



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

HEARING BY COMMISSIONER

I hereby give notice that a Hearing by Commissioner will be held on:-

DATE: **Thursday, 29 November 2007** **TIME:** **9.30 am**

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

to consider an application for resource consent 53 Titirangi Road, New Lynn and to take any necessary action connected therewith.

28 November 2007

Emma Joyce
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8950

MEMBERSHIP:

Commissioner: Cr DQ Battersby

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

**AGENDA FOR A HEARING BY COMMISSIONER TO BE HELD AT WAITAKERE
CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON THURSDAY, 29 NOVEMBER 2007,
COMMENCING AT 9.30 AM.**

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CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON THURSDAY, 29 NOVEMBER 2007,
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**1 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE
RESOURCE MANAGEMENT ACT 1991 BY JOHN COLIN BINSTED FOR PROPOSED
TWO LOT RESIDENTIAL DEVELOPMENT AT NO. 53 TITIRANGI ROAD NEW LYNN.**

RMA: 20071446(LUC) & 20071447(SUB) Ward: New Lynn

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: Iven Gunaratne

Site Address: 53 Titirangi Road New Lynn

Applicant: Colin Binsted

Date Received: 17/08/2007

Resource Consent No: RMA 20071446(LUC) & 20071447(SUB)

Building Consent No: Not Applied Yet

Ward: New Lynn

Legal Description: Lot 3 DP 32437

Address for Service: Jackson Clapperton & Partners Ltd
PO Box 71 065
Rose Bank Road
Avondale

Site Area: 1012m²

Unit Site Area(s): Lot 1- 325m²(Net)
Lot 2- 517m² (Net)

District Plan:

Human Environment:	
Living 2	
Natural Area:	General
Landscape Elements:	N/A
Hazards:	None
Roading Hierarchy:	Regional Arterial

Further Information Required: Yes

Date Requested: 24/10/2007

Date Received: 26/10/2007

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent for a two lot residential development Lot 1 with a net site area of 325m² and Lot 2 with a net site area of 517m² in the Living 2 Human Environment. The property is located at No. 53 Titirangi Road New Lynn being Lot 3 DP 32437.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for 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 significant resource consent issues associated with the proposal are related to residential activities density, earthworks performance standards, amenity values, visual impacts and neighbourhood character. The reduced site area of 325m² around the existing dwelling is less than the permitted site area of 450m² within the Living 2 Environment.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, **consent be granted** to the application for the proposed two lot residential development at No.53 Titirangi Road New Lynn. It is considered that the environmental effects that may be generated by the activity would be no more than minor and could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will be satisfied.

2.0 PROPOSAL

The applicant seeks consent for a two lot residential development Lot 1 with a net site area of 325m² and Lot 2 with a net site area of 517m² in Living 2 Human Environment Zone. Lot 3 is designated for Titirangi Road widening which comprises an area of 77m².

The proposed works comprise the following:

- Earthworks over an area of 130m² with a volume of 32m³ outside the building platform to form the shared driveway.

A1-A11

The applicant consulted with the Council in a pre application meeting on 26/03/2007 and with also the owners/occupants of Nos. 51, 51A and 55 Titirangi Road and No. 3 Bickleigh Grove prior to lodging the application and the details of that consultation are attached at pages A1 to A11.

3.0 LOCATION PLAN



Fig 1: Location Plan

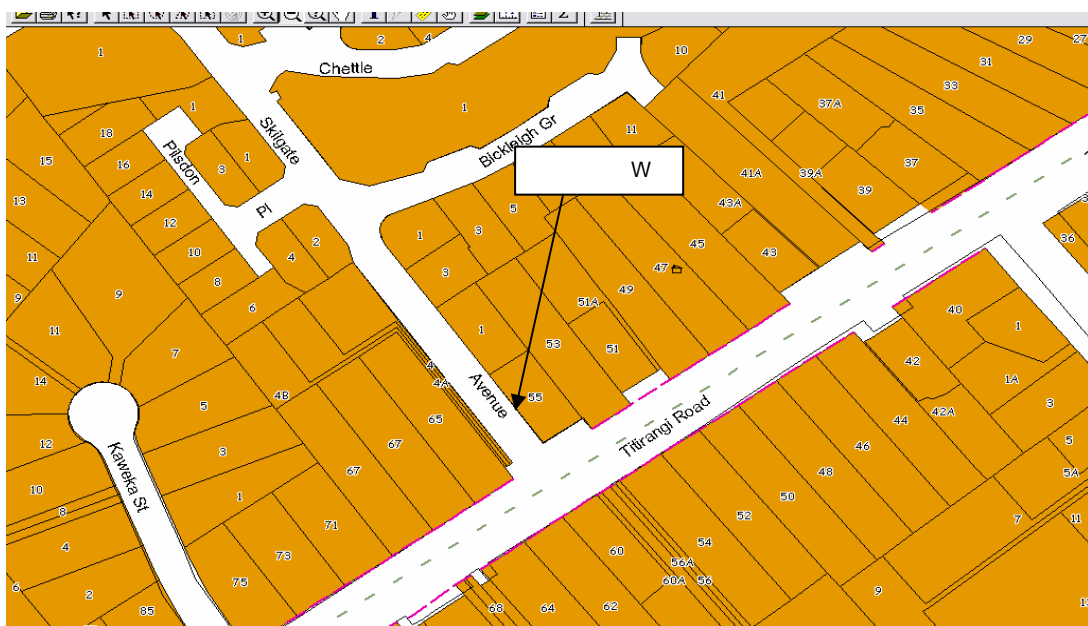


Fig 2: Living 2 Human Environment

Legal Description: Lot 3 DP 32437/ CT NA 905/171

4.0 REASONS FOR THE APPLICATION

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

4.1 Subdivision – Operative Plan 2003

- Limited Discretionary Activity consent for a subdivision of a site not more than 1 ha in area creating no more than 9 new sites.

The proposed two lot residential development, Lot 1 with a net site area of 325m² and Lot 2 with a net site area of 517m² and each site not complying with the 15 x 15 shape factor but complying with the access requirements rear lot. (Rule 3.2 Infill Subdivision)

4.2 Land use - Operative Plan 2003

- Discretionary Activity consent required to increase the building density by creating a lot less than 450m². Living 2 Human Environment – Residential Activities Density Rule 2.3;
- Limited Discretionary Activity consent required to carryout more than 100m² of earthworks out side the building platform and within 1m of the adjoining property boundary. General Natural Area – Earthworks Rule 3.3;
- Controlled Activity consent required to use a shared driveway for more than 1 dwelling. Living Environment Carparking and Driveways Rule 12.2;

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

4.4 No other consents are required in respect of this application.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

This is a rectangular shaped site with an area of 1012m² abutting Titirangi Road a regional arterial classified under the roading hierarchy of the operative District Plan. A road widening designation for the future widening of Titirangi Road affects the road boundary. This would reduce the site by approximately 77m². The topography is even and there is no significant vegetation within the site. The boundaries are screened with timber fencing. A three bedroom dwelling with a double external garage exists in this site located about 10m away from the road. The site is served with a public stormwater connection.

The site lies within the medium density housing circle associated with Fruitvale Railway Station. The residential character of the area is therefore changing with a mix of larger and smaller sites including some pockets with medium density residential development.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A12-A14

Notice of this application was served on all identified affected persons on 18/09/2007(see pages attached at A12 to A14). The period for submissions closed on 16/10/2007 and 1 submission was received. No submissions were received supporting the application, and 1 submission opposed the application. Please refer to attachments at pages A15 to A17 for copies of the submissions that were received. A map showing the location of the submitter is also attached at page A18. The application as notified is attached at pages A32 to A64.

A18

A32-A64

6.1 Submissions

There is only one submission in opposition to this proposal. The details are as follows:

Name: Min Shan & Qianyin
Address: 1 Skilgate Avenue

Main issues raised: The three bedrooms of their dwelling are north facing to the back yard of No. 53 Titirangi Road. If a new dwelling is constructed in the proposed lot they will not have reasonable access to daylight and sunlight and therefore their bedrooms will become dark and damp. As such they do not agree with the proposal.

7.0 STATUTORY REQUIREMENTS

The Waitakere City District Plan became operative on the 27th March 2003 except for a technicality in relation to financial matters associated with subdivision. No weighting is therefore given to the Transitional Waitemata District Scheme.

7.1 Discretionary Activities

A19-A24

The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail in pages A19 to A24 attached to this report. This should be referred to as the legal framework within which the application should be addressed.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. 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 of the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

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.

7.2 LIMITED NOTIFICATION – SECTION 94(1)

A25-A31

Section 94(1) provides for “limited notification” if the adverse effects of a proposal would be no more than minor but not all adversely affected persons have given their written approval, whereby all affected persons will be notified (but not the public at large) and have the opportunity to make a submission and be heard. This application was the subject of limited notification under section 94(1). A Section 93, 94 and 94A - 94D Determination Assessment was completed on the 12/09/2007. This report is attached at pages A25 to A31 of this report and identified that 7 persons would be adversely affected by the proposal. However, not all persons identified as being affected gave their written approval. As required by section 94(1) notice of the application was therefore served on all persons who were identified as being adversely affected.

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.

8.1.2 Water Quality and Quantity

The proposed two lot residential development will generate additional stormwater run off with the construction of a new dwelling in the vacant lot. This will have adverse effects to natural water quality and quantity if mitigation is not provided. Since there is a public stormwater connection to the site, the applicant proposes to install a chamber over this connection and to provide two private connections for the proposed lots.

The above proposal was assessed by Ecowater Engineer Brett Disley who has signed off the application subject to conditions which will be included in the consent report. Therefore adhering to the conditions of the consent report would generate no more than minor adverse effects to natural water quality and quantity.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

There is no vegetation to be removed within the site to carryout this proposal. As such there will be no adverse effects to native vegetation, vegetation and fauna habitat arising from this proposal.

8.1.4 Land / Soil

There will be earthworks involved with the subdivision for the forming of the shared driveway. It will be carried out over an area of 130m² with a volume of 32m³ outside the building platform and within 1m of the adjoining property boundary. The applicant proposes to scrape the existing driveway to a depth of 200mm and to prepare the base for the shared driveway. As the proposed earthworks are minor there will be minimal adverse effects to existing soil/landforms from this activity.

Conditions have been recommended to ensure there would be no adverse effects beyond the property boundaries. Such effects would also be of short duration.

8.1.5 Air

As the site is within the urban area and the proposed activity does not include air emissions of any kind, there would be no adverse effects on air quality.

8.1.6 Ecosystem Stability

As the site is within the urban area and the existing environment is already modified there would be no adverse effects on the stability of ecosystems as a result of the proposal.

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 & E). The proposed activity would not therefore adversely affect any identified outstanding natural features.

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

There would be no 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 within the urban area of the City and would not be near the coast, water body or wetland.

8.1.9 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of "outstanding landscape" within the City (refer Map 3.6B). The site is within the urban area of the city and the environment is already extensively modified. Therefore the proposed activity would not adversely affect any identified outstanding landscapes.

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

- *visual amenity, streetscape, sense of place, neighbourhood character, amenity values, views, on site amenity, adequate open space*
- *landscape modification, encroachment above ridgelines, landscape values, views*

The proposed two lot residential development will infringe the Residential Activities Density Rule in the Living 2 Environment zone by creating Lot 1 with a net site area of less than 450m² (this lot will be 325m²). The existing dwelling will remain in this lot. The increased building density will potentially affect the neighbourhood character and visual amenity of the area since such a development is not anticipated by the District Plan.

The applicant has demonstrated that the reduced site area around the existing dwelling would not generate any infringements to the bulk and location performance standards. Therefore this smaller site would maintain adequate residential amenities. The vacant lot thus created is of a complying size and shape and a future dwelling does not need to be shown. The rules of the District Plan set the performance standards for positioning a building on the site and this also sets the limits to which Council can protect adjoining property amenity. There is no reason to assume that the adjoining owners at 1 Skilgate Avenue will be affected to any greater degree than is permitted by the Plan.

Although the site has an area of 1012m² an area of 77m² would be required for future Titirangi Road widening. After setting aside 93m² for the shared driveway, the site is left with only 842m² and two 450m² complying lots cannot be achieved from this area.

Under the District Plan the subject site falls within New Lynn Medium Density Zoning. It is noted that properties behind this site have been developed within areas of less than 450m² under the Medium Density Housing zoning criteria and the adjoining property No. 51 Titirangi Road also has an area of 427m². Therefore it could be concluded that the general character of the immediate neighbourhood represents a similar development intensity for which applicant seeks approval. Therefore any adverse effects on the environment would be considered as no more than minor from the proposal.

The immediately affected owner/occupants of No. 51 and 55 Titirangi Road have given their written approval for this development.

8.1.11 Heritage

There would be no adverse effects in respect of heritage items as the proposed activity would not be located near, or impact on any identified heritage item.

8.1.12 Summary

The proposal will have positive as well as negative effects. Positive effects will be creating an additional lot for a residential development which will meet the housing demand in the area. As the site is already modified for residential development it will not have any additional adverse effects to visual amenity or neighbourhood character of the area.

The negative effect will be that it will not meet the minimum standards of Residential Activities Density in the Living 2 Human Environment Zone by creating a lot less than 450m² thus increasing the building density. Nevertheless a second dwelling as a Minor Household Unit could be considered as a permitted activity within the area provided for the additional lot.

Therefore it is considered that the actual and potential adverse effects of the proposed activity would be no more than minor, and can be adequately mitigated through appropriate conditions of consent.

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

8.2.1 District Plan Policies and Objectives

A19-A24

A copy of the relevant Objectives and Policies related to this development are contained in attachments at pages A19 to A24 at the end of this report. The applicant proposes a two lot residential development and the following Objectives and Policies are considered relevant.

It is considered that the proposed development would be consistent with the following relevant objective and policies of the District Plan.

OBJECTIVE 11 – To achieve a quality settlement and associated activities within each of the City’s Human Environment which is sympathetic to, and protects and enhances, the dominant natural and physical (including buildings) features which contribute to the amenity values and neighbourhood character of the area, including maintaining and enhancing:

- The quality and character of different patterns of settlement within the City’s intensively settled residential areas.

Policy 11.1 – Settlement should be of a type and density that protects amenity values including neighbourhood character of different parts of the city.

- Maintaining the low density of sites with high level of private planting, large areas of open space around buildings and detached housing characteristics in the New Lynn local character areas.
- Providing for more intensive settlement in a way that protects the wellbeing of residents and enhances the amenity of these areas.

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:

8.2.2.1 General Natural Area – Earthworks Rule 3.3

Assessment of limited discretionary activity applications will be limited to the matters of scale, method, design, landscape treatment and location and will be considered in accordance with assessment criteria 3(a) – 3(s)

- 3(a) *The extent to which the scale of earthworks is consistent with the scale of development being undertaken;*
- 3(b) *The extent to which earthworks adversely affect the potential for restoration or enhancement around the area of earthworks;*
- 3(d) *The extent to which earthworks adversely affect the significance or landscape value or natural character of natural landscape elements or other natural features;*
- 3(e) *The extent to which earthworks exacerbate or contribute to flooding, erosion or instability of land or the potential for flooding, erosion or instability of land;*
- 3(h) *The extent to which earthworks adversely affect the visual amenity of the site or adjoining sites.*

The earthworks associated with the proposal are for the forming and upgrading of the existing driveway to a shared driveway. It will be carried over an area of 130m² and with a volume of 32m³ outside the building platform and within 1m of the adjoining property boundary. The existing concrete strip and subbase will be removed and will be replaced with a new concrete driveway. Therefore the scale of earthworks is consistent with the scale of development being undertaken for the site. Ample space will be available for potential restoration or enhancement around the area of earthworks once the development is completed. There is no natural landscape element or natural feature to be retained within the site as it is already modified for residential development. Any adverse effects on visual amenity of the site or adjoining sites will be minimal as it's the existing driveway which is to be upgraded to a shared driveway.

Erosion and sediment control will be required as a condition of consent to ensure that sediment will not run off site to adjoining properties, the roadway and stormwater system.

8.2.2.2 Living Environment – Residential Activities Density Rule 2.3

Discretionary Activity applications made under this rule will be assessed having regard to assessment criteria 2(a) – 2(e) and where relevant, the medium density housing criteria appendix to these rules and any other relevant under section 104 of the act.

- 2(a) *The extent to which the development complements amenity values and neighbourhood character;*
- 2(b) *The extent to which the development is compatible with the size of the site;*
- 2(c) *The extent to which the development complements existing development on the site, having regard to:*
 - *separation distances between dwellings;*
 - *the visual impact of access to rear dwellings;*
 - *the visual appearance of the development from the road;*
 - *privacy between buildings and of outdoor space.*
- 2(d) *The extent to which the development has regard to and where possible incorporates natural features on or around the site.*

The application is for a proposed two lot residential development, Lot 1 containing the existing dwelling with a net site area of 325m² and Lot 2 with a net site area of 517m². Lot 3 is set aside as road to vest for Titirangi Road widening with an area of 77m². The

applicant states that the proposal could not achieve two complying lots with an area of 450m² each due to the road widening designation and the area required for the shared driveway. Therefore the lot in front where the existing dwelling is to be retained will have a reduced area of less than 450m². This is an infringement of Residential Activities Density Rule in the Living 2 Environment being a Discretionary Activity. This will have potential impacts on visual amenity and neighbourhood character as such type of development is not anticipated by the District Plan. Therefore, the proposal will deviate from the usual pattern of development proposed for the area by increasing the building density.

However, the subject site lies within the Medium Density Housing circle associated with Fruitvale Railway Station although it does not satisfy the criteria set out in the District Plan to permit such an activity on a single 1012m² site. It was observed that sites adjoining this property located in Skilgate Avenue and Bickleigh Grove have been developed as Medium Density Housing with net site areas less than 450m² as the original site for subdivision met the criteria for such development. There are also properties located opposite the subject site developed with more than one dwelling on cross lease basis.

Therefore, it is the reporting planner's opinion that the proposed two lot residential development is generally compatible with the immediate neighbourhood character of the area.

8.2.2.3 Living Environment – Carparking and Driveways Rule 12.2

Assessment of controlled activity applications made under this rule will be limited to the matters of driveway design, safety, efficiency, driveway capacity and method of construction and be considered in accordance with matters set out in criteria 12(a), (c) and (d).

12(a) The extent to which driveways provide safe, maintenance-free, adequately drained, efficient, effective and visually attractive vehicular access from the road to buildings.

12(c) The extent to which driveways and carparking create adverse visual or aural effects on adjoining sites.

It is proposed to upgrade the existing driveway to a shared driveway to serve Lot 1 & Lot 2. It is located to the northeast site boundary. There is no vegetation to be removed to upgrade this driveway. The above proposal has been assessed by shared driveway specialist Ecowater Engineer (Maosen Zhou) who has signed off the application subject to conditions which will be included in the consent report.

Therefore, adhering to the conditions of the consent report would generate no more than minor adverse effects to the environment.

8.2.2.4 Infill Subdivision – Rule 3.2

Assessment of limited discretionary activity applications will be considered in accordance with assessment criteria 3(a) – 3(ze)

The proposed subdivision of the existing 1012m² site to create two (2) lots with net site areas of 325m² (Lot 1) and 517m² (Lot 2) would be compatible with the surrounding development in the area. Lot 1 will contain the existing dwelling and Lot 2 will be a complying site but would not meet 15 x 15 shape factor thus will be a limited discretionary activity. The proposed development can provide for sufficient open space surrounding the existing and future dwellings.

Council's Subdivision Engineer, Brett Disley of EcoWater has assessed the infrastructural issues (refer to memorandum dated (7 November 2007)). Mr Brett Disley recommended that conditions be placed on the consent to ensure sufficient infrastructural capacity is provided for the proposed lots. We concur with this assessment and recommend that the suggested conditions become conditions of consent, if granted. It is therefore concluded that the assessment criteria for Infill Subdivision can be satisfied.

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

The Auckland Regional Policy Statement became operative in 1999 and (subject to plan changes at various stages in the statutory process) sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the Region, under which the Waitakere City Operative District Plan has been prepared.

The proposed development by reason of its size and scale and matters discussed elsewhere in this report is not considered to be contrary to the Regional Policy Statement, or any Proposed Plan Change associated with this document.

The proposal would be located adjacent to a recently established medium density housing development on Skilgate Avenue and Bickleigh Grove. It receives access directly from Titirangi Road a Regional Arterial classified under the roading hierarchy of the operative District Plan. Since this is a two lot residential development within the Medium Density Housing circle of Fruitvale Railway Station and being close to a major urban centre where such intense type developments are encouraged, the proposal will not conflict with Regional Policy Statements for housing.

Therefore the proposal would be entirely consistent with the Auckland Regional Policy Statement which promotes intensification of urban development close to transport hubs whilst also offering a range of housing styles and sizes of site to cater for the changing housing needs of a varied community.

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

8.4.1 Reserve Contribution and Development Contribution

Reserve Contribution

A financial contribution equal to 6% (plus GST at 12½%) is to be obtained for Lot 2 as of the date of issue of the subdivision consent for reserve purposes pursuant to Section 407 of the Act. Council will obtain the valuation at the time an application is made for certification under section 224(C) of the Resource Management Act.

A condition requiring payment of this contribution is recommended.

Development Contribution

It is noted that the creation of one additional lot being a new extra building site attracts a development contribution in accordance with the Waitakere City Council LTCCP. Under the Local Government Act 2002, Councils were permitted to take development contributions towards the costs that growth imposes on the community. The financial contribution policy of the Waitakere City Council's Long Term Council Community Plan incorporates a development contribution based on the City's capital expenditure for infrastructure and community facilities for that ten year period. The development contribution estimate for this proposal is \$ 11,741.57 (incl. GST).

8.4.2 Monitoring

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis.

8.5 Lapsing of Consent

Land Use

It is noted that the land use consent is required for both the establishment of an additional dwelling and to enable work to be undertaken to complete subdivision consent.

It is noted that the land use consent is required for both the establishment of an additional dwelling and to enable work to be undertaken to complete subdivision consent. While Council generally seeks to limit the time in which construction work is undertaken on smaller "developments", restricting the timeframe on the land use may hinder the completion of the subdivision (that is reliant on the land use consent for earthworks) which effectively has the lapse date extended by lodging the survey plan.

Thus a standard five year period in which to give effect to the consent is considered appropriate because the consent and conditions of the consent (if granted) would be for the purpose of completing the subdivision and a five year period would be consistent with the subdivision time frame as detailed below.

Subdivision

There is no reason to depart from the standard five year period in which to give effect to this consent. Thus a five year period for the consent is considered appropriate.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

It is considered that the proposal would be consistent 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.

"It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable people and communities to provide for their economic, social and cultural well-being and their health and safety without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment."

10.0 CONCLUSION

It is considered that the proposal **meets** the criteria for granting consent as the potential adverse environmental effects are **no more than minor** and **can** adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of an additional residential site for residential activity **will not** lead to a decline in the amenity values of the area in which it seeks to locate.

The proposal is considered to be consistent with the objectives and policies of the District Plan and is not contrary to Part II of the Act.

It is considered that the issues raised by the submitter **can** be adequately addressed through the imposition of appropriate conditions and the bulk and location performance standards of the District Plan.

Subject to any additional evidence being presented at the hearing, it is concluded that the application **merits consent** in accordance with Section 104 of the Resource Management Act 1991.

11.0 RECOMMENDED DECISION

A. LANDUSE – LUC 2007- 1446

Pursuant to Sections 93, 94, 94D, 104, 104C and 108 of the Resource Management Act 1991, being satisfied that no body or person is adversely affected, consent is granted to the application by Colin Binsted for a two lot residential development, that under the rules of the District Plans (as more accurately defined in Sections 3 and 4 of this report) requires resource consent for;

- The use of a shared driveway;
- Earthworks for over 100m² outside the building platform and within 1m of the adjoining common boundary;
- Increased building density;
- At 53 Titirangi Road, New Lynn being Lot 3 DP 32437 for the following reasons:
 - (i) No persons are considered to be adversely affected by the proposal;
 - (ii) The proposal is generally consistent with the objectives and policies of the District Plan and would create no more than minor adverse effects on the environment that could be avoided, mitigated or remedied through condition of consent;
 - (iii) The proposal is considered to be consistent with the relevant assessment criteria for Discretionary Activities and is not contrary to Part II of the Act.

Conditions imposed on the consent are as follows:

General Conditions

1. The development shall proceed in accordance with the plans titled

Plan of proposed subdivision of Lot 3 DP 32437 – 53 Titirangi Road New Lynn

The above plan has been prepared by Jackson Clapperton and Partners Ltd and dated 25/10/2007 and all of the information submitted with the application all referenced by Council as SUB 20071447 & LUC 20071446.
2. Pursuant to Section 125 of the Resource Management Act 1991, if not given effect to earlier, this consent shall lapse after five years from the date it was granted.

Note: The above time frame is separate to those provided under the subdivision consent below and is not extended by the application and approval of the survey plan pursuant to Section 223 of the Act. Should the time period lapse/expire prior to the completion of works under the subdivision consent that are dependent on this land use consent, then a new consent will be required before such work may (re)commence."

Monitoring Conditions

- (Mon 1) **Before commencement of any works and until completion of exposed earth siteworks**, adequate sediment and erosion control measures shall be constructed and maintained by the consent holder. The control measures must be maintained until the site has been adequately stabilised against erosion. The construction and maintenance shall be in accordance with Appendix 3, Erosion and Sediment Control Measures Appendix to the Natural Area Rules of the Waitakere City Council District Plan (attached as appendix A to this consent).

Please **advise Council's Environmental Monitoring Officer when the controls are in place and await the approval of the monitoring officer** before commencing work. **The applicant should book an inspection at least 5 working days prior to the required inspection.**

- (Mon 2) A consent compliance monitoring fee of \$672.00 (inclusive of G.S.T.) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a reinspection shall be required at the relevant hourly rate applicable at the time the re-inspection is carried out.

Earthworks

- (Mon 3) The consent holder shall implement suitable measures, such as wheel wash facilities to prevent the deposition of earth on the surrounding streets from trucks entering or leaving the site, to the satisfaction of the Manager Resource Consents. These measures shall remain in place until the completion of the development. Should any material be deposited on the street, it shall be removed immediately at the expense of the consent holder.
- (Mon 4) Footpaths, berms and kerbs shall be protected from damage by crossing or parking vehicles to the satisfaction of the Manager Resource Consents. Any damage which is attributed to the earthworks operation shall be rectified at the cost of the consent holder.
- (Mon 5) All development works on the site including earthworks and the use of associated heavy machinery shall be undertaken between the following hours only.

Monday to Friday:	7.30 am to 7.00 pm
Saturday	8.00 am to 5.30 pm
Sunday and Public Holidays:	No work

- (Mon 6) All necessary action shall be taken to prevent a dust nuisance to neighbouring properties to the satisfaction of the Manager Resource Consents.

ECOWATER CONDITIONS

- (EW 1) All infrastructure (including financial contributions) relating to stormwater treatment and disposal, wastewater disposal, and water supply shall be to the satisfaction of Council (Ecowater). Compliance with the Waitakere City Council Code of Practice for City Infrastructure and Land Development is deemed to be in accordance with this condition. Refer to subdivision condition (EW 1) – (EW 5) and (FC 1) inclusive under SUB 2007-1447 for further details.

SHARED DRIVEWAY CONDITIONS

- (SD 1) Form and construct the shared driveway over parts of Lots 1&3 lettered A&B and provide stormwater control to the satisfaction of the Council. Specific Requirements:
- (i) Inspection of the boxing prior to concrete pouring (or the subgrade prior to pavement construction) is required. Contact 836-8000 ext. 8725, at least 48 hours prior to the inspection being required.
 - (ii) The minimum width of the carriageway on shared driveways is specified in Councils District Plan (2.5m for 2 lots/flats) and the construction details are given in Councils "Code of Practice for City Infrastructure & Land Development." (150mm thick up to 4 lots).

Advice Notes:

Where indicated in the conditions it is the consent holder's responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 839 0400.

B. SUBDIVISION – SUB 2007- 1447

That Subdivision Consent Application (SUB)-2007-1446 being a Limited Discretionary Activity and being a two lot residential subdivision of Lot 3 DP 32437 comprised in CT NA 905/171 situated at 53 Titirangi Road New Lynn, by Colin Binced be granted subdivision consent pursuant to Sections 93, 94, 94D, 104, 104A, 108 and 220 of the Resource Management Act 1991, and that:-

Pursuant to Section 113 of the Resource Management Act, the reasons for granting consent are as follows;

- a. No persons may be adversely affected by the proposal;
- b. The proposal has been considered in terms of the relevant assessment criteria, meets the relevant Policies and Objectives of the District Plan, and would create no more than minor adverse effects on the environment being a complying subdivision.

Conditions imposed on the consent are as follows:

1: SECTION 223 REQUIREMENTS

A survey plan of the subdivision in general accordance with the plans titled " Plan of Proposed Subdivision of Lot 3 DP 32437" will be approved pursuant to Section 223 of the Act provided that the survey plan signing fee has been paid and that the following conditions have been complied with to the satisfaction of Council.

- (a) Provide right of way, services and drainage easements (for the services through Lots to protect the existing or proposed connections) in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon." Specific requirements:
 - (i) The easement document will be prepared by Council's Solicitor at the applicant's cost. Prior to submitting the survey plan for Section 223 certification, obtain EcoWater's approval to the drainage easement.
- (b) Amalgamation condition for Lot 1 and Lot 3 (awaiting confirmation from the Land Registrar)

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

2: SECTION 224C REQUIREMENTS

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

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

ECOWATER CONDITIONS (PUBLIC DRAINAGE)

- (EW 1) Provide and install public wastewater reticulation to serve both Lots in compliance with Councils Code of Practice for City Infrastructure and Land Development (Refer Section 5.0). Specific requirements:
- (i) Provide each Lot with a separate public connection. This is to be achieved by the installation a wastewater dry chamber to provide two separate connections for Lots 1 and 2 on the existing public connection in accordance with the WCC COP SD 5.13.
 - (ii) Locate and relay any required existing private wastewater drainage serving the existing dwelling on Lot 1 to a position clear of the building platform for Lot 2.
 - (iii) Provide a surveyed As-Built plan prepared by a Licensed Cadastral Surveyor, showing lid and invert levels in terms of LINZ datum, and two boundary offsets to the dry chamber.
- (EW 2) Where the public wastewater connection cannot be provided at the lowest point for service to Lot 2, i.e. the floor level is unable to be a minimum of 1.0 m above the invert of the public drain at the connection point. Pursuant to Section 221 a consent notice is required to be entered into, in favour of Council, to ensure that if the minimum floor level is not achieved, then a Council approved domestic sewerage pumping station is installed at building consent stage and fully maintained by the owner, at the owner's expense.
- (EW 3) Provide and install public stormwater reticulation to serve both Lots in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 4.0). Specific requirements:
- (i) Provide each Lot with a separate public connection. This is to be achieved by the installation a stormwater inspection chamber to provide two separate connections for Lots 1 and 2 on the existing public connection, in accordance with the WCC COP SD 4.13.
 - (ii) Locate and relay any required existing private stormwater drainage serving the existing dwelling on Lot 1 to a position clear of the building platform for Lot 2.
 - (ii) Provide a surveyed As-Built plan prepared by a Licensed Cadastral Surveyor, showing lid and invert levels in terms of LINZ datum, and two boundary offsets to the chamber.

- (EW 4) Provide a copy of the updated modified private wastewater and stormwater drainage As-Built plan for the property, prepared by a Registered Drainlayer, showing the separate private drains from the existing dwelling to the point of connection to the public connections, i.e. stormwater inspection chamber and wastewater dry chamber.
- (EW 5) Provide a private water supply reticulation system to each Lot in compliance with Council's Code of Practice for City Infrastructure and Land Development. Specific requirements:
- (i) All Lots are to be individually metered at the road reserve boundary. Note that meters will be installed when a building consent is applied for.
 - (ii) Locate all water connections at the same position as other utility connections to each Lot.

ECOWATER NOTATIONS

- Construction of private drainage requires a building consent;
- Any existing water meter serving an existing house must remain the meter serving that house. Pay Council to relocate the water meter to within the new boundary if necessary;
- Where any driveway is to be constructed prior to 224c, it is recommended that the developer provide and install a 20 mm (25mmOD PE80) private water service pipe to the rear Lot as specified in WCC COP. The pipe is to be laid in the services easement, from the proposed meter location to 300 mm within the body of the Lot, terminating with an AcuFlow Valve. Mark both ends of each pipe with the Lot number it serves.

SHARED DRIVEWAY CONDITIONS

- (SD 1) Form and construct the shared driveway over parts of Lots 1&3 lettered A&B and provide stormwater control to the satisfaction of the Council. Specific Requirements:
- (i) Inspection of the boxing prior to concrete pouring (or the subgrade prior to pavement construction) is required. Contact 836-8000 ext. 8725, at least 48 hours prior to the inspection being required.
 - (ii) The minimum width of the carriageway on shared driveways is specified in Councils District Plan (2.5m for 2 lots/flats) and the construction details are given in Councils "Code of Practice for City Infrastructure & Land Development." (150mm thick up to 4 lots).

LEGAL DOCUMENTATION

These conditions will be signed off by Consent Services. If you are required to obtain a geotechnical report as a condition of consent, please provide your account manager with a copy so that we can initiate Legal documentation and hasten the Section 224C procedure.

- (LD1) The Consent Notice required by Condition (EW 2) above will be prepared by the City Solicitor at the applicants cost when the following information has been received:
- a. All necessary technical information.

- b. A copy of the Land Transfer plan showing the Deposited Plan and Certificate(s) of Title numbers allocated by Land Information New Zealand, and
- c. The name and address of the solicitor acting for the owner.

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

FEES, BONDS & CONTRIBUTIONS

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

- (FC 1) Pay to Council any engineering, works supervision, monitoring, 224(c) processing and administrative fees as incurred which will be charged at Councils advertised schedule of fees.
- (FC 2) Pay to the Council a financial contribution equal to 6% (plus GST at 12½%) market values to be obtained for Lot 2 as of the date of issue of this subdivision consent for reserve purposes pursuant to Section 407 of the Act. Council will obtain the valuation at the time an application is made for the certificate pursuant to section 224(c) of the Resource Management Act.

GENERAL

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

- (GL 1) Advise Council of the Land Transfer plan number allocated by Land Information New Zealand.
- (GL 2) Advise Council the name of the Consultant and/or person/s who will be the developer's representative fulfilling engineering responsibilities as detailed in section 1.4.1 of Councils Code of Practice for City Infrastructure and Land Development.
- (GL 3) Liaise with the Electricity Network Owner & Council and install for the subdivision site, an 'extension of the network' to a 'point of supply', acceptable to the Network Operator & Council. Also install the reticulation of electric power to the body of Lot by underground methods. Where applicable design and provide each street light and standard necessary at the discretion of Council to serve the subdivision.

The completed installation is to be installed in compliance with the requirements of the Electricity Network Owner and the requirements of the NZ Electrical Supply Regulations.

Within the site, the supply lines, plinths and street lights are to be contained within the Lot(s) being served and/or located within a service easement referred to in a Memorandum of (service) easements on the survey plan.

Provide to Council a copy of:-

- (i) Electrician's - 'Electrical Certificate of Compliance' for supply lines, stating what work has been carried out and to which lot(s);
 - (ii) Sign off from Network owner e.g. 'Take-Over & Completion Certificate' UnitedNetworks- for new connections quote's - phone: 0800948100 option 4, OR a "224C Letter Completion Certificate" from Siemens, OR certification from any other recognised Electricity Network Owner;
 - (iii) An as-built plan (including any existing power poles, overhead lines and the proposed Lot boundaries/numbers), of the installed reticulation.
- (GL 4) Install the reticulation of telecommunication services to the body of Lot 2 by underground methods. The completed installation is to be installed in compliance with the requirements of the Telecommunications Network Owner.

Within the site, the supply lines and plinths are to be contained within the Lot(s) being served and/or located within a service easement referred to in a Memorandum of (service) easements on the survey plan.

Provide to the Council satisfactory confirmation that the completed installation has been installed in compliance with the requirements of the Telecommunications Network Owner.

Provide to Council a copy of :-

- (i) Electrician's- 'Electrical Certificate of Compliance' for supply lines confirming where applicable, the installing of telephone lines OR an 'Underground wiring services order receipt' (up to 3 new lots-20mm duct and draw tape- ph.123), plus a 'Telephone Network Provisioning Clearance Certificate' issued by Telecom NZ
 - (ii) Telephone Network Provisioning Subdivision Sign Off Certificate' issued by Telecom NZ (4 plus new lots – for Telecom network supply lines plus terminals) OR certification from any other recognised Telecommunications Network Owner.
 - (iii) An as-built plan (including any existing power poles, overhead lines and the proposed Lot boundaries/numbers), of the installed reticulation.
- (GL 5) Provide confirmation that the relevant network utility operators are satisfied with the electric power and telephone connections to each allotment; or, if necessary, carry out any remedial work required.
- (GL 6) Remove all non complying buildings in the site.
- (GL 7) Pursuant to Section 125 of the Resource Management Act 1991, if not given effect to earlier, this consent shall lapse after five years from the date it is granted.

Advice Note:

1. A Development Contribution of \$11,741.57 (Incl. GST) has been estimated for this subdivision. This development contribution shall be paid prior to the issue of a certificate under S.224(c) Resource Management Act 1991. Should a building consent be granted prior to S.224(c) the development contribution will be required prior to the uplift of that Building Consent. Duplicate payments would not be required.
2. Lot 3 is to vest as road but will be held with Lot 1 until such time as Transport Assets is able to take the land for road widening.

Report prepared by: Iven Gunaratne: Resource Planner.

