This will require expert input as part of any future plan for weed removal.
- (Mon 6) A consent compliance monitoring fee of \$2,500 (inclusive of GST) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent.

The fee shall be paid as part of the resource consent and the resource consent holder shall be advised of any further monitoring fees if they are required.

Vegetation Conditions

- (Veg 1) All vegetation removal and replanting shall be undertaken in accordance with the "Parks Conditions" detailed in the subdivision consent below.

Driveway, Parking and Vehicle Crossing Conditions

- (Drv 1) Form and construct vehicle crossings for all sites and for which a vehicle crossing detail form needs to be completed and returned to Council. Note;

Section 3 (Transportation) of Councils Code of Practice requires the crossing to be as specified by SD 3.10 or SD 3.14 and the vehicle crossing profile specified by SD 3.15, or any standard specifically approved by Transport Assets.

- (Drv 2) All shared driveways are to be constructed in accordance with the “Shared Driveway & On-Site Parking Conditions” detailed in the subdivision consent below.

Advice Notes

1. The reversing area on Lot 14 may need to be extended back to the rear boundary.
2. Lots 22 and 29 can reverse direct to the street / JOAL respectively, although onsite turning / parking is never discouraged.

Acoustic Conditions

- (Aco 1) Any habitable room for the residential units associated with the multi-unit industrial site (Lot 37) shall have windows with a minimum 7mm thick “Hushglass” framed with aluminium joinery installed on north, west and south facing walls.
- (Aco 2) Any habitable room for the dwellings on Lots 26 and 32 shall have windows with a minimum 5mm thick float glass installed on north, west and south facing walls. Habitable rooms for the dwelling on Lot 28 shall have windows with a minimum 7mm thick float glass installed on north, west and south facing walls and a minimum 5mm thick float glass on the eastern walls. Habitable rooms for the dwelling on Lot 27 shall have windows with a minimum 6mm thick float glass installed on north, west and south facing walls.
- (Aco 3) In all cases {(Aco 1) and (Aco 2)} alternative ventilation will be necessary, and must be designed to ensure the cumulative noise level of the fan and “break-in” noise via the ventilation ducting does not exceed a level of 35 dBA L₁₀ in the habitable rooms between 10:00pm and 7:00am.
- (Aco 4) A report from a qualified acoustic engineer shall be provided with any building consent for the abovementioned lots to demonstrate that the dwelling has been designed in accordance with the above requirements.

EcoWater Conditions

- (Eco 1) All infrastructure (including financial contributions) relating to stormwater treatment and disposal, wastewater disposal, and water supply shall be to the satisfaction of Eco-Water. Compliance with the Waitakere City Council Code of Practice for City Infrastructure and Land Development is deemed to be in accordance with this condition. Refer to Subdivision Conditions (EW 1) – (EW 13) and (FC 3), (FC 5) and (FC 6) (inclusive) below for further details.

Advice Notes:

1. Where indicated in the conditions it is the consent holders responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 849 0400.
2. Any development levy or contribution for the industrial development within Lot 37 will be assessed at the time of the building consent(s).
3. In addition to the conditions above, any earthworks are to be carried out in accordance with the consent from the Auckland Regional Council, and with respect to Lot 37 earthworks and buildings are to comply with the requirements of Transpower.

- B** That Subdivision Consent Application Plan No SPW21994 (RMA20040318) being a Limited Discretionary Activity and being a 34 Residential Lot and 1 Industrial Lot Subdivision of Pt Lt 12 DP20167, Lot 1 DP76399 comprised in CT 49C/1155, 32D253 situated at 187 & 191 McLeod Road, Henderson by CDL LAND NZ LTD be granted subdivision consent pursuant to Sections 104, 104B, 108 and 220 of the Resource Management Act 1991 and be approved pursuant to Section 348 of the Local Government Act 1974, and that:-

STAGING REQUIREMENTS

- (a) Consent is hereby given to carry out the subdivision of this property in stages as follows:
- Stage 1: Comprising Lots 1 - 4 and Lots 32 - 37 together with Lot 101 (legal road) and Lot 105 (esplanade reserve) with Lots 21 and 22 incorporated into the reserve. There will be 3 balance areas.
- Stage 2: Comprising Lots 5 - 13, Lots 20, 30 and 31 (and Lot 103). There will be 2 balance areas
- Stage 3: Comprising Lots 14 - 19, Lots 23 - 29, Lots 102 and 104.
- (b) The conditions listed in the Section 223 & 224 Requirements below shall be applied as appropriate to each stage.

SECTION 223 REQUIREMENTS

A survey plan for each stage of the subdivision will be approved pursuant to Section 223 of the Act within three years provided that the survey plan signing fee has been paid and that the following conditions have been complied with to the satisfaction of Council.

- (a) As required by condition (EW 5) below, provide Lot 104 to vest in Council as drainage reserve, and provide for a right of way easement in gross over Lot 102 in favour of Council in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon." Note:
- i. The easement document will be prepared by Council's Solicitor at the applicant's cost.
- (b) As required by condition (EW 4) below, define the 1 in 100 year overland flow path and provide a drainage easement(s) in gross in favour of Council in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon." Notes:
- i. The easement document will be prepared by Council's Solicitor at the applicant's cost.
- ii. Prior to submitting the survey plan for Section 223 certification, obtain EcoWater's approval to the drainage easement.

- (c) If required by condition (EW 7) below, provide for water supply easement(s) in gross in favour of Council over Lot 102 in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon."
Notes:
- i. The easement document will be prepared by Council's Solicitor at the applicant's cost.
 - ii. Prior to submitting the survey plan for Section 223 certification, obtain EcoWater's approval to the drainage easement.
- (d) Provide for right-of-way easements over parts of Lots 12, 13, and 30 - 33 in the Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon."
- (e) Label Lot 104 as Local Purpose (Drainage) Reserve and the area comprising Lots 105, 21 and 22 as Local Purpose (Esplanade) Reserve to vest.
- (f) Pursuant to Section 220(1)(b)(iv) of the Act, provide for the following condition of amalgamation to be shown in the Section 223 approval on the survey plan:
- "Subject to the amalgamation conditions set out hereon"
- and provide for the following to be endorsed on the Plan:
- "That Lot 102 hereon (legal access) be held as to seven undivided one-seventh shares by the owners of Lots 23 - 29 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith.*
- "That Lot 103 hereon (legal access) be held as to three undivided one-third shares by the owners of Lots 10, 11 and 20 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith.*
- See CSN:A634859"
- (g) Take note that the street intersection geometry, street furniture and safety features will be finalised through the engineering plan approval process, and this may result in minor amendments to Lot boundaries at these locations to accommodate necessary design details.

Take note that street numbers for the lots on the survey plan will be allocated by Council subsequent to Section 223 approval, and these numbers must be used for future applications for building consent. A copy of the survey plan with the Council allocated numbers will be provided.

SECTION 224C REQUIREMENTS

Prior to the release by the Council of the Section 224(c) compliance certificate for this subdivision the applicant shall comply with the following conditions to the satisfaction of Council:

Note: The application requesting the 224 release shall be in writing, shall include the advertised processing fee, shall address how each of the following conditions have been satisfied, and shall be accompanied with Compliance Certificates from each of Council section(s) named below.

ECOWATER CONDITIONS (PUBLIC DRAINAGE)

Please contact the Secretary, 836 8000 ext 8248 EcoWater, Development Services to arrange a pre-start meeting with EcoWaters Quality Assurance Inspector. Plans are required to be submitted and Engineering Approval obtained before work commences.

(EW 1) Before the commencement of any work, obtain the approval of Council to engineering plans and specifications prepared in accordance with Council's "Code of Practice for City Infrastructure and Land Development" detailing the nature and extent of any proposed work.

(EW 2) Design, provide and install a complete public wastewater reticulation system to serve all Lots in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer Section 5.0). Specific requirements:

- Locate and relay the existing private drainage serving the existing dwelling to a position clear of any other building platform. Remove the septic tank and disposal lines, and remediate the wastewater disposal field area to Council's satisfaction.
- Obtain a Minor Drainage Works Permit for any proposed private drainage works to serve the existing dwelling if not covered by a building consent.
- The written consent of the owner(s) of Lot 2 DP 61696 (183 McLeod Road) has been obtained for connection to the public wastewater system. Obtain the written consent of Waitakere City Council Parks (contact Huw Hill-Male, extn 8513) for the works detailed in (vi) below. Obtain written evidence of their satisfaction with the restoration.
- Separate systems are to be provided from each Lot to the new public system.
- Provide for reticulation of the upstream catchment with connections to 201 McLeod Rd (Lot 1 DP 75707) and 203 McLeod Road (Lot 1 DP 83140) to enable future connection and removal of septic tanks on those Lots.
- Extend the proposed public wastewater drain across McLeod Road to connect and divert the existing gravity system in McLeod Reserve, through to the proposed new pump station. Decommission the existing pump station in McLeod Reserve and reinstate to the satisfaction of Waitakere City Council Parks. Liaise with EcoWater engineers regarding the new wastewater pump station design, and relocation of parts of the old pump station into the new one. Council contribution for these required works will be negotiated once the pump station design is finalised and approved by EcoWater. Provide 3 quotations for the works across McLeod Road and in the reserve to EcoWater for review and acceptance prior to commencing works.
- Advice Note: EcoWater policy requires any wastewater manholes or line connections to be constructed by EcoWater Solutions maintenance contractor. Wastewater manhole connections may be constructed by the applicant's contractor with engineering plan approval and under EcoWater's Quality Assurance supervision or by EcoWater Solutions maintenance contractor.

(EW 3) Design, provide and install a complete public stormwater drainage system to serve all Lots in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 4.0). Specific requirements:

- The coastal stormwater outfall is to be located above Mean High Water Springs.
- Separate systems are to be provided from each Lot to the point of connection to the public drain.

- Locate and relay the private drainage serving the existing dwelling to the new connection. Collect all existing discharge points. The system shall include connection to down pipes or drainage from any existing buildings/paved areas.
 - Obtain a Minor Drainage Works Permit for any proposed private drainage works to serve the existing dwelling & paved areas on Lot 34 if not covered by a building consent.
 - Note: all subsoil drainage will remain privately owned and will be the shared responsibility of all owners of Lots 9-21 to manage and maintain in proper working
 - order. Provide an as-built plan showing location and depths of all subsoil drainage, and flushing points, and a maintenance manual, for inclusion in Council's Hazards and Special Features Register.
 - Advice Note: EcoWater policy requires any public stormwater line connections to be constructed by EcoWater Solutions maintenance contractor. Stormwater manholes or manhole connections may be constructed by the applicant's contractor with engineering plan approval and under EcoWaters Quality Assurance supervision or by EcoWater Solutions maintenance contractor.
- (EW 4) Provide a catchment analysis, define and form the 1 in 100 year overland flow path within the road reserve or access ways and discharging to the drainage or esplanade reserve with a minimum of nuisance. Take note that if an overland flow path passes through a residential Lot then a drainage easement in gross in favour of Council will be required to be issued and registered on the new titles to be issued for affected Lots precluding placement of fill or the erection of solid walls or fences or other impediments within that flow path, and providing for a minimum freeboard of one-half metre above the 1 in 100 year overland flow path for the floor levels of residential/commercial buildings. Provide an As Built plan of the overland flow path showing a long section and cross section for inclusion in Council's Hazards and Special Features Register.
- (EW 5) Provide stormwater quality treatment to the site in accordance with the Auckland Regional Council's TP10 '*Stormwater Management Devices Design Guideline Manual*'. The proposed Ingal Storm Filter is acceptable to EcoWater subject to engineering approval. Provide Lot 104 to vest in Council as drainage reserve, with right of way access provided to Council over Lot 102 for maintenance purposes.
- (EW 6) Advice Note: It is the applicant's responsibility to, if applicable, obtain from the Auckland Regional Council a discharge permit, and all other consents, on terms acceptable to the Council, pay all costs attributable to such application and comply with any conditions imposed by the Council. Provide copies of subdivision consent conditions and hydraulic or geotechnical reports to the Regional Council.
- (EW 7) Design, provide and install a complete public water supply reticulation system and fire fighting services to serve all Lots in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 6). Specific requirements:
- Pay to the Council the cost of supervising the shut down of Council's water supply mains. This service includes Council providing written advice to all affected property owners/tenants.
 - Provide a detail showing the proposed connection to the existing Council watermain/s. The detail is to include all flanges, joints and applicable details. In addition any water reticulation plan is to show all necessary design details to inform construction (eg. thrust blocks etc).

- Provide and install a fire hydrant within 135 metres of the farthest point of fire risk. Note: The hydrant is to be on a direct traffic route to the property. The distance specified above may not be measured as a radius.
 - Where the required public system is on private property, easements over the course of such system in favour of Council will be necessary.
 - Liaise with the Water Assets Engineer regarding the location of the existing water meter and arrange for its relocation or substitution and pay all fees applicable. Note: Council require that an existing water meter serving an existing house remain the meter serving that house.
 - Locate all water connections at the same position as the power and telephone connection to each Lot not in the centre of the Lot.
 - All Lots are to be individually metered at the road reserve boundary.
 - Ducting of private service lines in right of way is recommended.
- (EW 8) Where any drainage is to be laid through bush areas or near specimen trees (works within the drip line of vegetation protected by rules of the District Plan) the applicant shall seek a resource consent from Council for this work. Prior to seeking engineering approval for public drainage, or a minor plumbing and drainage consent for private drainage works, provide confirmation that a resource consent has been granted or that one is not required. For information please contact the Council Duty Planner on 839 0400 or talk to the Duty Planner at the customer services desk, Civic Offices, Waipareira Ave, Henderson. Advice Note: Drainage may be required to be thrust through bush areas.
- (EW 9) Provide in the design of services for the reticulation of the upstream catchment and install such reticulation to the boundary of the upstream properties.
- (EW10) Where drainage work is required to be carried out on land outside the subdivision, obtain the written consent of the owner(s) of that land prior to the approval of the drainage plans. After construction and prior to Section 224 release, obtain the written acknowledgement of the owner(s) that the property has been satisfactorily reinstated.
- (EW 11) Provide an As-Built drainage plan prepared by a registered surveyor and cctv video inspection of the new public drainage, in accordance with Waitakere City Council COP.
- (EW 12) Provide a private drainage As-Built plan for the property, prepared by a registered drain layer, showing the separate private drains from the existing dwelling to the point of connection to the new public drains.
- (EW 13) Advice Note: Public drainage – prior to applying for a drainage test, as-builts and cctv video must be lodged with EcoWater. Prior to applying for the 224c certificate, ensure that the drainage test / field check has been applied for.

GEOTECHNICAL CONDITIONS

- (GT 1) Earthworks shall be undertaken in accordance with NZS4404 and NZS4431: 1989. The earthworks shall be inspected by an experienced geotechnical engineer familiar with the report of Ormiston Associates Limited, Reference 1468/1944 October 2003 and the Council provided with an earthworks completion report, which shall include the as-built details of the groundwater drainage, cut areas and fill areas and depths and make recommendations on any restrictions on foundations which should be applied in design.
- (GT 1) A groundwater drainage system generally as detailed in the report of Ormiston Associates Limited, Reference 1468/1944 October 2003 shall be built draining lots 9 - 20, and discharging through a protected outlet.

- (GT 2) Stormwater must not be directed to discharge over the steeper slopes at the site's south and east margins.
- A Consent Notice pursuant to Section 221 of the Act will be required to be issued and registered on the new title for the Lots, as detailed, advising that;
 - Foundations to buildings on lot 37 shall be subject to specific investigation and design.
 - Foundations to buildings on lots 8, 23, 24, 25, and 26 shall be subject to specific investigation and design by an experienced geotechnical engineer familiar with the report of Ormiston Associates Limited, Reference 1468/1944 October 2003.
 - Foundations and services to lots 9 - 20 must avoid disrupting the groundwater drainage system.
 - Vertical cuts shall be retained on all lots.
- (GT 3) Further conditions may be added by consent notice on receipt of the completion report.

TRANSPORT ASSETS CONDITIONS

Please contact the Transportation Engineer on 836-8000 (extension 8740) to book an inspection.

- (TA 1) Take note that Lot 101 shall vest in the Waitakere City Council as Road pursuant to Section 238 of the Act..
- (TA 2) Take note that the street intersection geometry, street furniture and safety features will be finalised through the engineering plan approval process, and this may result in minor amendments to Lot boundaries at these locations to accommodate necessary design details.
- (TA 3) Design, form and completely construct the proposed new roads (Lot 101) in accordance to the Code of Practice for City Infrastructure and Land Development to the satisfaction of the Council. Notes:
1. Street tree planting shall be carried out (subject to prior approval of a plan showing the location and the species to be used) to the satisfaction of the Service Manager: Parks Green Assets.
 2. Provide indented on street parking at a minimum ratio of one parking space per three dwellings.
 3. Footpaths shall be provided full length on both sides of the road.
 4. Access to properties that have parking bays in front of them, will not be permitted to locate a driveway that intersects or interferes with the operation of the parking bay. A consent notice pursuant to section 221 of the Act is required to be issued and registered on the new title for lots affected, restricting access to the lots to locations clear of the parking bays.
- (TA 4) Ensure, where practicable, that not less than a 150mm deep layer of topsoil free of deleterious material is replaced on all allotments, including the road berms to the satisfaction of the Council.

(TA 5) Obtain the reticulation of telephone services and electric power to Lot 101 by underground methods and design and provide each street light and standard necessary at the discretion of Council to serve the subdivision; and provide to the Council satisfactory confirmation that the completed installation has been installed in compliance with the requirements of the Telecom and the Electrical Network Operator (including the requirements of the Operator of the network to which the subdivision network is to be connected). Note: The positioning of the streetlights shall take into consideration the location of street tree planting.

(TA 6) Prior to the issue of the section 224(c) Certificate, the consent holder shall provide ducting for the provision of fibre optic cabling. The ducting shall be established to the satisfaction of the Group Manager - Asset Management Group and shall:

- Be of uPVC SN 6 solid wall pipe that shall be approved by Council;
- Have a minimum internal diameter of 100mm;
- Be laid a minimum of 600mm below ground level and shall not obstruct the function of other infrastructure already underground;
- Be of a colour approved by Council;
- Be laid underground along the full length of each side of each new road, in an appropriate position that does not compromise or obstruct other infrastructure in the road, unless the consent holder provides a detailed plan demonstrating that all new residential and commercial lots are able to be serviced by this infrastructure;

A junction box shall be provided at intersections of multiple ducts, directional changes, and at intervals of 200m on straight runs.

In accordance with the above, plans showing the design and location of the ducting shall be provided for approval as part of the engineering plans for the subdivision and As-Built plans showing the location, design and construction of the ducting in accordance with the approved engineering plans shall also be provided for Council's asset records. All costs of providing the ducting shall be funded entirely by the consent holder and access to the ducting shall be available at all times to any network utility operator responsible for fibre-optic cabling, free of charge.

The ducting will be accepted as a Council asset once the Council has confirmed that it has been installed and established in accordance with the approved engineering plans.

(TA 7) Provide to Council prior to the release of the 224 Certificate, all RAMM Data and as built of the new roads formed (electronic and compatible with Waitakere City Council GIS system). This will be inclusive of kerb lines, cesspits, street lighting, footpaths, parking bays, intersection control devices, traffic calming devices, signs, street furniture, landscaping, vehicle crossings, pedestrian access ways and property boundaries.

Advice Note:

Prior to the engineering plan approval; increase the carriageway width to 8m by moving the kerb and channel line back to the footpath in front of Lots 33-35. This provides additional parking areas at the McLeod Road end of the subdivision as well as a splitter island at the intersection at the subdivision entrance. Consider either a Give Way control possibly using a physical island or alternatively, an area of traffic calming-type raised pavement at the loop road intersection (see condition (TA 2)).

SHARED DRIVEWAY & ON-SITE PARKING CONDITIONS

Please contact the Field Advisor on 836-8000 (extension 8725) to book an inspection (At least 48 hours prior to the inspection being required).

- (SD 1) Form the shared driveway over Lots 102 and 103 and parts of Lots 12 & 13, 30 & 31, 32 & 33 and construct thereon a carriageway and storm water control in accordance to the Code of Practice for City Infrastructure and Land Development and to the satisfaction of the Council. Notes:
- a. The construction shall include the vehicle crossings using standard detail SD3.10 Residential Vehicle Crossing (Kerbed Roads).
 - b. Inspection of the boxing prior to concrete pouring (or the sub-grade prior to pavement construction) is required. Contact 836-8000 ext. 8725, at least 48 hours prior to the inspection being required.
 - c. Ensure that the long section of the driveway and the vehicle crossing complies with Council's "Code of Practice for City Infrastructure and Land Development" standard detail SD 3.15 Maximum Vehicle Crossing Profile.
 - d. All bends shall have a minimum inside turning radius of not less than 6.5m.
 - e. The minimum width of the carriageway on shared driveways is specified in Councils District Plan and the construction details are given in Councils "Code of Practice for City Infrastructure & Land Development."

Notes: Provide a carriageway width for:

- i. 1-2 lots, 2.5m wide with 0.7m services strip
- ii. 3-5 lots, 2.7m with passing bays and 1.3m services strip
- iii. 6-10 lots, 3.5m with passing bays and 1.5m services strip

All to the satisfaction of Council.

- (SD 2) Provide a passing bay at the road entrance of Lot 102, the width and length of which shall be determined by design using tracking curves, and 5m wide passing bays along the course of the shared driveway at an interval not exceeding 50 metres, all to the satisfaction of the Council.
- (SD 3) Form and construct vehicle crossings for Lots 2, 7, and 36 using standard detail SD3.10 Residential Vehicle Crossing (Kerbed Roads) and for which a vehicle crossing detail forms shall be completed and returned to Council. Note;
- f Section 3 (Transportation) of Councils Code of Practice requires the crossing to be as specified by SD 3.10 or SD 3.14 and the vehicle crossing profile specified by SD 3.15, or any standard specifically approved by Transport Assets.
- (SD 4) Ensure hard stand area for solid waste bins complies with Council's "Code of Practice for City Infrastructure & Land Development" standard detail SD 3.7 Urban Private Way Details.

PARKS CONDITIONS

Please contact the Parks Assets Planning Co-ordinator on 836-8000 (extension 8768) to book an inspection.

(PK 1) Submit a Weed Control and Revegetation Programme for the esplanade reserve including lots 21, 22 and 105 within 2 months of the issue of this consent for the Revegetation Areas A and B as marked on the Amended Site Plan. This Weed Control and Revegetation Programme shall be implemented to the satisfaction of the Parks Consent Planner and shall be ongoing for a minimum period of 2 years following certified removal and establishment by Parks. The programme needs to include:

- a. an inventory of the weed species to be removed;
- b. removal techniques to be utilised; weed disposal methods;
- c. time frames for work and whether the weed removal needs to be staged (particularly relevant for sensitive areas such as coastal edges);
- d. a Re-vegetation programme required to prevent re infestation of weeds;
- e. an assessment of any ecological issues around the removal of vegetation;
- f. methods for addressing stability and erosion and sediment control methods;
- g. provide further detail on major weed zones and provide detail on how weed removal and control will be staged to coincide with revegetation;
- h. The eradication of environmentally damaging plants and the cutting back of grass and broadleaf weeds shall occur during spring and summer and revegetation shall occur during Autumn and Winter;
- i. The revegetation of the esplanade reserve shall be carried out using the recommended species as listed in the Ecological Assessment dated 13 February 2004. The planting spacing shall be no less than 1/1m².

NB. This will ensure that large areas of the coastal edge are not cleared and left open, which will compromise bank stability and habitat values. The weed removal along the stream banks should be staged, with replacement plantings of weed free areas with native species occurring soon after clearance.

(PK 2) Take note that Lots 105, 21 and 22 shall vest in the Waitakere City Council as Local Purpose (Esplanade) Reserve pursuant to Section 239 of the Act and the owner shall supply Council with a Certificate of Title for the reserve. A solicitors undertaking to order and forward the certificate of title to Council will be required.

(PK 3) Ensure that the reserve is left in a condition suitable for maintenance and mowing in accordance with Section 7.2 of the Waitakere City Council Code of Practice and to the satisfaction of the Parks Consent Planner.

(PK 4) Submit to the Parks Arborist a Street Tree Planting Plan and a Road Cross Section at the Engineering Plan approval stage. The Street tree planting shall be carried out in accordance with the Section 7.3.10 and the street tree and park planting zones as detailed in Figure 7.1 and Table 7.1 of the Waitakere City Council Code of Practice. Street tree species shall be *Alectron excelsus* and *Sophora microphylla var fulvida*. The Road cross section shall include details of the berm width, location of underground services and footpaths in relation to street trees.

- (PK 5) All street trees are to be planted in accordance with the Waitakere City Council parks guidelines and to the satisfaction of the Parks Consent Planner. An option exists for the applicant to pay Council the cost of supplying, planting and staking of street trees as per the plan, to carry out the planting of street trees following the completion of building works. The cost for this would be \$153 plus GST per tree (the current contract price for the supply, planting, and staking of a PB 95 tree as at April 2003).
- (PK 6) The developer is to be responsible for the maintenance of all street and reserve landscaping for a period of two years (from the date of its certified establishment by Council) including the replacement of any dead or dying vegetation, to the satisfaction of the Parks Consent Planner. A maintenance bond, based on current rates at the time of signoff for revegetation maintenance will be required. The consent applicant is to advise the Parks Consent Planner of a maintenance schedule and the name of the qualified person/company responsible for the planting maintenance. Alternatively, a maintenance cash contribution may be paid calculated at the current rate, and the maintenance will be undertaken by the Council.
- (PK 7) Lots 105, 21 and 22 shall be developed to neighbourhood reserve standard with all works complying with the Waitakere City Council Code of Practice for City Infrastructure and Land Development. A landscape plan shall be provided at Engineering Plan stage showing the location of the following:
- j. Barrier fencing or bollards along the road frontage;
 - k. Two macrocarpa seats and a picnic table ;
 - l. A Parks Sign as per Parks Standard, name of the parks to be McLeod Esplanade;
 - m. Amenity tree and shrub planting consistent with the Parks Tree Planting Strategy.
- (PK 8) The developer must advise the Parks Consent Planner when work will commence.
- (PK 9) Provide Council with As Built drawings of project showing all services, levels, inverts, features and facilities as per the following requirements:
- n. A scaled tracing of the construction plan is to be updated showing all finished asset locations and types.
 - o. All underground services are to be shown on the plan with sizes, types, depth to invert and invert levels based on site datum on plan and new assets scheduled on an Asset Sheet (Client to provide format of Asset Sheet).
 - p. A new scaled As Built survey plan of all irrigation systems and sand slit drainage systems showing all connections, chambers, fixtures, items and assets scheduled on an Asset Sheet.
 - q. Any planted areas to be shown to scale on the copy of the construction plan with areas sq. metres of planting, numbers of plants and type and assets schedule on Asset Sheet.
 - r. All products, fixtures, items and fittings with type, colour, model, manufacturer name and contact telephone number are to be scheduled on an Asset Sheet.
 - s. All paint colours used or graffiti coatings with name of products for graffiti removal are to be schedule on an Asset Sheet.
 - t. Two copies of any special operating manuals for any new systems are to be provided.
 - u. Completion and supply of asset data sheets for all new or modified asset components (to be provided by the client).
 - v. Any special maintenance requirements to be scheduled and supplied.

- (PK10) The inclusion of Lots 21 and 22 within the esplanade reserve and the costs of the works detailed in (PK 7) above shall be considered to satisfy in full the reserve contribution requirements for the subdivision and residential development.
- (PK11) Enter into a registerable fencing agreement with Council in regard to Lots 26 and 27 to the effect that the Council will not be liable to contribute toward the cost of creating or maintaining any dividing fence between any reserve or other land vested in or administered by the Council. Furthermore, that any fences facing the reserve shall be of visually permeable construction, in order to ensure good surveillance of the adjacent reserve, and to reduce the chance of graffiti. The property titles for lots 7, 8, 23 - 28 shall include a covenant that prohibits the installation of closed, solid fences on the boundary with the adjacent reserve.

ENVIRONMENTAL MONITORING CONDITIONS

- (EM 1) A Consent Notice pursuant to Section 221 of the Act will be required to be issued and registered on the new title for Lot 37, advising that;

The site adjoins residential development to the east and south, non-residential activities within the site shall be restricted to the following;

- a. Offices
- b. Warehousing
- c. Light manufacturing (e.g. upholstery)
- d. Storage
- e. Other activities may be considered, subject to the owner/applicant demonstrating that;
 - i. The proposed activity would meet the permitted requirements of Rule 14, Living Environment (Air Discharges, Odour, Dust, Glare and Vibration),
 - ii. The proposed activity will not exceed the following noise requirements along the eastern and southern boundaries;
 1. 55 dBA L₁₀ during the hours of 7.00 am to 10.00 pm
 2. 45 dBA L₁₀ during the hours of 10.00 pm and 7.00 am:
- f. Any additions or alterations to the buildings shall be restricted to comply with the following;
 - i. Buildings shall not project beyond the height in relation to boundary recession plans of 35° (southern) and 45° (all other boundaries) as measured from any relevant point 2.5m vertically above ground level on any site boundary adjoining sites containing residential development;
 - ii. Buildings shall have no vehicle access doors or loading doors, fans, air conditioning equipment or air discharge devices facing residential development;
 - iii. A 1.8m close boarded fence and 1.0m landscaping strip shall be provided along boundaries which adjoin residential development;
 - iv. Any outdoor storage area, parking, access or manoeuvring area shall be screened from adjoining residential development;
 - v. Buildings shall not exceed a maximum height limit of 8.0m.

LEGAL DOCUMENTATION

These conditions will be signed off by Consent Services.

(LD 1) The following documents are required

- | | |
|-----------------------------------|--|
| a. Drainage Easement in Gross | refer Conditions 2:(b) and (EW 4) |
| b. Water Supply Easement in Gross | refer Conditions 2:(c) and (EW 7) |
| c. Right of Way Easement in Gross | refer Conditions 2:(a) and (EW 5) |
| d. Consent Notice | refer Conditions (GT 2) and (GT 3),
(TA 3) 4.
and (EM 1) |
| e. Fencing Agreement | refer Condition (PK 11) |

These documents will be prepared by the City Solicitor at the applicants cost when the following information has been received:

- i. All necessary technical information;
- ii. The Land Transfer plan number allocated by Land Information New Zealand; and
- iii. The name and address of the solicitor acting for the owner.

(LD 2) Where any condition imposed upon this consent to subdivision is to be complied with on an ongoing basis by the subdividing owner and subsequent owners after the deposit of a survey plan (not being a condition in respect of which a Bond is required to be entered into by the subdividing owner of a completion certificate is capable of being or has been issued) the subdividing owner shall pay the Council's Solicitors legal costs and disbursements relating to the preparation and registration of a Consent Notice pursuant to Section 221 of the Resource Management Act 1991, and shall do all acts and things necessary to enable registration of such Notice to be completed.

FEES, BONDS & CONTRIBUTIONS

Invoices will be prepared by Consent Services. If paying by personal/company cheque the standard 5 days clearance will apply. If you require the 224C certificate immediately, you must provide a bank cheque.

- (FC 1) Pay to Council any engineering, works supervision, monitoring, 224(c) processing and administrative fees as incurred which will be charged at Councils advertised schedule of fees.
- (FC 2) Pay to Council a street damage bond of \$5000 prior to the commencement of work. This bond shall be refunded in full after inspection by Councils Construction Supervisor confirms that the conditions of the Street Damage Deposit Application have been met. The inspection is to take place once all work is complete.
- (FC 3) Pay a 2½% maintenance deposit (minimum \$500) on the value of works being taken over by Council which is refundable upon final acceptance of the works at the end of the maintenance period.
- (FC 4) In accordance with section 108(2)(b) a bond shall be required prior to the release by Parks of the Section 224(c) compliance certificate for any uncompleted works or maintenance required to ensure the performance of conditions (PK 1), and (PK 5) - (PK 9). The liability of the holder of the resource consent shall not be limited to the amount of the bond. The amount of the bond may be varied or cancelled or renewed at any time by agreement between the holder and the consent authority.

- (FC 5) Pay to the Council pursuant to Section 407 of the Act the sum of \$3,439.92 (incl. GST at 12.5%) towards the cost of upgrading the sanitary sewer reticulation (main system improvements) necessary to serve the subdivision. (\$104.24 per additional Lot).
- (FC 6) Pay to the Council pursuant to Section 407 of the Act the sum of \$52,899.33 (incl. GST at 12.5%) towards the cost of upgrading the stormwater drainage system (Whau River Catchment main system improvements) necessary to serve the subdivision. (\$1,603.01 per additional Lot).

GENERAL

These conditions are to be signed off by Consent Services, fees will be charged on an hourly basis.

- (GL 1) Satisfy all requirements of the Inland Revenue Department in respect of Goods and Services Tax including any requirements that may be made in respect of proposed public services and land to vest in and be transferred to the Council.
- (GL 2) Advise Council the name of the Consultant and/or person/s who will be the developers representative fulfilling engineering responsibilities as detailed in section 1.4.1 of Councils Code of Practice for City Infrastructure and Land Development.

Report prepared by: Chris Gorman, Resource Planner: Subdivisions.

