

NOTICE OF MEETING

HEARINGS COMMITTEE

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

DATE: Thursday, 9 August 2007 **TIME:** 9:30 am
RESERVE DATE: Friday, 10 August 2007 **TIME:** 9:30 am

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

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



31 July 2007

Sharon Simiona
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

Councillors DQ Battersby, JP (Chairman)
 WW Flaunty, QSM, JP (Deputy Chairman)
 PA Hulse
 JP Lawley
 VS Neeson, JP
 CA Stone
Alternate Council Representative
 LA Cooper

Ward Representative
 Mrs EG Francke (New Lynn Community Board)

Alternate Ward Representative
 Ms SL Taylor (New Lynn Community Board)

(Quorum 4 members)

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

**AGENDA FOR A MEETING OF THE HEARINGS COMMITTEE TO BE HELD AT
WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON THURSDAY, 9 AUGUST 2007 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 Chairman has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

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

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



3 CONFLICTS OF INTEREST

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



4 CONFIRMATION OF MINUTES

Meeting Minutes Thursday, 19 July 2007
 Thursday, 26 July 2007

RECOMMENDATION

That the minutes of the Meeting of the Hearings Committee held on Thursday, 19 July 2007 and Thursday, 26 July 2007, as circulated, be taken as read and now be confirmed.

5 **NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY 231 HUIA ROAD DEVELOPMENTS LTD (DEAN COUTTS) TO UNDERTAKE A 9-LOT SUBDIVISION REQUIRING VEGETATION ALTERATION AND EARTHWORKS AT 231 HUIA ROAD, TITIRANGI**

WARD: NEW LYNN

RMA: LUC-2006-1651 AND SUB-2006-1652

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.

APPLICATION DETAILS

Planner:	Jeannette Ibrahim		
Site Address:	231 Huia Road, Titirangi		
Applicant:	231 Huia Road Developments Limited (Dean Coutts)		
Date Received:	12 September 2006		
Resource Consent No:	LUC-2006-1651 & SUB-20061652 SPW 22947		
Ward:	New Lynn 4		
Legal Description:	Lot 4 DP 51988 CT NA7D/438		
Address for Service:			
Site Area:	5.6566 hectares		
Unit Site Area(s):	Lot 1	4024m ²	Lot 8 10763m ²
	Lot 2	4005m ²	Lot 9 4003m ²
	Lot 3	4065m ²	Lot 12 10002m ²
	Lot 5	4000m ²	Lot 13 10000m ²
	Lot 6	4002m ²	
	Accessways 1792m ²		
District Plan: Human Environment:	Waitakere Ranges		
Natural Area:	Managed/Riparian Margins/General		
Landscape Elements:	Sensitive Ridge (Moderate 65m); 10m and 20m riparian margins		
Hazards:	Stability sensitive; flooding		
Roading Hierarchy:	District Arterial		
Further Information Required:	Yes		
Date Requested:	18/9/2006; 17/10/2006; 5/12/2006; 5/1/2007; 20/2/2007; 23/2/2007		
Date Received:	28/8/2006; 6/12/2006; 20/2/2007; 13/2/2007; 1/5/2007;		

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to undertake a 9-bush-lot residential subdivision with sites ranging from 0.4 - 1.0 hectare in the Waitakere Ranges Environment (Titirangi-Laingholm Subdivision Area 2) requiring earthworks, vegetation alteration, a second vehicle crossing, bridging of a riparian margin and shared driveways within the Managed Natural Area and Riparian Margin (20m and 10m) Natural Area on land known to be or likely to be subject to natural hazards (stability sensitive soils) and with moderate (65m) sensitive ridges on the eastern and western boundaries of the site.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the District Plan.

The application raises a number of resource management issues that would be difficult to manage through conditions of consent. These include the clearance of high quality re-generating native bush that would have more than minor adverse effects and a density of development that has not been anticipated by the District Plan. The site is also identified as being within a stability sensitive part of the City and with a known record of flooding.

The relevant objectives and policies that apply to this application are those that seek to limit development outside the urban areas to varying degrees whilst ensuring that more sensitive environments are subjected to reduced impact. Council would support and encourage development that contributes to the strategic objectives but population growth is not required in the Titirangi/Laingholm Area, particularly with development that significantly impacts on landscape values and recovering ecosystems. This site is also close and vulnerable to stream flows and levels.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that **consent be declined** to the application for a 9-lot subdivision within the Titirangi/Laingholm Subdivision Area 2 on a site in the Waitakere Ranges Environment that is almost wholly classified as Managed Natural Area. A number of infringements particularly with regard to the natural area zonings will be incurred as a result of the proposal.

It is considered that the adverse environmental effects that would be generated by the activity would be more than minor and will not be adequately avoided, remedied or mitigated by conditions. In addition, the proposed activity is contrary to the relevant objectives and policies of the District Plan.

[It should be noted however that the reporting planner would support a proposal for a 4 - 6-lot subdivision with a site for the existing house of 4000m² and up to 5 additional lots at a maximum density of one site per hectare on this 5.6 hectare site.]

2.0 LOCATION PLAN

Fig 1: Human Environment Zonings

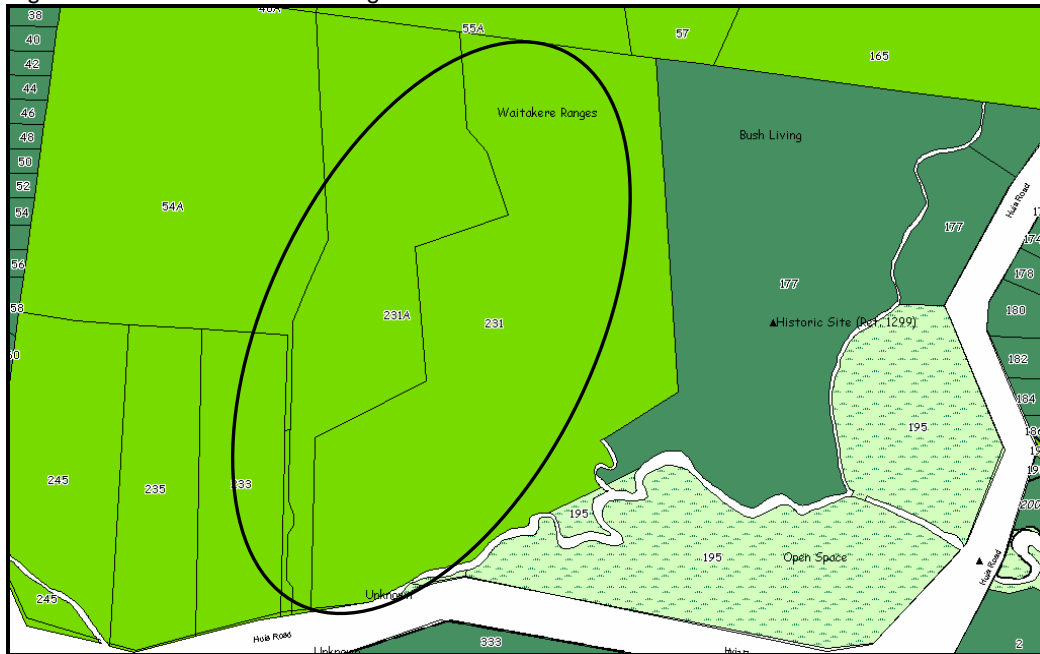
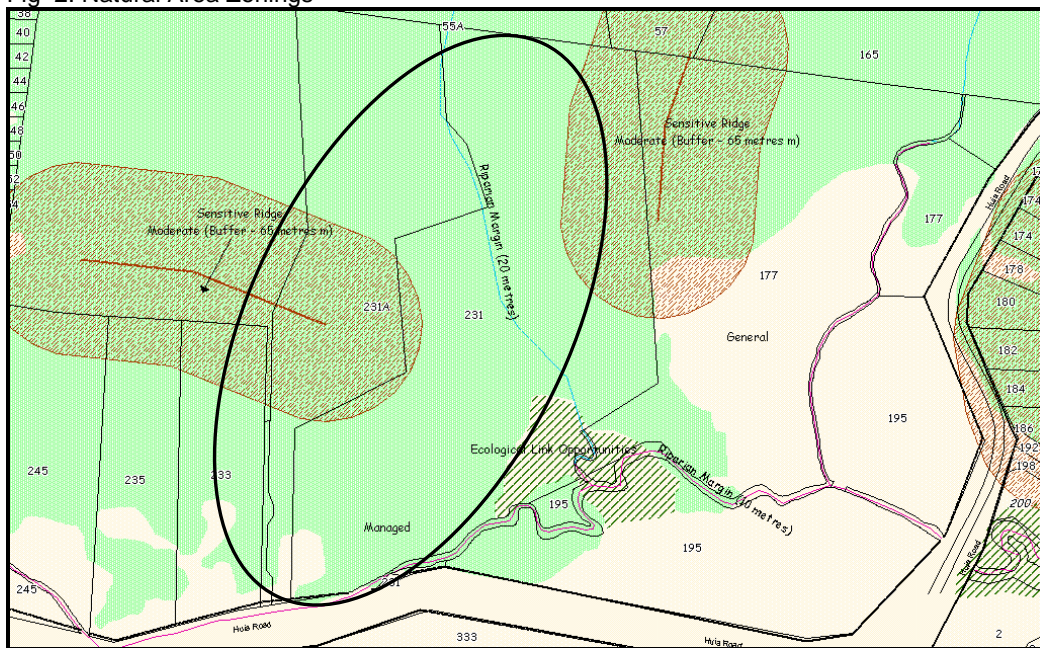


Fig 2: Natural Area Zonings




 subject site

Fig 3: Historical Aerial Views:
2000



1996



1959



1940



As can be seen from the above aerial views, the site has undergone little change over the period 1940 to the present.

Fig 4 Most recent aerial view from 2005 fly-over



Waitakere District Plan

Human Environment zoning: Waitakere Ranges

Natural Area zoning: Managed Natural Area/Riparian Margins Natural Area/Ecological Link Opportunities

Landscape Elements: Sensitive Ridge (Moderate/65m buffer); 10m & 20m riparian margins

Natural Hazards: Stability Sensitive, Flooding

Roading: District Arterial

3.0 PROPOSAL

The applicant seeks consent to subdivide a site in the Waitakere Ranges Environment that falls within the Titirangi/Laingholm Subdivision Area 2. The site also lies inside the Metropolitan Urban Limits and has a sewer line running north to south along the line of Armstrong Gully connecting into an east/west line that runs parallel with the road boundary of the site. It is proposed to undertake a 9-bush-lot residential subdivision with sites ranging from 0.4 - 1.0 hectare requiring earthworks, vegetation alteration, increase in impermeable surfaces, a second vehicle crossing, bridging of a stream, assessment of stability (natural hazards) and shared driveways within the Managed Natural Area and Riparian Margin (20m and 10m) Natural Area.

The proposed works comprise the following:

- Construction of a second vehicle crossing, requiring bridging of the Waituna Stream;
- Construction of a shared driveway and a crossing over Armstrong Gully to service the proposed lots;

- Earthworks within a Riparian Margin Natural Area and within a Managed Natural Area. This has been estimated assuming a driveway width of 3m and amounts to approximately 276m³ over a plan area of 1792m². Amounts will vary according to driveway width and passing bays and is a larger value than that provided by the applicant.
- Vegetation alteration within Managed and Riparian Margin Natural Areas. Proposed lots 8, 12 and 13 lie entirely within bush covered areas and assuming a clearance level up to Limited Discretionary Activity status of 300m² this would result in bush clearance of 900m² over the site. This would be in addition to the removal of 'removable' species such as fruit trees and Macrocarpa, of at least 500m² (the upper 'Permitted Activity' level for such clearance). A further 600m² of clearance has been estimated to be required for driveway construction; thus total vegetation clearance would amount to a minimum of 2000m² over and above existing cleared areas on the site.
- Wastewater, storm water and water supply drainage would also be required for each site.

The applicant has provided no evidence of consultation with adjoining property owners or with *iwi*.

4.0 REASONS FOR THE APPLICATION

Consent is required under the following provisions of the District Plan for the following reasons:

Subdivision – Titirangi/Laingholm Subdivision Area 2 - Rule 10A.2

Subdivisions in this area are either Discretionary Activities or Non-complying Activities. In this instance the proposed subdivision does not meet the standards set out in Rule 10A.2 (d) and is therefore a Non-complying Activity.

City-wide General Rules - Rule 1.1 Natural Hazards

Limited Discretionary Activity consent is required to develop land that is known by Council to be or likely to be subject to natural hazard. In this instance the site is identified as being within a part of the City subject to stability sensitive soils. There is also a record of the site having been flooded.

Managed Natural Area - Rule 2.5 Vegetation Alteration

Clearance on a site or proposed site of more than 500m² for the purpose of establishment of a building platform, driveway and infrastructure is a Non-complying Activity.

Total clearance on the site varies, depending on how it is calculated. The applicant has shown that the area outside the 'bush line' that could be cleared (if not already) is 6500m² (estimated from GIS mapping) excluding the area around the existing dwelling. Clearance for house sites within lots 8, 12, and 13 has not been calculated though individual species for removal have been shown, but has assumed to be at least 225m² per site.

Council's arborist has estimated that additional clearance over and above existing cleared areas would be 1550m² assuming 500m² of 'removable' species (fruit trees and Macrocarpa); 675m² clearance for house sites in Lots 8, 12 and 13; and 450m² clearance for shared driveways. As the reporting planner, I have estimated additional clearance to be up to 2000m² based on 300m² per house site for lots 8, 12 and 13 and 600m² for driveways to account for access into the house sites in addition to the 500m² clearance of 'removable' species. I am of the opinion that these would be conservative estimates.

Managed Natural Area - Rule 3.4 Earthworks

As the proposed subdivision is not a controlled or limited discretionary activity earthworks for shared driveways is a Non-complying Activity.

Estimated earthworks would be approximately 300m³ over a plan area of approximately 1400m² - 1800m² mainly as surface scrape for driveway construction.

Riparian Margins Natural Area - Rule 2.4 Vegetation Alteration

The clearance of native vegetation for the purpose of establishing driveways, roads or infrastructure where subdivision is not a controlled or limited discretionary activity requires Discretionary Activity consent.

Although areas have not been estimated, the northern portions of the shared driveways are located within the 20m Riparian Margin Natural Area associated with Armstrong Gully and would require vegetation removal in order to be established.

Riparian Margins Natural Area - Rule 3.4 Earthworks

As the proposed subdivision is not a Greenfields subdivision the earthworks associated with the stream crossing (of Armstrong Gully) and that portion of shared driveway located within the riparian margin would be a Non-complying Activity.

Riparian Margins Natural Area - Rule 7.2 Buildings

Limited Discretionary Activity consent is required for the construction of the proposed bridge over the Waituna Stream.

Waitakere Ranges Environment - Rule 9.2

Controlled Activity consent is required for driveways not exceeding a gradient of 1 in 5 and on-site turning is provided where a site adjoins a major (in this case District Arterial) road.

Transport Environment - Rule 7.2

Limited Discretionary Activity consent is required where there is more than one vehicle crossing to a site. A second vehicle crossing is proposed to service the proposed subdivision.

4.3 Overall, the application is considered to be a **Non-complying Activity**. The proposal complies with all other development controls under the District Plan.

4.4 This application is a combined application for both land use consent and subdivision consent. Consent is also required from the Auckland Regional Council for storm-water discharge as the total estimated impermeable surfaces created by the proposed subdivision would be greater than 1000m². Application for this consent has not yet been made.

[It has been assumed that the culvert crossing proposed across Armstrong Gully is a Permitted Activity under the Proposed Auckland Regional Plan: Air, Land and Water.]

No other consents are required in respect of this application.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The site is an irregular shaped polygon of 5.6656 hectares that lies on the north side of Huia Road and comprises a dual stream lowland area containing both the Waituna Stream, traversing west to east along the south boundary, and the Armstrong Gully Stream passing centrally through the valley north to south. These meet at a confluence located in the general south east corner, bordering a WCC Open Space Environment (Tangiwai Reserve). The west hill slope rises to an RL of 34.0 m and the eastern hill slope rises to an RL of 42.0 m; both are moderately steep. Both stream areas are flanked by coarse grass, raupo and swamp grasses, exotic and native trees, with the lower parts of some of the stream reaches infested with invasive weeds and blackberries. The lower south eastern and grassy plain areas are clearly flood affected areas.

An existing dwelling with bridge stream crossing and driveway access is located in the south west corner of the property. The natural environment is mainly bush covered, excluding the grassed areas and stream reaches within the property which is more open. A section of regenerating bush also is apparent travelling along a public wastewater pipe in a north to south direction.

There is a relatively short road boundary; this southernmost boundary then follows the banks of the Waituna Stream before diverging directly northwards to meet the northernmost boundary some 370m from Huia Road. The site is located some 300m west of the intersection of Huia Road with Laingholm Drive and Landing Road. Within the immediate vicinity, on the eastern side of Huia Road and Laingholm Drive, the area is characterised by a somewhat denser form of settlement as expected with the larger lot residential zoning of the Bush Living Environment. The landscape here is characterised by open grassy sites and prominent buildings.

Immediately to the west are larger lots with the subject site forming a north eastern anchor-point for a pocket of Waitakere Ranges Environment zoning characterised by relatively steeply sloping land covered with high quality native vegetation. The western edge of the Metropolitan Urban Limit is located approximately 1.4 kilometres from the site. Houses within this area are not visually obvious, with bush covered slopes being the predominant feature.

The site is located within the Titirangi/Laingholm Subdivision Area 2. This area was identified during the development of the District Plan as having particular characteristics that placed it outside the rules for subdivision associated with the Bush Living Environment and Waitakere Ranges Environment zonings imposed within this area. An intensive study of the area known as 'The Little Muddy Creek Study' was commissioned by Council to cover stormwater catchment, geotechnical investigation, landscape assessment and ecology. This resulted in the development of subdivision rules to be applied specifically to this area and became operative on 24 July 2004 by Consent Order from the Environment Court as Subdivision Rule 10A: Titirangi/Laingholm.

There are two subdivision areas identified in Appendix XI of the Planning Maps. Area 1 is that Bush Living Environment north of Scenic Drive and Area 2 comprises a mix of Bush Living Environment and Waitakere Ranges Environment south of Scenic Drive extending southwards to the coastal edge of Little Muddy Creek and westwards to the Metropolitan Urban Limit. Despite evidence of likely development difficulties arising from stability sensitive soils and flooding, one of the factors that led to the provision for smaller sites is that they would be able to be serviced by a reticulated public sanitary sewage system.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A3-A129 The application was publicly notified on 16 May 2007 and the application as notified has been circulated separately. Notice of this application was posted to all identified affected persons on 14 May 2007 as shown in page A3. The period for submissions closed on 14 June 2007, 51 submissions were received, 49 submissions supported the application, and 2 submissions opposed or were neutral about the application. Please refer to Appendix 3 at pages A4 to A129 for copies of the submissions that were received. A map showing the location of local submitters is attached at page A137. It is noted that a high number of submissions in support were received from outside the City.

A137

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A further five late submissions were received, three in support of the proposal and two in opposition.

The Hearings Committee needs to resolve whether to accept these submissions, pursuant to Section 37 of the Act. In making this decision, the Council is required to consider the provisions set out in Section 37A(1), being:

- a) *The interests of any person who, in its opinion, may be directly affected by the extension or waiver, and*
- b) *The interests of the community in achieving adequate assessment of the effects of any proposal, policy statement, or plan, and*
- c) *Its duty under Section 21 of the act to avoid unreasonable delay.*

Section 37A (2)(a) also requires that the extension of time shall not have the effect of exceeding twice the maximum period specified in the Act. It is noted that the last submission was received 14 days late (on 5 July 2007). The Act allows a twenty day period within which submissions are to be made. Accordingly, these submissions were within the maximum time period specified in Section 37A (2)(a) of the Act.

The late submissions in opposition do not raise any new issues except to highlight the lack of consultation with *iwi* and the submissions received in support are similar if not the same as those submissions received within the statutory timeframe. It is considered that no one would be prejudiced by the acceptance of these late submissions, and acceptance of the submissions would not result in any delays. It is therefore recommended that all late submissions are accepted.

6.1 Submissions

A131-A136 A Summary Table of Submissions together with the submissions has been attached at pages A131 to A136.

49 submissions were received in support, almost all stating the same thing, namely:

- The effects of the subdivision are no more than minor;
- The subdivision meets the objectives and policies of the District Plan;
- The subdivision follows the Titirangi/Laingholm Subdivision Area 2 rules.

Other supporting comments generally considered that the proposal was desirable in providing sought-after sites within the bush environment.

One submission, from Waitakere Ranges Protection Society (WRPS), was received in opposition to the proposal for the following reasons (in summary):

“The proposal is contrary to Part II of the Act, is contrary to the strategic objectives of the Auckland Regional Policy Statement (1999), contrary to the objectives and policies of the Waitakere District Plan and would result in more than minor adverse effects that cannot be remedied, avoided or mitigated and cannot be internalised on the site.”

The other submission received within the submission period was concerned with providing public access via walking tracks but gave no clear indication of either support or opposition to the proposal.

Among the late submissions, the three in support were identical to those already received in support, as outlined above. The two in opposition were concerned about *'the character of the area being irretrievably decimated and undue pressure being placed on local services and amenities'* and the lack of *iwi* consultation in particular with Te Kawerau a Maki who have a recognised historical and cultural affiliation with this area.

6.2 Pre Notification Discussions/Delays

The application submitted to Council on 12 September 2006 was a proposal for 13 freehold bush living lots and also included two commonly owned access lots and an undeveloped bush lot to be held in common by the 13 'residential' lots, i.e a 16-lot subdivision. The information submitted included an ecological report, arboricultural report, geotechnical report, infrastructure report and stormwater and flood level engineering report.

Several requests for further information were made, pursuant to Section 92, including a landscape assessment and additional engineering information. This incurred delays as the applicant required more than 15 working days on each occasion to provide the requested information. In addition, as a result of discussions with the applicant's planner, an informal meeting was arranged at the Council offices on Friday 3rd November 2006 to discuss the proposal and at the request of the applicant.

The meeting was held in the Karekare Room in the Council Administration building at 9.00am. Those present were Jeannette Ibrahim (as reporting planner), Mark Tollemache (Strategic Adviser Waitakere Ranges), Dean Coutts (Director, 231 Huia Road Developments Ltd), Simon Yates (consultant planner), and Vaughan Wharton (Director 231 Huia Road Developments Ltd/Jesse James Trust). The Council officers made it clear that the proposed 13 residential lots was at a density of subdivision not anticipated by the rules and that the proposal was clearly non-complying and should be notified. Both Mr Coutts and Mr Wharton made strong statements regarding the desirability of such a subdivision in this area and appeared (at the time) to regard the Council view as untenable. No notes were taken at this meeting but the applicant subsequently revised the proposal, and provided a new scheme plan that eliminated the common bush lot and reduced the total number of residential lots from 13 to nine.

The decision to notify the application was accepted in writing by the applicant on 30 April 2007, the letter received by Council on 2 May 2007.

6.3 Pre Hearing Meeting

The applicant had not requested a Pre Hearing Meeting but as a result of an e-mail/letter sent to the applicant advising that I would be unable to support the proposal in its present form a meeting was arranged at the Council Offices. This was held on 10th July 2007 in the Glen Eden Room. In attendance were Jeannette Ibrahim (reporting planner), Mark Tollemache (Strategy Adviser), and Gordon Griffin (Landscape Architect) for Council and the applicants Dean Coutts and Vaughan Wharton.

Mr Coutts took the opportunity to table a number of options that would result in the same number of lots, i.e. 9 lots, being located entirely within the western portion of the site so that there would be no requirement to cross the Armstrong Gully stream. As is evident from the attached notes none of the Council officers was able to support any of the options tabled. The outcome of the meeting is that the application has been assessed as originally notified and the applicant has indicated that alternatives may be tabled for consideration at the hearing.

A138-A141 A copy of the Meeting Memorandum and subsequent comment from the applicant is attached at pages A138 to A141.

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activities

A183-A187 The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail in Appendix 11 attached at pages A183 to A187. 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 Operative District Plan. Council may disregard an adverse effect of an activity on the environment if the Operative 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. 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 all 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 Operative Plan permits and activity with that effect (section 104(2)).

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

A142-A182 Specialist comments from Council officers/consultants in relation to landscape attributes (quality, value, amenity), ecology, drainage and vegetation have been provided and their full reports have been attached as Appendix 6 to Appendix 10 at pages A142 to A182.

8.1.2 Water Quality and Quantity

Adverse effects on water quality and quantity can be stated generally as degradation of the health of aquatic ecosystems and degradation of waterways as a food source. Specific factors that can lead to actual and potential effects include:

- run-off from soils into waterways;
- contamination from discharges;
- increased water temperature from loss of riparian vegetation;
- reduction of riparian habitat from loss of vegetation;
- reduction of in-stream flows;
- increase of aquatic weeds in stream systems;
- alteration of water courses and the interface of land and water;
- piping and culverting of water courses;
- run-off of contamination from road surfaces and, in particular, contamination from vehicle use.

Council's EcoWater engineer, Brett Disley, has provided a comprehensive discussion of the issues associated with the drainage in this part of the City including the regional and city council policies that must be considered. His conclusions are quoted in full below and he has recommended conditions of consent should consent be granted to this application.

“Council has adopted a sustainable development approach to the Three Waters and a summary of the guiding principles is: Waitakere City is strongly committed to finding a sustainable path for all of the services it provides.

This commitment is captured most clearly in the ‘Eco City’ vision: “Waitakere City will be known internationally as a sustainable city that: Celebrates and sustains its people; Has a strong sustainable economic base; Honours its environment; and Builds on its cultures and heritage”. Waitakere City’s 2020 Vision for its ‘Three Waters’ strategic platform is: ‘Waitakere is a centre of innovative management for the Three Waters’. Whilst outside the direct scope of the RMA, The LGA 2002 (the Act) sets out a series of provisions governing decision making by local authorities (i.e. EcoWater as the NUO). In making a decision, local authorities are required to seek to identify all reasonably practicable options for the

achievement of the objective of a decision (s77) and assess those options by considering the appropriate criteria. Whilst also considering the views and preferences of persons likely to be affected by, or to have an interest in, the matter (s78).

The underlying premise of these provisions is that they apply to every decision made by a local authority, which must identify and assess the impact of all options on the four well-beings: Social, Economic, Environmental and Cultural. In other words, decisions and their options must be considered from a 'quadruple bottom line' (QBL) perspective.

In summary, flooding of the property is a localised problem to Lots noted, but it does contribute to the longer term problems associated with land stability and stream erosion in Little Muddy Creek Catchment which will be avoided or managed accordingly.

The problems associated with potential and occurring erosion and land stability in the catchment are an issue that requires appropriate attention and are considered more than minor. Therefore any new development will be required to carry out site specific engineering investigations to determine potential instability and erosion factors associated with the design of stormwater discharges for new Lots. The recommendations for engineering investigations and appropriate engineering works noted in the discussion and Section 4 Geotechnical Engineering Assessment & Recommendations of the submitted applicants geotechnical report are to be strictly acknowledged and referenced in any Consent Notices.

Where the stability and erosion measures have been identified and prior to any new development proceeding, impervious areas should be minimised and impervious area runoff should be controlled to the existing runoff rate using appropriately engineered stormwater mitigation and control measures .

Riparian margins will need to be managed to conserve or ameliorate the present buffer for stream erosion in the Waituna Stream and Armstrong Gully tributary.

The applicant's preliminary reports clearly outline the intention to achieve the necessary WCC land use, subdivision consent and engineering mitigation approval and Regional stormwater approval or consent. It would seem appropriate to best achieve this using a dual process between WCC and ARC for this component of the application to achieve the most efficient outcome in terms of WCC Eco objectives, time and technical review. However this would be dependent on the timing of application to the ARC for consent combined with the early consultation for engineering design approval from EcoWater partnered with guidance or recommendation suggested by the both the applicant and ARC for final approval by WCC and satisfaction of 224C conditions.

The location, natural environment and scale of the proposal in my opinion provides an ideal opportunity for WCC to support sustainable development with respect to Three Water Issues and actively promote a low impact design (LID) approach. The concept of LID reflects a sustainable philosophy towards site design which integrates sediment control and stormwater management into the broad site design, as opposed to being considered the minimum mitigation to achieve site design consent. These approaches can include a diverse range of environmental practices, strategies, planning, and common sense. It is

strongly recommended the concepts of LID and the ARC Technical Publication 124 Low Impact Design Manual for the Auckland Region are considered for this development.

All subdivision 224C LID or on-site stormwater mitigation design will be subject to thorough WCC engineering approval and review, however the detailed nature of this component of an application can be effectively and comprehensively dealt with as conditioned by EcoWater.

It is evident the applicant has considered a range of options for both erosion control and stormwater management. It is also therefore considered that the best practicable options [BPO] in terms of environmental protection will be achieved on the proposed development.

The conclusion in terms of the EcoWater and WCC Three Waters Objectives of the subdivision proposal submitted and intention discussed by the Simon Yates and Dean Coutts is that this subdivision can achieve these standards and are prepared to be guided on LID and stormwater BPO objectives.

This application has support of WCC EcoWater Development Services based on the content of this specialist report and resource consent conditions imposed."

No comment is made regarding potential *iwi* concerns but Mr Disley is of the opinion that any adverse effects can be minimised or mitigated to a level that would be no more than minor and confined to the site, though great care will be required.

Mr Disley's comments have been restricted largely to management of stormwater discharges and erosion control rather than potential ecological/environmental impacts. These effects have been addressed by Ruth Andrews-Bidois (Planner – Policy Implementation/Ecology) in her report. As noted:

"The stream environs contain good populations of native fish and "[are] an important corridor to upstream habitats" (refer Bioreserches Report)." Ms Andrews-Bidois further states: "This particular property offers a good opportunity for sensitive development as well as the opportunity to rehabilitate many of the natural features which are present (native bush, stream and swampy areas). The proposal for eight additional sites is too intensive (my underline) and does not take into account the value of the natural features or recognise the cumulative effects of development to this extent".

I observed on a site visit on 17 July 2007 that the recent heavy rains caused the sewer that runs parallel with the Huia Road boundary to overflow in an area where the line is at most only 30m from the stream. In addition there are WaterCare signs within Tinopai Reserve warning of potential overflow events from the water reservoir. Whilst precautionary in nature they are noteworthy. Thus whilst stormwater management per se may be able to reduce stormwater discharge effects to no more than minor, water quality and ecology may be degraded over time.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

The Waitakere Ranges Environment is characterised by bush covered large sites, reinforced in this case by a Managed Natural Area underlying zoning characterised by significant native vegetation, wildlife habitats and water systems. Adverse effects on these features arising from this proposal can be generally described as reduction of naturally occurring biodiversity, degradation of aquatic habitat, reduction in total area of habitat especially forest and wetlands, fragmentation of fauna habitat especially in lowland areas, and increased vulnerability of wildlife species, particularly birds.

Specific factors that contribute to actual and potential effects include:

- clearance of native vegetation (particularly outstanding and significant native vegetation);
- coverage and disturbance of tree root systems;
- exposure of native vegetation to edge effects (changes in amount of sunlight, wind; introduction of weeds);
- drainage and coverage of wetlands;
- introduction/presence of environmentally damaging plants;
- alteration of natural water levels within wetlands;
- predation of native wildlife by introduced mammals.

Specialist reports have been provided by Council's Arborist (Stephen Bishop), Landscape Architect (Gordon Griffin) and Policy Planner/Ecology (Ruth Andrews-Bidois), who have peer reviewed the relevant application documents and given an assessment of the proposal from their specialist perspective.

All three specialists have identified that the arboricultural report provided with the application is somewhat misleading in that vegetation alteration (tree removal) is discussed only in terms of trees higher than 6m. This ignores the protected status of all other vegetation within the Managed Natural Area and has the effect of diminishing the likely adverse effects arising from their removal. A building site within the bush is unlikely to leave anything standing within the building footprint and for at least 3m around it. There would also be the need for a manoeuvring area and access to the site. To quote from these reports:

"Clearance would lead to weed invasion of the cleared areas and their edges which is likely to have more than minimal adverse effects on maintaining the integrity of the Green Network. Weed management if carried out on a long term ongoing basis could assist in reducing edge effects, but in practice, this is seldom carried out well enough and permanently."

Gordon Griffin

"The Arborists report has only identified trees that are over 6m in height as being protected. This is a significant error and somewhat misleading as all native vegetation within the Managed Natural area is protected. It would also seem that vegetation clearance has only been considered for the building platforms and not the access to the lots. It has further failed to address the fact that vegetation outside of the building platform will also require removal either directly to allow the building or indirectly through root loss or instability brought about by removal of trees growing in close proximity to each other."

Referring to individual trees as being poor quality or not "notable example of their species" in bush covered areas such as exists on this site demonstrates a lack of understanding to the unique ecology and environment found in the bush environment, where dead and dying trees are just as important as those that are alive. Describing individual trees in the bush setting in this way has little meaning or value....."

The edge effects brought about by removal of vegetation including that discussed above may mean that further removal cannot be ruled out; this will be because of root damage and or trees becoming unstable due to them growing in close proximity to those already removed."

The removal of over 1000m² of native vegetation will have an adverse effect on the current ecosystem of the area.

I am able to support the proposed dwellings on Lots 2, 3, 5, 6 and 9, but am of the opinion that the proposed building on Lot 8, 12 and 13 will create more than minor adverse effects to the green network, riparian margin and does not meet the [assessment] criteria for vegetation alteration rules for the Managed Natural Area in particular 2a,b,e,g,h,i,l,n,p and q and for the Riparian Natural Area in particular 2a,b,h,j,m,n,q and s."

Stephen Bishop

"All native bush within the Managed Natural Area is protected under the District Plan rules for this environment. Three house sites and associated accesses would require a large amount of clearance (the exact figure needs to be determined after further information re: design and location etc). Even if designed to require a minimum of clearance, the overall activity status of vegetation alteration would be at least Discretionary but more probably Non-Complying.

Overall I am of the opinion that the location of lots 8, 12 and 13 within the bush areas are not in keeping with the District Plan policies for protection of native bush and fauna habitat.

The three additional lots placed up into the site (proposed lots 8, 12 and 13) would necessitate the removal of regenerating bush, require earthworks and would present ongoing cumulative effects typically associated with bush development such as:

- *immediate disturbance to peripheral trees and bush as a result of the building process;*
- *ongoing pressure as a result of development;*
- *edge effects (wind, light, rain shadow);*
- *introduction of pest species (both animal and plant);*
- *constant pressure of incremental bush clearance to allow increased outdoor living space, light & sun to dwelling houses;*
- *reduction in and interruption to fauna habitat (disruption in linkages).*

These are issues which must be considered as cumulative effects but often get omitted when effects are assessed. Effects are simply not confined to within an envelope of clearance - they radiate beyond it. The nature of these effects depends entirely on the style, extent and nature of development and the ongoing use of the properties. We have no details at all for any of the buildings which will go ahead within these proposed lots and cannot expect these at this stage. Therefore assumptions have to be made, based on our own collective experiences of developments within bush environments. I feel that three lots and the associated access to them in the bush area would have unacceptably high short term and cumulative effects."

Ruth Andrews-Bidois.

I concur with these views and consider that the effects of development within the bush covered areas and riparian margins would have adverse environmental effects that would be more than minor and could not be avoided, remedied or mitigated.

The applicant has made a case for increased development of the site based on the fact of existing cleared areas within the site that could allow smaller sites to be created within these areas, thereby allowing development of larger sites within the entirely bush covered areas. I am of the opinion that this would be an unsustainable approach and that if development is allowed through this application it should be entirely restricted to existing cleared areas and that sites (apart from the 'home' site) should not be reduced to less than 1.0 hectare in area.

8.1.4 Land / Soil

The site is identified as being likely to be stability sensitive and has a known record of flooding. Adverse effects are generally identified as degradation of soil quality, a general loss of topsoil and inefficient take up and coverage of land and, in this particular case, exacerbation of existing natural hazards through inappropriate use of the land. Actual and cumulative effects may be caused by:

- removal and erosion of topsoils by stormwater and earthworks;
- coverage by buildings and impermeable surfaces;
- compaction;
- poor stabilisation of exposed surfaces.

The applicant has provided a geotechnical report by Engineering Geology Ltd titled "Proposed Residential Subdivision 231 Huia Road, Titirangi Geotechnical Investigation", Ref: 595a and dated 6 July 2006. This has been peer reviewed by Council's geotechnical engineering consultant URS Ltd (Satyawan Pranjoto & Debbie Fellows). URS has concluded that the report as presented can be considered to be adequate for the proposed development and [it] has made appropriate recommendations regarding the geotechnical aspects of the development. URS have provided suggested conditions of consent should the application be approved. On this basis it is accepted that the geotechnical aspects could be adequately managed, subject to strict adherence with conditions of consent, and any adverse environmental effects in terms of soil stability would be no more than minor.

8.1.5 Air

The proposal is unlikely to generate adverse effects to air during development. Any future use of wood burners for home heating, whilst contributing to potential adverse effects on air quality would be addressed through the requirements of the Proposed Auckland Regional Plan: Air, Land and Water.

8.1.6 Ecosystem Stability

The general adverse effect of significance here would be the impeding of natural regeneration processes. Specifically actual and cumulative effects could arise from:

- reduction of the extent, representativeness and variety of native vegetation and fauna species;
- decline in the quality of air, soils and water which undermines stability of an ecosystem;
- vulnerability of native species to environmentally damaging plants and predators;
- isolation of native vegetation and fauna habitat (fragmentation).

Clearance of the valley floor has obviously occurred in the past, with earlier subdivision and the formation of the road. The aerial photographs in Figures 3 & 4 of this report show that the site has not really changed since 1940, with little evidence of a pastoral use of the site. The row of large *Macrocarpa* trees would indicate use as a windbreak, possibly to protect an orchard, the remains of which are still present on the site with a mix of orange, plum, apple and peach trees. Grassy areas extend throughout this southern portion of the site close to the road with native species such as nikau palms growing well beneath the *Macrocarpas*. There is thus evidence of regenerating native bush, with some of the open areas likely forming part of the original ecosystem associated with the stream system.

As noted in Ms Andrews-Bidois' report:

“Even in its present state, one can see the effect of clearance and previous disturbance on the bush - weeds (ginger and broadleaf species) are encroaching into the bush around the edges (part of the ‘edge effect’) but become less abundant where the bush has not been disturbed. Once the bush is opened up for development of further lots (including access road) it can be expected that similar effects would follow. I also have some concerns about the position of the accessway in relation to the stream.

A better approach, and one that better balances development with environmental protection, would be to confine and concentrate development to the already-cleared areas and provide weed-control and replanting in the remainder of the site (particularly along the bush edge and along streamside areas). This would have the effect of strengthening the bush edge, increasing overall integrity and ensuring it is more resilient against pressure from the proposed development on the lower slopes. It would also ensure this area provides a good backdrop for development in the ‘valley’ area rather than being ‘eaten away’ with the impact of further development of sites 8, 12 and 13 (these are landscape issues which Gordon Griffin has assessed very comprehensively).”

8.1.7 Outstanding Natural Features; Landforms, Geological Sites

The subject site is not identified in the District Plan as being within an area identified as containing “outstanding natural features” within the City (refer Maps 3.5D) although the slopes on the western and eastern boundaries rise to ridgelines that have been identified as Moderate Sensitive Ridges. It is not intended to place any development within the 65m buffer associated with these ridges and there would therefore be no adverse effects in relation to this aspect.

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

The site is identified in the District Plan Policy maps (Map 3.5C) as being within an Outstanding Coastal Area and within the Manukau Coastal Landscape (Map 3.6A). In this case general resource management issues would include reduced water quality and vegetation cover in riparian areas and alteration to the way in which natural processes act on riparian areas such that the natural character is degraded. Specific causative factors include:

- alteration of bush and vegetation adjacent to water areas;
- discharges of contaminants into waterways;
- run-off of soils into waterways;
- alteration of water courses.

There would be more than minor adverse effects in relation to the natural character of the coast and margins of lakes, rivers and wetlands arising from the proposed activity as it would be located near the coast, with streams and wetland present within the site.

As noted by Jenny Fuller (Senior Adviser-Sustainable Management) in her comments:

“Additionally, the area has recently been identified in a change to the RPS (PC8)¹ as having a natural landscape quality that can be considered outstanding in terms of section 6(b) of the RMA, and which therefore must be protected from inappropriate subdivision, use and development as a matter of national importance. While these provisions are still proposed, the Council has had a respected landscape architect review the identification of ONL² in Waitakere City, and the Council consequently supports this identification on this property..... In our view (and in concurrence with the Council’s landscape architect and arborist), the subdivision proposal will result in a degree of vegetation loss and fragmentation, and adverse effects on riparian areas that cannot be fully mitigated, from either a landscape or ecological perspective by either replanting new areas or through the covenanting of remaining vegetation.”

8.1.9 Landscapes

There is increasing concern about the contribution subdivision has as a causative agent in the degradation of landscape qualities of the Waitakere Ranges where the landscape character is described as having:

- natural variety and complexity;
- dominance of natural over built features;
- quiet;
- a sense of wilderness;
- sparse populations, though less so to the east;
- limited visitor numbers.

The landscape elements of note on this subject site would be two prominent ridgelines, streams, relatively steeply sloping hillsides and the presence of wetlands.

The applicant has provided a landscape assessment by Sally Peake of Thresher Associates in support of the proposal which has stated that the site is characterised by two distinct types of landscape, namely:

1. Moderately steep slopes covered in dense Kanuka scrub 15 – 20m tall with closed canopy and an understorey of smaller trees, ferns and shrubs, with denser and more diverse vegetation on the gully floor including weed intrusions.
2. Gently undulating, more open and less enclosed with groups of trees and individual specimens in grass and covering the larger part of the development. Vegetation includes a mix of native and exotic including large *Macrocarpa* trees and fruit trees proposed for removal.

¹ Auckland Regional Policy Statement (Plan Change 8)

² Outstanding Natural Landscape

Ms Peake has described the methodology used to assess visual effects and evaluate adverse effects of landscape, these effects being described as having no, low, moderate or high impact to existing landscape or view depending on the degree of change that might be discernible. She has further described the site in terms of landscape sensitivity to development, dividing the site into three areas according to landscape sensitivity.

1. Lots 1 – 6 located within the more open south to south west part of the site facing Huia Road – least sensitive
2. Lots 9 and 10 close to Waituna Stream and the flood plain
3. Lots 7 – 8 and 11 – 13 on the most sensitive part of the site within the bush.

[Note: this assessment has been made on the basis of the originally proposed 13 residential bush lots.]

The report recognises that the landscape character is aligned with the Waitakere Ranges and concludes that the proposed development would result in low to moderate impacts on landscape, and that there would be no visual effects. Ms Peake has therefore concluded that there would be no more than minor landscape or visual effects from the development although guidelines for the development have been recommended.

The specialists' reports from Council officers have taken a different view. Council's Landscape Architect, Gordon Griffin, agrees that opportunities for views into the site from public places (Huia Road, Tangiwai Reserve) are relatively limited, although I make the comment here that there should not be reliance on existing vegetation within Tangiwai Reserve to provide screening. [It is further noted that the pine trees on the perimeter of the reserve are quite likely to be removed and replaced with riparian planting, which would have the effect of opening the subject site to views from outside the boundaries].

Mr Griffin has differentiated the site into five visual components, which would be viewed predominantly from within the site. These components are described as follows:

1. *The area at the south west of the site including a small knoll, close to the road, cut off by a minor water course to the north-west. This area has the existing dwelling on the top of the knoll, native bush species (including a fine rimu tree near the dwelling) and exotic vegetation associated with the driveway and dwelling.*
2. *A lower semi cleared semi grassy valley floor area north-east of the existing dwelling, running approximately north-east south-west. This valley area is bounded to the north west by steeper bush clad land, to the south east by the Waituna Stream and Huia Road, to the north east by the low flood plain area associated with the valley with the 20m riparian margin stream and to the south west by the lower land with water course north east of the existing dwelling.*
3. *The bush clad hill land northwest of the lower pastoral area, essentially sloping to the south east towards the Waipuna Stream or north east towards the 20m riparian Armstrong Gully stream.*
4. *The bush covered land on the north east side of the Armstrong Gully 20m riparian stream.*
5. *The wider, swamp prone semi cleared valley floor area of the Armstrong Gully that includes the 20m riparian margin areas and a wide low open area towards the south east of the site.....*

Ranking the component parts in order of their ability to absorb landscape change without significant change to the landscape character;

component 2 can absorb change most easily,

component 1, existing dwelling knoll, next most able,

components 3, 4, and 5 all have low ability to absorb change however, the north east slope of component 3 has some ability visually, but this would affect the integrity of the bush cover."

Mr Griffin has given a full explanation of his reasoning in the attached report, as well as a review of the Arboricultural, Landscape Assessment and Ecological reports provided by the applicant and his conclusions are as follows:

"I support proposed dwelling sites 2, 3, 5, 6, 9, (and the existing dwelling site 1) but consider there would be adverse visual (and associated ecological and landscape functioning) effects that would be major, associated with the proposed access and dwelling sites 8, 12 and 13. The vegetated hill north east of the 20m riparian stream associated with proposed sites 12 and 13 forms an important outlook and backdrop for the area, particularly for proposed dwelling sites 5 and 6, is visually prominent and sensitive to change, and should remain undisturbed.

Proposed dwelling site 8 although discrete visually, would involve a significant encroachment into regenerating native bush, (which has canopy closure and young regenerating kahikateas along the former farm track), would require works and access in the 20m riparian margin, with associated visual and ecological impacts. Weed invasion into the native bush would be exacerbated by the length of edge area adjacent to the proposed access. I do not support this dwelling site. A site to the south east nearer to dwelling site 6, which would require much less vegetation clearance may be tenable, but is likely to still require bush clearance and access within the south western 20m riparian margin area, which are not desirable.

(An additional site between proposed dwelling sites 3 and 5 would be preferable to any within the bush area north-west of dwelling site 6 and could be considered instead of dwelling site 8).

The site cannot accommodate the dwelling sites and access as proposed without major visual and landscape (and ecological and functional) impacts. It should be recognised that the location falls within the area identified on Map 3.5(c) Outstanding (Natural Character) Coastal Area, as being within the Outstanding Coastal Area. The application should be amended to have fewer dwelling sites, (and fewer developable lots), without sites 12 and 13, preferably without site 8, (though this is a more visually discrete site), and without any access across or within the 20m riparian valley system. The dwelling site 8 should be removed, possibly in favour of a site between proposed dwelling sites 3 and 5. If a dwelling site north west of site 6 is considered, it should be closer to the edge of the bush area and to dwelling site 6 and desirably with access outside the 20m riparian margin.

If the proposal in a modified format is approved, a native framework and screen planting Plan is needed to maintain the bush character within the developed area and privacy of dwelling sites."

I concur with Mr Griffin's report and the supporting reports from Mr Bishop re vegetation alteration and Ms Andrews-Bidois re vegetation alteration/ecology and consider that there would be more than minor adverse effects on landscape quality from the proposal as presented.

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

The landscape character of the Waitakere Ranges has been described in section 8.1.9 above. The actual and cumulative effects of the associated amenity values could be generally attributed to modification to or domination of landscape elements/character to the extent that they no longer contribute to or are a factor in such amenity values. For this proposed subdivision specific effects may arise from:

- increases in ambient noise levels and single event noise occurrences;
- loss of privacy;
- increased levels of discharges to air and water;
- increased levels of light at night;
- increasing dominance of built over natural features;
- loss of visual variety.

The specialists' reports have provided a comprehensive description of the site, acknowledging the presence of existing cleared areas on the flatter parts of the site close to the road and demonstrating that the native vegetation cover is of high quality and showing evidence of healthy regeneration. Clearly the introduction of eight additional dwellings into this setting will have some adverse impact.

Council's EcoWater engineer, Brett Disley, has supported the proposal on the basis of stormwater mitigation measures provided by the applicant but has also stated that design will require care to ensure that discharges do not contribute to the known water catchment limitations of the area. On site waste disposal is not required as access is available to Council sewer reticulation. Mr Disley has recommended conditions of consent should consent be granted.

The shared driveways have also been assessed by subdivision engineer, Kate Selby-Smith, and are considered to provide safe vehicle and pedestrian access. Appropriate manoeuvring and parking areas would be provided in accordance with Council's Code of Practice for Driveways and Parking. Ms Selby-Smith has recommended conditions of consent should consent be granted.

As noted earlier and quoted from Ms Andrews-Bidois' report:

"This particular property offers a good opportunity for sensitive development as well as the opportunity to rehabilitate many of the natural features which are present (native bush, stream and swampy areas). The proposal for eight additional sites is too intensive and does not take into account the value of the natural features or recognise the cumulative effects of development to this extent."

It has been demonstrated in the preceding sections that the actual and cumulative effects of the proposed development on amenity values through landscape modification, changes to visual amenity, views, privacy and additional built form would be more than minor and could not be avoided, remedied or mitigated to a no more than minor degree.

8.1.11 Heritage

No assessment of cultural heritage or consultation with local iwi has been undertaken by the applicant. Te Kawerau A Maki has a recognised spiritual and cultural association with this area and the subject site lies within a heritage area identified by Te Kawerau A Maki (Policy Map 4.1). Should consent be granted conditions could be imposed to protect archaeological finds but without further consultation it is not known what the specific iwi concerns are, or likely to be or how they could be addressed.

8.1.7 Summary

It is considered that the actual and potential adverse effects of the proposed activity are *more than minor* and cannot be adequately mitigated through appropriate conditions of consent. Whilst engineering solutions can be provided for the required infrastructure it is considered that the effects from proposed vegetation alteration and the consequential effects on the existing ecology/ecosystem cannot be adequately managed through conditions of consent.

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

8.2.1 District Plan Policies and Objectives

The relevant objectives and policies in relation to this proposal relate to subdivision in the Waitakere Ranges (Titirangi/Laingholm Subdivision Area 2) resulting in a non-complying level of density, vegetation alteration and earthworks, and also requires consideration of soil stability, flooding, shared driveways and an additional vehicle crossing. It is considered that the proposed development would not be consistent with the objectives and policies of the District Plan.

The relevant objectives and policies in relation to this proposal are (refer Appendix 11):

Objectives: 1, 2, 3, 4, 5, 7, 8, 9, 10, 11

Policies: 1.1, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 1.12, 1.15, 1.16, 2.1, 2.3, 2.4, 2.5, 2.6, 2.7, 2.13, 3.2, 3.4, 3.5, 4.3, 4.5, 5.2, 5.4, 7.1, 7.2, 7.3, 7.4, 8.1, 8.2, 8.3, 8.5, 9.1, 9.3, 9.4, 9.6, 9.7, 9.9, 9.14, 10.4, 10.7, 10.8, 10.9, 10.15, 10.16, 10.17, 10.18, 10.22, 11.1, 11.2, 11.4, 11.5, 11.6, 11.9, 11.13, 11.51, 12.1, 12.4, 12.8

Objective 1 (effects on water)

Policies 1.1, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 1.12, 1.15, 1.16 and [7.1]

Comment:

The Titirangi/Laingholm subdivision rules were formulated in recognition of the historical patterns of settlement, with sites having access to reticulated wastewater. However, the area does not have adequate stormwater infrastructure. Stormwater from this site would eventually drain into the Manukau Harbour via Waituna Stream. The additional stormwater runoff from the driveways and future development of the proposed site areas have been considered to be at a level that could be mitigated on-site with appropriate design to avoid adverse effects on the harbour. However the proposed building platforms are all quite close to the 20m riparian margins associated with the Armstrong Gully and the 10m riparian margin around Waituna Stream, and driveways and vegetation alteration would be required within these areas. Whilst the proposal is supported by the EcoWater engineers they have noted that care will be required with engineering design. The ecological report and peer review/s have shown that current water quality can maintain good populations of native fish (and other aquatic organisms) and are an important corridor to upstream habitats. Clearance within the riparian margins and the additional runoff from cleared bush has the potential to adversely affect this ecosystem and development within these areas is not supported.

Objective 2 (effects on vegetation)
Policies 2.1, 2.3, 2.4, 2.5, 2.6, 2.7, 2.13

Comment:

The proposed subdivision would cause the native vegetation between the proposed building platforms on the eastern and western slopes of the Armstrong Gully to become fragmented by introducing edge effects, changes to light regimes, wind effects and incremental encroachment of human activity. The development of driveways within the riparian margins would have the effects of increasing water flows and changing the current riparian ecosystems.

Council's arborist Stephen Bishop, makes the following comments:

"The location of Lots 12 and 13 means that significantly more vegetation clearance will be required than if these lots were located along the same side of the stream and valley as Lot 8, although it must be noted that this is still not ideal and preferably lots 12 and 13 should be deleted from the scheme as it is considered that the vegetation clearance above and beyond what would normally be allowed for this site will cause significant adverse effects to the green networks and ecosystem of the area.

It should also be noted that there is a general understanding and provision in the rules that 3m clearance of vegetation from the edge of a dwelling will normally be allowed (albeit a Limited Discretionary Activity) because of the known problems associated with vegetation in close proximity to dwellings and people.

The removal of native vegetation will therefore not just be restricted to the building platform. It is reasonable to conclude that a further 3m strip may also be cleared.

The edge effects brought about by removal of vegetation including that discussed above may mean that further removal cannot be ruled out; this will be because of root damage and or trees becoming unstable due to them growing in close proximity to those already removed."

These are adverse effects that could not be readily mitigated or remedied through planting or appropriate engineering design.

Objective 3 (effects on land)
Policies 3.2, 3.4, 3.5

Comment:

The site is located in an area known to be or likely to be subject to soil instability and also has a record of flooding associated with it. The application includes a geotechnical report which has identified unsuitable building areas. It is acknowledged that engineering solutions have been provided for the proposed house sites and appropriate design can avoid exacerbation of areas of instability. The effects of increased stormwater discharges can also be mitigated to some extent. However development within the riparian margin has the potential to change run-off regimes and cause additional erosion effects. Such effects would be required to be avoided, remedied or mitigated through conditions such as appropriate design, riparian planting, other acceptable erosion controls.

**Objective 4 (effects on air quality)
Policies 4.3, 4.5**

Comment:

Management of air quality falls under the responsibilities of the Auckland Regional Council.

**Objective 5 (promotion of ecological linkages)
Policies 5.2, 5.4**

Comment:

The ecological assessment provided by the applicant and the peer review by Ruth Andrews-Bidois have identified that: “*The stream environs contain good populations of native fish and “[are] an important corridor to upstream habitats”* (refer Bioresearches Report). Bioresearches have also accepted that there will likely be adverse effects on native bird habitat in the area, although it opines that these are no more than minor. The ecological report and in particular the arboricultural report provided with the application have not however addressed cumulative effects at all except to propose replanting and weed control. The effects on the existing ecosystems (aquatic and terrestrial) would lead to fragmentation, invasion of pest species, and disruption of existing linkages.

Council's specialists have provided reports that show that the damaging effects of additional clearance within the bush covered slopes of the site and the provision of driveways within the riparian margins would be cumulative and could not be adequately avoided, remedied or mitigated to a level that was no more than minor. I concur with these findings.

Objective 7 (maintain/protect coastal environment and lakes, rivers and wetlands and their margins) – refer to Objective 1 above.

**Objective 8 (protect and maintain those aspects of the environment that are of significance to tangata whenua)
Policies 8.1, 8.2, 8.3, 8.5**

Comment:

As noted the site lies within an area identified by Te Kawerau A Maki as having heritage significance. No consultation was undertaken with *iwi*.

**Objective 9 (protect the quality and significance of the City's outstanding landscapes)
Policies 9.1, 9.3, 9.4, 9.6, 9.7, 9.9, 9.14**

Comment:

Ruth Andrews-Bidois, Jenny Fuller, Mark Tollemache and Gordon Griffin have all provided comment on the likely adverse effects arising from the proposal, in particular the promotion of sites within the bush covered hillsides of the site. As noted:

“There are a number of policies that specifically address the application of the Titirangi/Laingholm subdivision provisions. While undoubtedly they do identify that some subdivision will result in some vegetation removal, generally they identify that the subdivision provisions are intended to ensure the avoidance or mitigation of adverse effects, including cumulative effects on native vegetation and fauna habitat (e.g. Policy 2.1) and landscapes (Policy 9.1). The avoidance of development that will fragment larger intact areas of vegetation is specifically identified as a requirement for any subdivision that occurs in this area (Policy 2.1). Other parts of the plan make it clear that this area has natural heritage, landscape, amenity and other values which require any development to be very sensitively managed..... In our view (and in concurrence with the Council's landscape architect and arborist), the subdivision proposal will result in a degree of vegetation loss and

fragmentation, and adverse effects on riparian areas that cannot be fully mitigated, from either a landscape or ecological perspective by either replanting new areas or through the covenanting of remaining vegetation.”

Jenny Fuller, Mark Tollemache

“The site cannot accommodate the dwelling sites and access as proposed without major visual and landscape (and ecological and functional) impacts. It should be recognised that the location falls within the area identified on Map 3.5(c) Outstanding (Natural Character) Coastal Area, as being within the Outstanding Coastal Area. The application should be amended to have fewer dwelling sites, (and fewer developable lots), without sites 12 and 13, preferably without site 8, (though this is a more visually discrete site), and without any access across or within the 20m riparian valley system. The dwelling site 8 should be removed, possibly in favour of a site between proposed dwelling sites 3 and 5. If a dwelling site north west of site 6 is considered, it should be closer to the edge of the bush area and to dwelling site 6 and desirably with access outside the 20m riparian margin.”

Gordon Griffin

“This particular property offers a good opportunity for sensitive development as well as the opportunity to rehabilitate many of the natural features which are present (native bush, stream and swampy areas). The proposal for eight additional sites is too intensive and does not take into account the value of the natural features or recognise the cumulative effects of development to this extent. ...

Overall I am of the opinion that the location of lots 8, 12 and 13 within the bush areas are not in keeping with the District Plan policies for protection of native bush and fauna habitat. ...

A better approach, and one that better balances development with environmental protection, would be to confine and concentrate development to the already-cleared areas and provide weed-control and replanting in the remainder of the site (particularly along the bush edge and along streamside areas). This would have the effect of strengthening the bush edge, increasing overall integrity and ensuring it is more resilient against pressure from the proposed development on the lower slopes. It would also ensure this area provides a good backdrop for development in the ‘valley’ area rather than being ‘eaten away’ with the impact of further development of sites 8, 12 and 13.”

Ruth Andrews-Bidois

I concur with these views and am of the opinion that the proposal in its present form would result in adverse effects to landscape quality that would not be adequately mitigated through replanting new areas or covenanting remaining bush.

Objective 10 (maintain and enhance those natural and physical characteristics (amenity values) that contribute to the wellbeing of residents and workers)

Policies 10.4, 10.7, 10.8, 10.9, 10.15, 10.16, 10.17, 10.18, 10.22

Comment:

As noted by Jenny Fuller and Mark Tollemache:

“There are a number of policies that specifically address the application of the Titirangi/Laingholm subdivision provisions. While undoubtedly they do identify that some subdivision will result in some vegetation removal, generally they identify that the subdivision provisions are intended to ensure the avoidance or mitigation of adverse effects, including cumulative effects on native vegetation and fauna habitat (e.g. Policy 2.1) and landscapes (Policy 9.1). The avoidance of development that will fragment larger intact areas of vegetation is specifically identified as a requirement for any subdivision that occurs in this area (Policy 2.1). Other parts of the plan make it clear that this area has natural heritage, landscape, amenity and other values which require any development to be very sensitively managed. Additionally, we consider that the emphasis in policy on the ‘historical patterns of subdivision and settlement’ in this area and its location within the MUL, reflect that these provisions have been developed partly in response to a desire to ensure reasonable use of land in the area.....

‘In our view, it is appropriate for the Council to consider (in addition to the environmental effects of the proposal) the degree to which reasonable use of the land is facilitated by the proposal. In this instance, the creation of five new lots in the cleared area more than satisfies the requirement to provide for reasonable use of this land, and will avoid the significant adverse effects associated with the creation of proposed lots 8, 12 and 13.”

Ruth Andrews-Bidois further comments:

“The three additional lots placed up into the site (proposed lots 8, 12 and 13) would necessitate the removal of regenerating bush, require earthworks and would present ongoing cumulative effects typically associated with bush development such as:

- immediate disturbance to peripheral trees and bush as a result of the building process;*
- ongoing pressure as a result of development;*
- edge effects (wind, light, rain shadow);*
- introduction of pest species (both animal and plant);*
- constant pressure of incremental bush clearance to allow increased outdoor living space, light & sun to dwelling houses;*
- reduction in and interruption to fauna habitat (disruption in linkages).*

These are issues which must be considered as cumulative effects but often get omitted when effects are assessed. Effects are simply not confined to within an envelope of clearance - they radiate beyond it. The nature of these effects depends entirely on the style, extent and nature of development and the ongoing use of the properties. We have no details at all for any of the buildings which will go ahead within these proposed lots and cannot expect these at this stage. Therefore assumptions have to be made, based on our own collective experiences of developments within bush environments. I feel that three lots and the associated access to them in the bush area would have unacceptably high short term and cumulative effects.”

It is my opinion therefore that the proposal in its present form would adversely affect landscape amenity values to a more than minor degree out of keeping with the above objective and policies.

Objective 11 (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)

Policies 11.1, 11.2, 11.4, 11.5, 11.6, 11.9, 11.13, 11.51

Comment:

The proposed subdivision would compromise the bush covered nature of the surrounding environment as the degree of vegetation clearance, whilst relatively small, would lead to unacceptable cumulative effects that would tend to fragment the pattern of bush cover, introduce edge effects and the likelihood of weed invasion and disrupt ecological linkages. It would be more appropriate to allow the existing bush to recover by promoting active weed clearance and restoration planting and to restrict development to the existing cleared areas of the site.

Objective 12 (managing effects on the City's valued heritage)

Policies 12.1, 12.4, 12.8

Comment:

As previously noted, the site lies within an area identified as having heritage value to Te Kawerau A Maki. They have submitted a (late) submission opposing the application and expressing concern that no consultation with them has occurred. Effects on vegetation and ecosystem integrity have already been discussed and the application in its present form is considered likely to generate adverse effects that would be more than minor and contrary to this objective and policies.

8.2.2 Rules and Assessment Criteria

The District Plan Assessment Criteria have been developed to address the issues covered in the objectives and policies and are a useful guide in assessing the effect of an activity. The proposed activity is assessed in relation to each of the relevant criteria as follows:

Natural Hazards - Soil stability and flooding - Assessment Criteria 1(a) - 1(g)

Appropriate engineering solutions have been offered to ensure that buildings would be constructed to take into account the known stability limitations of the site and infrastructure design would require consideration of the known stormwater issues associated with this catchment area. Stormwater, geotechnical and driveway reviews have been undertaken and the various specialists are satisfied that development could be managed in a manner that would minimise adverse effects. They have provided recommended conditions should consent be granted to the proposal.

Cumulative effects have not been specifically addressed and care will be required to ensure that the proposal does not contribute to increased flooding downstream, or exacerbate erosion of hillsides or stream banks within the site, or contribute to erosion of stream banks downstream.

Vegetation Alteration – Assessment Criteria 2(a) – 2(q) MNA³ and 2(a) – 2(s) RMNA⁴

The application has been assessed by Council's arborist, Stephen Bishop who has commented as follows:

"The locations of lots 2, 3, 5 and 9 make good use of existing cleared areas. Lots 2, 5 and 6 will have some minor infringement into the bush resulting in some minor clearance. However the location of these lots and clearance required for the building platform is generally supported.

The proposed Lots 8, 12 and 13 are within areas of significant Native vegetation and fauna habitat and should be avoided."

He concludes: *"I am able to support the proposed dwellings on Lots 2, 3, 5, 6 and 9, but am of the opinion that the proposed building on Lot 8, 12 and 13 will create more than minor adverse effects to the Green Network, riparian margin and does not meet the criteria for vegetation alteration rules for the Managed Natural Areas in particular 2a, b, e, g, h, l, n, p and q and for the Riparian Natural Area in particular 2a, b, h, j, m, n, q and s. The proposals are not in line with the policies of the district plan outlined above. The adverse affects would not been adequately mitigated in the current proposal"*

I concur with this conclusion and agree that the adverse effects would be more than minor.

Earthworks – Assessment Criteria 3(a) – 3(t)

The area and volume of the earthworks proposed would not be out of character with a development of this scale. Rather it is the location of some of the proposed earthworks within the riparian margins that has the potential to create adverse effects that would be difficult to manage.

As noted by Ruth Andrews-Bidois:

"Even in its present state, one can see the effect of clearance and previous disturbance on the bush – weeds (ginger and broadleaf species) are encroaching into the bush around the edges (part of the 'edge effect') but become less abundant where the bush has not been disturbed. Once the bush is opened up for development of further lots (including access road) it can be expected that similar effects would follow. I also have some concerns about the position of the accessway in relation to the stream".

The proposed accessway would be located within the flood plain and requires construction of a culvert to enable the Armstrong Gully to be crossed. Silt and erosion controls would be difficult to install and maintain in these situations so that short term adverse effects would be more than minor and cumulative effects are likely to arise from erosion of the 'hard' edges created at the driveway soil interfaces.

³ Managed Natural Area

⁴ Riparian Margins Natural Area

Buildings in Riparian Margins - Assessment Criteria 7(a) - 7(m)

A design of the proposed bridge crossing of Waituna Stream has been provided and would sit above the main stream flow. However, the 1 in 100 flood plain is shown to be quite extensive and both the bridge and accessways would lie within this area. Stormwater devices are also shown within the flood plain. These could all act as barriers to flows or contribute to increased flows.

Thus cumulative effects arising from the presence of these structures would contribute to overall adverse effects that would be more than minor.

Vehicle Crossings - Assessment Criteria 7(a) - 7(d)

The proposed second vehicle crossing to serve the proposed subdivision would be required to be constructed to Council's Code of Practice for Vehicle Crossings. The construction would occur within an already modified environment and conditions could be imposed, if consent were granted, to ensure that any adverse effects from such installation would be no more than minor and in accordance with the assessment criteria.

Carparking and Driveways - Assessment Criteria 9(a) - 9(e)

Council's Code of Practice sets out the performance standards required for shared driveways and conditions can be imposed to ensure that the standards are achieved to ensure safe and efficient vehicle access to the proposed sites. It is the concomitant clearance associated with the development of the manoeuvring/carparking areas and driveways that give rise to effects that would be more than minor, in terms of edge effects, increased run-off, discharge of pollutants and introduction of weed species.

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

The Auckland Regional Policy Statement (ARPS) 1999 (and the proposed Plan Changes) 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 District Plan has been prepared.

Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of areas [contributing to run-off into coastal waters] and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways.

It is considered that Section 8 (Water Quality) is of relevance. In particular Policy 8.4.7.3 which states:

"All land disturbance activities which may result in elevated levels of sediment discharge shall be carried out so that the adverse effects of such discharges are avoided, remedied, or mitigated".

To be consistent with the ARPS it would be necessary to ensure that elevated levels of sediment do not enter the watercourse as a result of any works. It is noted that measures to control sediment entering the watercourse during construction are contained in the Erosion and Sediment Control Measures Appendix in the Waitakere City District Plan. Conditions would be required to ensure that silt and erosion effects are managed but as some earthworks is proposed within the riparian margins it is anticipated that there would be short term adverse effects arising during the construction period and cumulative effects arising from the presence of driveways within the riparian margin thereby increasing both stormwater and pollutant discharges.

ARPS is also concerned that expansion of activities beyond the Metropolitan Urban Limits does not threaten environmental qualities and thresholds (Urban Growth Management) – Policy 2.3.2.

Policy 2.6.4: Rural areas states (in part) that: *1. The use, development and protection of natural and physical resources and the subdivision of land in the rural parts of the Region (except as provided by Policy 2.6.1-3) is to be managed in an integrated manner, that:*

- *gives effect to Part II of the RMAct; and*
- *is consistent with the Strategic Direction and with the relevant provisions of Chapters 3 to 18 inclusive of this RPS ;and*
- *takes account of and makes appropriate provision for the following matters;:*

(i) The avoidance of significant adverse effects (including cumulative adverse effects) on:
(a) the environmental values protected by defined limits to metropolitan Auckland and defined limits to rural or coastal settlements;
(b) the safe and efficient operation of existing regional infrastructure;
(c) the necessary upgrading of existing regional infrastructure;
(d) the provision of new regional infrastructure;
(e) the rural character of the region;
Where significant adverse effects cannot be avoided they shall be remedied or mitigated.

(iv) significant adverse effects on the environment, including effects on the rural character of rural areas and on regionally significant environmental values, are avoided; and where avoidance is not practicable, adverse effects are remedied or mitigated;...

Covenancing of bush areas has been proposed but as noted by Jenny Fuller, under Plan Change 8 of ARPS, this site is proposed to be included in an area identified as being an Outstanding Natural Landscape, and covenancing the remaining bush does not mitigate the effect of the intended bush clearance. Such clearance would have the effect of detracting from this outstanding natural landscape value and undermining the intent of Plan Change 8.

Therefore the proposal is not considered to be consistent with the policies of the Auckland Regional Policy Statement.

8.4 National Policy Statement (104(1)(b)(i)(ii))

The New Zealand National Coastal Policy Statement seeks to ensure that development is restricted where natural coastal areas have been relatively untouched but that appropriate development be provided for in those coastal areas that have undergone considerable modification through the building of houses and clearance of coastal vegetation. In this instance the site is some distance from the coastal edge with the nearest marine environment being the northern part of the Little Muddy Creek estuary located approximately 650m to the east of the site. There would be no direct impacts from the development although increased run-off has the potential to add to estuarine sediment and pollutants loads.

8.5 Any Other Matters the Consent Authority considers relevant and reasonably necessary to determine the Application (104(1))(c)

8.5.1 The case for re-identification of the zoning from Managed Natural Area to General Natural Area

This proposal has been developed on the basis that the existing cleared areas would allow for smaller sites in these areas and larger sites within the bush areas.

Council's Landscape Architect has provided some comment to address this, as follows:

"The case to reconsider Natural Area classification to assign from Managed Natural Area to General Natural Area status some of the semi pastoral valley floor area by the Waituna Stream (which has some orchard trees, macrocarpas, but also native trees, kanuka and nikau and others), and lower section of the Armstrong Gully has been made. Aerial photographs of the area for 1940, 1959, 1996 and 2000 show that the extent of cleared area has changed very little in this period and the 'farm tracks' are not evident in any of these photographs. Native bush regeneration in the proposed access areas to proposed sites 8, 12, and 13 is well advanced with the MNA category justified in these areas.

The lower cleared area for which the case for re-classification as General Natural Area might be considered includes the wetland floodplain Armstrong Gully area which although partly modified, includes raupo and other native wetland species. The climax natural state for this area is likely to include swamp tolerant species such as Cordyline australis, cabbage tree, Phormium tenax and Kahikatea but may be relatively open with raupo (Typha sp), and Carex species for which a Managed Natural Area category would not necessarily require native bush cover. (It is acknowledged that the lower Armstrong Gully area includes extensive areas of buttercup and blackberry so that natural values are reduced).

The higher semi clear area west of the Armstrong Gully includes an orchard. The orchard trees are branched and in season foliated to low down on the trees, indicating that there has been little to no grazing around them over a long period. Any grazing that may have occurred has been away from this area. The tendency for buttercup, (Ranunculus repens), to dominate the Armstrong Gully area indicates poor suitability for pasture. Buttercup is avoided by cows and causes bloat nor is it suitable for sheep. Where grass is dense it is harder for native species to enter. Long grass/pasture is difficult for many native primary colonisers to seed in to, so that restoration of native bush can be slow, but is higher beneath trees, where grass growth is inhibited, a litter layer forms and more seeds are dispersed by birds. There is extensive native re-vegetation (particularly of nikaus) beneath the macrocarpas indicating low to no grazing has occurred beneath them over a considerable time. In many New Zealand ecosystems it is natural for valley floors to be open with a different association of plants from those on the hillsides associated with a different ecological niche. Frost and colder temperatures in valley floors, flooding on flood plains and other natural processes may produce this outcome.

Although the valley floor area has some cleared pastoral and orchard area that might include some area that could be categorised as General Natural Area, this more open situation, although partly colonised by exotic species, could be in part a natural situation, and so meriting the existing Managed Natural Area category. Furthermore, natural regeneration is occurring in parts of this area."

The applicant has not made a specific case for incorrect zoning but the lack of evident long-term grazing, the re-colonisation of many parts of the cleared area by native species and the mix of native and exotic water tolerant species characteristic of riparian ecosystems provide a strong case that the Managed Natural Area zoning is appropriate for this site.

[As an aside it is noted that although Rule 10A.1(c) provides for correction of any Natural Area map under Managed Natural Area Rule 2.3 (Limited Discretionary activity) such correction would not be possible under this rule as the proposed subdivision is neither a Controlled/Limited Discretionary Activity nor is it a Greenfields subdivision. The rule applicable would be Rule 2.5 – a Non-complying Activity.]

8.5.2 Interpretation of Rule 10A.1

On the GIS (District Plan Maps), the GNA on the site, outside of Riparian Margins and not including the area around the existing dwelling = 1250m². The area indicated on the applicant's plans outside the riparian margin as 'bush line' = 6500m² (this includes the GNA area identified in the plan not including the area around the existing dwelling).

The total site area is 5.6656 hectares. The rules then provide for a minimum area of 4000m² around the existing dwelling - this is accepted. The balance area available for development would be 5.2656Ha.

Rule 10A.1(d)(i) is quite clear about the 1.4ha minimum, with 4000m² around an existing dwelling and 'there is no more than one additional site created of less than 1ha in net site area'. This would allow for situations where the site in question is the bare 1.4 hectares and would allow for the provision of access that may result in the balance area being reduced in net area to less than 1 hectare.

Item (ii) confirms this, by imposing a 1Ha minimum average on all other sites.

Item (iii) applies to vegetation clearance limited to 500m² (which ties to vegetation alteration rules as noted above for correction of mapping errors under Rule 10A.1 (c)).

Item (iv) requires covenanting of all other bush

Items (v) - (vii) etc, make provision for infrastructure;

Item (viii) - subdivision must not lead to any development in a Protected Natural Area (none on site) or any building platform in RMNA (although driveways are proposed within the riparian margin areas).

Thus, if applying the formula, 5.2656Ha would give a maximum yield of 5 additional lots (above the 4000m² around existing dwelling) at an average of 1Ha each, making 6 lots in total and allowing the balance 0.2656Ha for access etc.

As noted earlier:

"The subdivision provisions for this area have a 'discretionary' activity status, which of course means the Council is not restricted in the matters it may take into account when assessing the suitability or otherwise of a subdivision proposal, or the conditions it may impose in relation to any consent granted. In our view, it also means that there cannot be an expectation on the applicant's part that by merely applying the mathematical formula set out in the rules they can determine the level of subdivision that will be granted."

Jenny Fuller, Mark Tollemache.

Thus there is no 'permitted baseline' for subdivision within this Titirangi/Laingholm Subdivision Area 2 and as noted in Policy 2.1 settlement should be of a type and intensity that avoids or minimises adverse impacts on native vegetation and fauna habitat and in particular that settlement should be located away from areas of significant and outstanding native vegetation and fauna habitat and that urban development should be avoided in locations including the Titirangi/Laingholm area and the Waitakere Ranges. Any subdivision that is allowed must avoid development that will cause fragmentation of larger intact areas of native vegetation and fauna habitat.

The applicant has also made reference to a subdivision at 192 Huia Road as an exemplar of appropriate subdivision under Rule 10A – Titirangi/Lainholm. This is not a suitable comparison as this site is one that was singled out for site specific consideration under Appeal A131 and is dealt with separately under Rule 10A.1 (e).

8.5.3 Issues Raised by Submitters Not Covered Elsewhere in Report

The application was served on all adjoining property owners and also the Auckland Regional Council, *iwi* (Ngati Whatua and Te Kawerau A Maki), Department of Conservation, Waitakere Ranges Protection Society, Royal Forest and Bird Society, and other parties included in the Consent Order confirming the subdivision rules, namely Inlet Developments Limited, DA Blaiklock and JM Geddes. The application attracted a number of widely dispersed submissions in support, and only one or two submissions in opposition. These have been listed in the appendix attached to this report and the attached map shows that only a few submissions were received from property owners within the immediate vicinity to the site.

No particular issues have been raised that have not been discussed elsewhere in this report.

8.5.4 Bonds/Reserve Contributions/Development Levy/Financial Contributions

Should consent be granted a financial contribution for reserves purposes would be payable, pursuant to Section 407 of the Resource Management Act 1991, equal to 6% (plus GST at 12½%) of current market values to be obtained for the 600m² residential component of Lots 2, 3, 5, 6, 8, 9, 12 and 13. Council would obtain the valuation at the time an application was made for final approval under section 224(c) of the Resource Management Act.

In addition it is noted that the creation of 8 vacant lots being new extra building sites would attract a development contribution in accordance with the Waitakere City Council LTCCP. This would be estimated in accordance with the Development Contribution Policy current at the time of completion of any subdivision.

8.5.5 Monitoring

Should consent be granted the performance of the activities under this consent would be subject to Council's standard monitoring procedures.

8.5.6 Any Other Relevant Non-Statutory Documents

Regional Growth Strategy (RGS)

The RGS was developed by the Regional Growth Forum, which is made up of all the local authorities in the Auckland region. It is designed to accommodate population growth to minimise growth effects on the environment and ensure the region is economically successful and enjoyable to live in.

The RGS seeks to limit the outward spread of urban Auckland, protect the natural environment and promote multi modal accessibility in the metropolitan urban area.

The roading and passenger transport system outlined in the Regional Land Transport Strategy (RLTS) support the RGS by providing access to nodal and corridor areas identified for increased densities and mixed use development within existing urban areas; existing and developing employment areas; greenfield areas for future urban development; and small rural and coastal towns identified for limited growth.

This proposal lies outside the areas earmarked for growth and is poorly served by public transport. It is therefore not desirable to intensify development in areas where there is high reliance on motor vehicles as the only viable form of reliable transport both for commuting and recreation.

8.7 Lapsing of Consent

The default lapse period for consent under Section 125 of the Act is five years. Should consent be granted there would be no reason to reduce this time frame and a five year lapse period would be recommended.

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.

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 or proposed plan (104D(b)).

It is considered that the threshold test for a non-complying activity *has not* been met as the proposal does not satisfy section 104D, in that mitigation of the adverse effects on the environment of the proposal cannot be adequately provided through conditions of consent and the proposal will lead to effects that will be more than minor and the proposal is contrary to the relevant objectives and policies of the District Plan. Jurisdiction to grant consent has therefore *not been* established.

CONCLUSION

The applicant seeks consent to undertake a 9-bush-lot residential subdivision with sites ranging from 0.4 – 1.0 hectare in the Waitakere Ranges Environment (Titirangi-Laingholm Subdivision Area 2) requiring earthworks, vegetation alteration, a second vehicle crossing, bridging of a riparian margin and shared driveways within the Managed Natural Area and Riparian Margin (20m and 10m) Natural Area on land known to be or likely to be subject to natural hazards (stability sensitive soils) and with moderate (65m) sensitive ridges on the eastern and western boundaries of the site. The subject site is located at 231 Huia Road, Titirangi. The site is within the Waitakere Ranges Human Environment and the Managed, General, Riparian Margins (10m & 20m) Natural Areas with Moderate Sensitive Ridge notations and Ecological Linkage Opportunities.

It is considered that the proposal **does not meet** the criteria for granting consent as the potential adverse environmental effects are **more than minor** and **cannot** adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of a Non-complying activity subdivision **will** lead to a decline in the amenity values of the area in which it seeks to locate.

The proposal is considered to be contrary to the objectives and policies of the District Plan which seek to minimise or avoid adverse effects to water quality and quantity, protect native vegetation, promote ecological linkages, maintain and protect the margins of streams and environmental aspects significant to tangata whenua, protect the quality of the City's outstanding landscapes, maintain and enhance amenity values important to residents, and protect and enhance dominant natural features contributing to amenity value and neighbourhood character and natural heritage.

The proposal therefore does not meet either of the threshold test of Section 104D in that it will generate adverse effects that would be more than minor (104D (a)) and will also be contrary to the policies and objectives of the Waitakere City District Plan (104D (b)).

It is considered that the issues raised by the submitter/s in opposition **cannot** be adequately addressed through the imposition of appropriate conditions.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **does not merit consent** in accordance with Section 104 of the Resource Management Act 1991.

RECOMMENDATION

That pursuant to Sections 104,104B, 104D, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, consent be **declined** to the application by 231 Huia Road developments Ltd (Dean Coutts) to undertake a 9-bush-lot residential subdivision with sites ranging from 0.4 - 1.0 hectare in the Waitakere Ranges Environment (Titirangi-Laingholm Subdivision Area 2) requiring earthworks, vegetation alteration, a second vehicle crossing, bridging of a riparian margin and shared driveways within the Managed Natural Area and Riparian Margin (20m and 10m) Natural Area on land known to be or likely to be subject to natural hazards (stability sensitive soils) and with moderate (65m) sensitive ridges on the eastern and western boundaries of the site at 231 Huia Road, Titirangi, being Lot 4 DP 51988. for the following reasons:

- (i) The adverse effects on the environment from the proposal would be more than minor and cannot be adequately avoided, remedied or mitigated through conditions of consent. This is because:
 - clearance of riparian vegetation may alter riparian edges and increase erosion effects on stream banks;
 - clearance of vegetation within the bush covered slopes of the site will lead to increased light penetration, edge effects, introduction of pest species and incremental encroachment into forest areas leading to fragmentation and disruption of existing ecology and linkages;
 - changes to stormwater discharges have the potential to increase loading on the existing stream flows and introduce additional pollutants into the streams.

- (ii) The proposal is contrary to the objectives and policies of the District Plan as has been demonstrated in the preceding discussion in section 8.2.1 and is also contrary to the Auckland Regional Policy Statement.

- (iii) The proposal is not consistent with Part II of the Resource Management Act, in seeking to establish in an area of known heritage significance to iwi with a development that is not considered to be a sustainable use of the land.

Report prepared by: Jeannette Ibrahim, Team Leader; Resource Consents