

**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD AT WAITAKERE CENTRAL,
6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON FRIDAY,
14 AUGUST 2009, COMMENCING AT 9.30 AM**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY GRHK PROPERTIES LIMITED TO CONVERT AN EXISTING RESIDENTIAL DWELLING INTO A CAFE WITH SEATING FOR UP TO 50 PEOPLE AT 521 SOUTH TITIRANGI ROAD. PARKING IS PROVIDED AT THE REAR OF 517 SOUTH TITIRANGI ROAD, TITIRANGI – THE PROPOSED CAFE IS LOCATED IN THE BUSH LIVING ENVIRONMENT.	1

**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD AT WAITAKERE CENTRAL,
6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON FRIDAY,
14 AUGUST 2009, COMMENCING AT 9.30 AM**

- 1 **NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY GRHK PROPERTIES LIMITED TO CONVERT AN EXISTING RESIDENTIAL DWELLING INTO A CAFE WITH SEATING FOR UP TO 50 PEOPLE AT 521 SOUTH TITIRANGI ROAD. PARKING IS PROVIDED AT THE REAR OF 517 SOUTH TITIRANGI ROAD, TITIRANGI - THE PROPOSED CAFE IS LOCATED IN THE BUSH LIVING ENVIRONMENT.**

LUC 2009-364

Waitakere Ward

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:	Mandy Sherring
Site Address:	517 and 521 South Titirangi Road
Applicant:	GRHK Properties Limited
Date Received:	31 March 2009
Resource Consent No:	LUC 2009-364
Legal Description:	Lot 1 (517) DP23754 and Lot 7 (521) DP19000
Address for Service:	Allan Geddes PO Box 17448 Karori Wellington 6147
Site Area:	Lot 1 - 1320m ² , Lot 7 1012m ²
Waitakere Ranges Heritage Area:	Yes
Building Consent No:	No building consent lodged to date
Operative District Plan:	
Human Environment:	Bush Living
Natural Area:	General Natural Area Managed Natural Area
Landscape Elements:	Sensitive Ridge
Hazards:	Stability Sensitive
Roading:	Collector Road

Hierarchy:	
Proposed Plan Changes:	Plan Change 26
Further Information Requested	Yes
Date Requested:	16 April 2009
Date Received:	24 April 2009
Site Visit:	2 April 2009
Section 37 Applied:	No
Any Affected Persons:	Yes
Approval Given:	See table below

1.0 INTRODUCTION AND RECOMMENDATION

1.1 NATURE OF THE APPLICATION

It is proposed to convert a residential dwelling at No.521 South Titirangi Road to a café with seating up to 50 people. Approximately 35 seats will be located in the existing masonry dwelling at the front of the lot and 15 seats will be located outdoors within the front courtyard behind an existing masonry wall. It is proposed that there will be no use of outdoor seating after 6:00 pm. Proposed open hours are 7 days a week 7:00am to 10:00 pm.

It is proposed to provide 7 parking bays to cater for restaurant patrons at the rear of No.517 South Titirangi Road. No.517 is currently lawfully established and used as an optometrist with daytime opening hours Monday - Friday. To facilitate a parking area at the rear of No. 517 (7 parking bays) the area will be earthworked and retaining walls constructed. The parking area will be paved with Gobi blocks and bollard lighting is proposed to provide safety to patrons using the parking area. A screen wall will be constructed along the boundary with the adjoining property at No.519 South Titirangi Road.

The proposal involves a number of infringements to the Managed Natural Area and Bush Living Environment provisions of the District Plan, including earthworks, impermeable surfaces, traffic generation, a non-residential activity in a Bush Living Environment, signage and a driveway associated with a non-residential activity. There is also a shortfall of parking as determined under the Waitakere City Council Guidelines for Parking taking into account the existing landuses combined with the proposed cafe over both sites.

The proposed change of landuse is located within Waitakere Ranges Heritage Area as identified in the Waitakere Ranges Heritage Area Act 2008. Where the application is located within the Waitakere Ranges Heritage Area, the assessment must consider any effects on the heritage features listed in Section 7 of the Waitakere Ranges Heritage Area Act 2008.

3.0 THE PROPOSAL

It is proposed to convert the existing residential dwelling at No.521 South Titirangi Road to a cafe with seating up to 50 people. Approximately 35 seats will be located in the existing dwelling development and 15 seats outdoors within the front courtyard behind a masonry wall. It is proposed that there will be no use of outdoor seating after 6:00 pm. Open hours are 7 days a week 7:00 am to 10:00 pm.

A minor household unit behind the dwelling will be retained for residential use and an existing double (2 car) garage will provide parking for the residents of the minor household unit.

It is proposed to provide 7 parking bays to cater for cafe patrons at the rear of No.517 South Titirangi Road. No.517 is currently lawfully established and used as an optometrist with daytime opening hours Monday - Friday. To facilitate a parking area at the rear of No. 517 (7 parking bays) the area will be earthworked and retaining walls constructed. The parking area will be paved with Gobi blocks and bollard lighting along the length of the parking area will provide safety for patrons using the parking area after dark. A 1.8 screen wall will be constructed along the boundary with the adjoining residential dwelling at No.519 South Titirangi Road.

4.0 SITE DESCRIPTION, SURROUNDING NEIGHBOURHOOD AND BACKGROUND

4.1 SITE DESCRIPTION

The site of the proposed café (No.521) is located on the western side of South Titirangi Road approximately 15 metres north of the Park Road intersection and 190 metres south of the intersection with Titirangi Road. The property to the south is the Titirangi Fire Station (523 - 527 South Titirangi Road), and to the north and west the property is bordered by residential development. Across the road is a telephone exchange and Toby's Restaurant.

Development on No. 521 includes a brick clad residential dwelling setback approximately 2.0 metres from the lot boundary and a minor household unit at the rear of the site. The lot falls significantly from the front boundary to a low point at approximately the middle of the site and then rises again to the rear western boundary. There is a double garage with a paved driveway on the northern side of the property. There is dense protected vegetation for approximately two thirds of the site from the rear boundary. The vegetation mostly screens the development from properties to the west.

No. 517 South Titirangi Road is located approximately 90 metres north of the Park Road intersection and 135 metres south of the intersection with Titirangi Road. The lot to the north is currently vacant but is a designated site for an electrical sub station. The subject property is bordered on the south and west by residential development and across the road is the Titirangi RSA. Development on this site includes a single storey residential dwelling with under croft carport. The development has a landuse consent to operate as an Optometrist, open Monday to Friday during general working hours. The site is used entirely for business purposes with no residential activity on site. The paved parking area for the optometrist is within the front yard / setback area. The rear yard has been mostly cleared of native vegetation and is generally an unkempt area with significant weed infestation.

4.2 SURROUNDING NEIGHBOURHOOD

South Titirangi Road is classified as Collector Road under the District Plan and has a 50km/hr speed restriction. This stretch of South Titirangi Road provides an important link for properties in Titirangi accessing the main arterial roads.

The eastern side of South Titirangi Road, north of Park Road has a building environment that is characterised by non-residential activities including the RSA, Community House, children's play centre, bowling club and public car park. These uses are within Council Open Space where the majority of the site is covered by dense re-growth native vegetation but when viewed from the street the non-residential land uses present the predominant built form. There is also a designated telephone exchange on the corner with Park Road. South of Park Road is Toby's Restaurant and a 6 unit office/ commercial development approved by Council in 2007.

The western side of South Titirangi Road has a streetscape that is characterised by development that has the appearance of predominantly low density residential dwellings with large gardens that include mature native and exotic vegetation. There is a vacant site at No.515 South Titirangi Road that is designated for an electrical sub station (designation reference V16). The optometrist and the Titirangi Fire Station are the only obvious non-residential land uses. It is understood that at No.511 South Titirangi Road the owner is running a consulting room which is operating as a home occupation. To the south the fire station site is mostly cleared of vegetation with paved surfaces within the front setback area. The overall appearance of the fire station is functional and not in keeping with the predominantly residential character of the zoning.

Overall, development in the vicinity of the subject site is characterised by well-established community services buildings and residential dwellings, together with mostly established vegetation and landscaping.

A3-A5

As previously noted photographs of the site and surrounds are attached at pages A3 to A5 as Appendix 2.

4.3 HERITAGE FEATURES

The subject sites are located within an area known as Bush Living Environment and being just south of an area that is identified within Council policy as the Titirangi Village. The Bush Living Environment is essentially residential development within a bush setting where development is secondary to or does not dominate the natural environment. The Titirangi Village has a long association with the provision of commercial and/or civic facilities.

The relevant Heritage Features for this area coinciding with those detailed under Section 7 of the Waitakere Ranges Heritage Area Act (WRHAA) 2008 are as follows;

- Number 521 South Titirangi Road includes terrestrial ecosystems of prominent indigenous character that:
 - (i) provide a diversity of habitats for indigenous flora and fauna;
 - (ii) provide opportunities for ecological restoration;
 - (iii) have landscape qualities of regional significance; and
 - (iv) have natural scenic beauty.
- Both properties contribute to the natural landforms and landscapes within the area which collectively give the area its distinctive character and contribute to the area's vistas;

- There is a subservience of the built environment to the area's natural landscape, which is reflected in the distinctive harmony, pleasantness, and coherence of the low density residential and urban areas that are located in regenerating (and increasingly dominant) forest settings; and
- It is acknowledged that in this area there is a distinctive local community which includes historical, traditional, and cultural relationships of people, communities, and tangata whenua with the area.

5.0 REASONS FOR THE APPLICATION

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

5.1 WAITAKERE CITY DISTRICT PLAN

5.1.1 Bush Living Environment

- Discretionary Activity** for a non-residential activity - Rule 8, Non-Residential Activities;
- Non-complying Activity** for traffic generation associated with a non-residential activity greater than 1% of the roads daily traffic volume. Rule 9, Traffic Generation (Non-Residential Activities);
- Controlled Activity** for a driveway associated with a Non-Residential Activity - Rule 10, Car Parking and Driveway; and
- Non-complying Activity** for a sign associated with a non-residential activity having a maximum sign area greater than 1.5m².

5.1.2 Managed Natural Area

- Non-Complying Activity** for earthworks exceeding 100m³ on a sensitive ridgeline - Rule 3, Earthworks; and
- Limited Discretionary Activity** for impermeable surfaces greater than 10% of the net site area Rule 4, Impermeable Surfaces.

5.1.3 City Wide Rule

- Limited Discretionary Activity** for an activity being building which is on land known by the Council to be or likely to be subject to slope instability (Natural Hazards Rule 1.1).

5.2 OVERALL STATUS OF APPLICATION

Overall, the application is considered to be a **non-complying activity**.

No other consents are required in respect of this application.

Notes:

A110-A130 The proposal provides 7 parking spaces at the rear of the optometrist at No.517 providing a total on site parking provision of 10 parking bays. This does not take into account the garage at No.521 which will be used by residents of the minor household unit at the rear of the property. The Waitakere City Council "Parking and Driveway Guideline" require a combined total at peak times of 17 parking bays for the proposed restaurant and optometrist. An assessment of parking demand and an audit of available public parking has been provided by the applicant and is attached at pages A110 to A130 as Appendix 7.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

6.1 SUBMISSIONS

A6-A12 A notification determination pursuant to sections 93 and 94 of the Resource Management Act 1991 was presented to the Hearing Commissioners on the 5 May 2009. It was determined that the application be subject to limited notification. A copy of the notification decision is attached at pages A6 to A8 as Appendix 3. The application was limited notified on 14 May 2009. The submission period closed on the 12 June 2009. A plan showing the affected properties notified is attached at pages A9 to A12 as Appendix 4.

A13-A28 A total of 7 submissions were received, with 3 being in opposition, 3 submissions supporting the proposal and one submission in conditional support or neutral. The neutral submission was received on the 16 June 2009, 2 working days after the close of submissions. A copy of the submissions is at attached at pages A13 to A28 as Appendix 5. It is noted that the subject submitter originally signed a neighbours consent form for the proposed use but they claim in the submission that they were not advised / or were not aware of the proposed opening hours of 7 am to 10 pm. Given the submission was neutral it is considered appropriate to consider their comments when assessing the proposed change of landuse. The concerns of the submitters are set out below:

Name of Submitter	Location Address	Submission Points / Comments	Request to be heard
Submissions in Support			
U Doering	511 South Titirangi Road	<ul style="list-style-type: none"> • Café will cater for parents with children; • Many of patrons will already be in Titirangi Village for other services, do not believe the café will generate parking issue; • Waitakere City Council does not deal with social issues and businesses; and • Will be able to purchase good quality lunches in area. 	Not indicated
N P Doering	511 South Titirangi Road	As above	Not indicated
S A Evans	8 Huia Road	Support subject to the following provisions: <ul style="list-style-type: none"> • A 1.8 metre high acoustic rated timber fence along the boundary with 8 Huia Road; • Only low level lighting in the car park; and • A security gate to rear car park locked between 10 pm and 7 am. 	No

Submissions in Opposition			
Valley Field Holdings Ltd	120 Park Road	Shortfall of parking - conflict with patrons from Toby's restaurant using on street parking	No
D Early and J Hoffmann	519 South Titirangi Road (Occupant)	<ul style="list-style-type: none"> • Oppose outdoor seating and express concern that area will not be controlled well particularly in summer; • Other cafes / eateries in Titirangi, proposed café will not benefit the community; • Health and safety as a result of emissions from vehicles using parking area at No.517; • Additional traffic and parking problems along South Titirangi Road; and • Increase carbon footprint as a result of proposed change of use. 	No
S J Peach	519 South Titirangi Road (Owner)	<ul style="list-style-type: none"> • The activity of a café will negatively affect the privacy and peace of residential dwelling at No.519; • Outdoor courtyard will be used as a smoking area after 6:00pm; • Concerns that café will apply for liquor licence; • Vehicle movements and pedestrian traffic to and from the parking area at No.517 will generate noise; and • Parking area will be elevated and therefore will contribute to loss of privacy. 	No
Neutral Submissions			
M and L MacLeod	4 Huia Road Titirangi	<ul style="list-style-type: none"> • Concerns about opening hours, the potential for liquor licence and live music events; • Support the proposed change of use conditional upon the following; and • That there be no live music events or any music of any kind whatsoever. 	yes

In addition to the formal limited notification of the application by Council the applicant submitted the following consent forms as part of the application for resource consent.

PERSON (owner/occupier)	ADDRESS	APPROVAL OBTAINED
Irvine and Dorothy Haywood	6 Huia Road	Yes
Simon Alan Evans	8 Huia Road	Yes
Karen Cooper	12 Huia Road	Yes
Margaret Dereham	118 Park Road	Yes
Louise Macleod	4 Huia Road	Yes
Dr Ulrich Doering	511- 513 South Titirangi Road	Yes
T Hoskins for New Zealand Fire Service	525 South Titirangi Road	Yes
Alan Stewart Hunt	120 Park Road	Yes
Jerry A Nicholls for Vector	515 South Titirangi Road	Yes
Iain Gillies for Chorus	504 South Titirangi Road	Yes

7.0 STATUTORY REQUIREMENTS

7.1 INTRODUCTION

Matters to be considered by the Council when assessing an application for resource consent under section 104 of the Act include, (subject to Part II), any actual and potential effects on the environment and any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan.

As part of the assessment process when considering an application for a non-complying activity, the consent authority shall be satisfied that the threshold tests outlined in section 105(2A) of the Act will be fulfilled, and that all the relevant matters have been considered under section 104.

Section 105(2A) states that:

“a consent authority must not grant a resource consent for a non-complying activity unless it is satisfied that:

- (a) *The adverse effects on the environment (other than any effect to which section 104(6) applies) will be minor; or*
- (b) *The application is for an activity which will not be contrary to the objectives and policies of:*
 - (i) *Where there is only a relevant plan, the relevant plan; or*
 - (ii) *Where there is only a relevant proposed plan, the relevant proposed plan; or*

- (iii) *Where there is a relevant plan and a relevant proposed plan, either the relevant plan or the relevant proposed plan.”*

The proposal is therefore considered against the above requirements in section 8 of this report, following an assessment of the proposal in terms of its actual and potential effects on the environment and in terms of the objectives and policies of the Proposed Plan.

7.2 NON-COMPLYING ACTIVITIES

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.

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

8.1 SECTION 104(1)(A): ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

As a non-complying activity, a variety of issues are relevant when determining the nature and scale of adverse effects on the environment, including effects on amenity values, stormwater and wastewater disposal, traffic, parking and access, noise, visual amenity, privacy, aural amenity, traffic generation, infrastructural capacity and cumulative effects. The schedule of effects as identified within the Plan have also been included and addressed in the following sections.

8.1.1 Amenity Values - Definitions

Amenity is defined in section 2 of the Act, as:

"...those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes".

The District Plan also defines Amenity Values as follows:

"These are those natural and physical characteristics of an area that contribute to people's enjoyment of it ..."

The District Plan also provides a definition of Neighbourhood Character:

"Neighbourhood is that small local area, usually the same number of streets around a dwelling or workplace that a person identifies with and knows most thoroughly of all parts of the City. Usually people have strong sense of belonging and place associated with a neighbourhood. It is the most localised, personal and intense expression of the relationship or people with their environment.

Such neighbourhoods reflect the general amenity values of the surrounding landscape or local area but have distinctive versions of those general features that allow inhabitants to see them as unique and special. This is a neighbourhood character that defines a neighbourhood as unique. Often the particular streetscape contributes strongly to the local neighbourhood, although it is personal perceptions of residents that ultimately define the nature of that neighbourhood."

The proposal is therefore assessed in terms of potential dominance effects, and character effects, in arriving at a conclusion of the overall amenity effects of the proposal on adjacent properties and the wider environment, as follows:

8.1.2 Native Vegetation, Vegetation and Fauna Habitat

There would be no more than minor adverse effects in relation to vegetation and fauna habitat as a result of the proposed activity as it is not proposed to remove any vegetation or work within the dripline of any vegetation. The rear yard of No.517 has been mostly cleared of native vegetation and there is only vegetation along the northern boundary. It is considered that the works for the parking area and retaining walls will be outside the dripline of this vegetation.

The rear yard of No. 521 has extensive vegetation but no physical work on the exterior of the property is proposed and therefore no vegetation alteration is anticipated.

8.1.3 Wastewater and Stormwater Water Quality

This proposal is to create a new 242.6m² parking area on 517 South Titirangi Road, Titirangi in conjunction with the proposed change of use (cafe) to the property at 521 South Titirangi Road. The site has public wastewater connection and water supply. However, the locality does not have public stormwater drainage. The road reserve in front of the property contains a 150mmØ PVC water main and the site has an existing water connection from this water main. A fire hydrant is located on the eastern side of the site on South Titirangi Road and is about 85 metres away from the farthest point of the site.

A131-A149 Assessment was based on the information held by the Council and the specialist report provided by the applicant at the time of lodgement, as attached at pages A131 to A149 as Appendix 8. The site is located in the non-reticulated stormwater area. The site lies in a mixture of General and Managed Natural environment. Hence, the allowable total impermeable area on this site is maximum 15% of the total site area.

As the proposal is to increase the impervious area by more than 15%, mitigation will be required for runoff generated from 1 in 2 year storm from the additional impermeable area to the predevelopment level. The tank location and dispersal device as shown in the stormwater drainage layout plan by AR Civil Consulting, dated February 2009, is acceptable to Council. Nevertheless, this drainage plan shows construction of a retaining wall over public wastewater lines. Details of how the pipeline is going to be protected will be required at the building consent stage.

Eco-water Engineer: Mohammad Rahman has concluded that the consent is generally in accordance with Council Code of Practice for City Infrastructure and Land Development and supported the consent with conditions to mitigate any adverse impacts.

The development requires significant earthworks and retaining walls for the construction of the parking area. There is no stream or overland flood path through the property. It is considered that any adverse effects from sediment run off can be mitigated by conditions of consent.

There would be no more than minor adverse effects in relation to water quality/ quantity arising from the proposed activity as it would be located within an area of the City that has been modified by development and would not be near a water body or stream.

8.1.4 Land / Soil Stability

It is considered that there would be no more than minor adverse effects on soil/ existing landform as a result of the proposed activity as the site is already modified, there is no identified stream or overland flow path through the site and it is considered that conditions of consent will mitigate potential adverse effects from sediment runoff during the construction period.

The applicant has provided a geotechnical report that demonstrated that the retaining walls and parking area can be constructed without jeopardising the safety and amenity of adjoining properties.

8.1.5 Traffic Generation

The application is supported by a Traffic Impact Assessment report prepared by Bryce Hall of TPC - Traffic Planning Consultants (TPC) Limited, dated December 2008. The report covers the existing transport environment, the proposal, District Plan Provisions, traffic impacts of the proposal, District Plan assessment criteria and conclusions.

The TPC report states;

“Traffic generation associated with restaurants and cafes varies across the course of the day and the day of the week. Typically Thursday, Friday and Saturday are the busiest days of the week for restaurants. The nature of traffic generation also varies between daytime hours and evening hours.”

“Given the size of the proposed café, traffic generation is likely to be in the range of 30 to 120 traffic movements per day with peak hour traffic generation in the range of 6 to 17 movements per hour.”

“Overall, it is considered that the traffic and parking effects of the proposal can be accommodated on the road network without compromising its function, capacity or safety. Therefore the proposal is considered to have a no more than minor impact.”

Council's Transport Assets section generally agrees with this report. The proposal is in general accordance with Council's District Plan and Code of Practice for City Infrastructure and Land Development, Section 3 Transportation, including the Parking and Driveway Guideline. Transport Assets concludes that the proposed landuse should have less than minor effect on the safe operation of the roading network.

8.1.6 Parking

This assessment had been made considering the shared parking requirement for both the optometrist and café activities, with all parking provided at 517 South Titirangi Road.

An assessment using Table 2.1 Car Parking Ratios for Specific Activities of the **Parking & Driveway Guideline** is:

Optometrist Activity

(Hours: 8.30 am - 5.00 pm Monday to Friday. Staff: a full-time Optometrist plus a part-time receptionist).

- Office, Living Environment or Consultants (Small); both 3 per 2 staff: requiring 3 spaces.

Cafe Activity

(Hours: 7.00 am - 10.00 pm 7-days. Seating: 50 total split 35 indoors & 15 outdoors)

- Dining, Family style, 1 per 10m². The proposed 170m² requires 17 spaces; or
- Dining, Restaurant Wine & Dine-day/night hours, 1 per 4 customer places, day hours & 1 per 3 customer places, night hours. Assuming 9-day time hours & 5-night time hours with 50 seats requires 13 & 17 respectively.

Thus, for both the optometrist and café activities a total of 16 onsite car parking spaces are required on No. 517 in day hours and 17 required in night hours (optometrist closed), with about 10 provided resulting in **a parking shortfall of 6 to 7 bays**.

TPC has provided an assessment of parking spaces available within the Titirangi Village using different times of the day/week. In addition they also surveyed parking demands of cafes in other various areas. It is considered that the daytime parking demand of cafes is significantly less than the evening parking demands. The parking assessment concluded that there is ample parking within the Titirangi Village to accommodate the shortfall in parking bays.

An existing disability car park is provided alongside the optometrist activity. The proposed car park layout dimensions generally comply with Council's Parking and Driveway Guideline.

Transport Assets accept the finding of the TPC report and it is concluded that the current public parking (including street parking) availability can accommodate the parking shortfall and the effects to the environment will be no more than minor.

8.1.7 Noise and Glare

Effects of the proposal in terms of noise are considered to fall into two categories, being noise arising from the construction period, and noise generated from the people and activities proposed to be accommodated on the site. These matters are considered below:

(a) *Noise from Construction*

Noise arising from activities associated with the construction of retaining walls and earthworks for the parking area at the rear of No.517 will be subject to the general rules related to construction activity within the District Plan (which specify the maximum noise limits permissible as part of any construction activity). This effect can be considered as a temporary effect, restricted to the construction period and will be carried out during the daytime hours. Possible conditions of consent could mitigate the potential effects of construction noise to no more than minor.

(b) *Noise from People, Activities and Traffic*

Noise from the proposed change of landuse is anticipated to be generated from vehicles entering exiting the parking area. Also associated with noise from the parking area is the sound of vehicle doors and customers walking through the parking area to South Titirangi Road to access the café at No.521. It is also anticipated that noise will be generated by patrons using the courtyard.

The applicant has not provided a noise report in support of the application and generally claims that the proposed activity will comply with the permitted noise standards of the District Plan. To mitigate the effects of noise they are proposing the following;

- a 1.8 metre high timber acoustic fence along the boundary with No.519;
- no seating in the courtyard after 6.00 pm; and
- no amplified music.

While a 1.8 metre high timber fence will mitigate some noise generated by vehicles and patrons it is unlikely to eliminate all noise. It is also worthy to note that the proposed parking area will be raised above the natural ground level and from the contour plan provided will be over 1.0 metre higher than the ground level at boundary making the effective height of the 1.8 metre fence less than 800mm when viewed from the parking area.

A5 The courtyard area for the café is raised above the natural ground level such that the masonry wall does not screen the courtyard from the bedroom windows of the dwelling at No.519. This can be seen in the attached page A5, figure 5 as Appendix 2. A condition of consent that the courtyard area not be used for seating after 6.00pm will mitigate noise after that time but the residents of No.519 will be affected by noise from the use of that the courtyard during daytime hours and in particular weekends. A café with a courtyard that includes seating for 15 will generate effects that would not generally be expected within a residential zoning. The owner of No.519 has also expressed a concern that this area will be used after 6.00pm by patrons of the café who want to smoke. While it is accepted that a condition of consent that prohibits seating after 6.00 pm could be adequately managed by the café and if needed monitored by Council it would be more difficult to restrict the use of this area for smokers directly associated with the café.

As detailed in the TPC traffic and parking report it is acknowledged that many day time patrons will come to the café in conjunction with other trips to the Titirangi Village, but the café, being open to 10:00 pm has the potential to specifically attract customers during the evening and therefore contribute to an increase in traffic noise within a residential Bush Living Environment. It is considered that whilst South Titirangi Road can safely accommodate the proposed traffic volumes there will be increased traffic during the evening which will contribute to additional noise and therefore has the potential to have adverse effects on the amenity of the residential dwelling at No.519 South Titirangi Road. Of particular concerns is vehicle entering and exiting the parking area at No.517. The owner of No.8 Huia Road, while giving conditional support to the application (conditional on a 1.8 metre high acoustic fence and management of the area after hours) has concerns that there will be adverse effects from cars using the parking area at the rear of No.517. The dwelling at No.8 is setback towards the rear of the lot close to the boundary with No.517.

The ground level of the dwelling at No.8 Huia Road is considerably higher than the proposed parking area. The owner has also requested a condition that the parking area be chained off after closing. A condition of consent requiring a timber fence and restrict access to the parking area after hours would mitigate effects to No.8 Huia Road.

It is therefore considered that the residential dwelling at No.519 will be adversely effected by noise directly associated with the café on both sides of the property and these affects are outside what could reasonably be expected within a Bush Living Environment. The current proposal has not demonstrated that noise generated by the café or vehicles in the parking area can be mitigated by conditions of consent.

Effects from lighting and glare would be experienced by the residential property at No.519 both from vehicle headlights and safety lighting associated with the parking area and additional lighting at the front of the café (after hours), above what might be expected from a residential dwelling. The applicant is proposing bollard lighting for the rear parking area to provide safety for patrons of the café. It is considered that light spill associated with bollard style lighting could comply with the permitted standards of the District Plan but again additional lighting particularly to 10:00 pm in the evening does contribute to the accumulative effects of light spill to residential properties in an area that is zoned as Bush Living and would otherwise expect low levels of lighting. Effects from lighting / glare would be minimal during summer but would be unavoidable during the winter months.

8.1.8 Ecosystem Stability

As the site is within the urban area and the existing environment is already modified, it is considered that there would be no adverse effects on the stability of local or Citywide ecosystems as a result of the proposal.

The subject lots are located approximately 90 metres south of the Titirangi Village and in an area where there is an accumulation of non-residential activities. Many of the adjoining sites do not provide opportunity for ecological linkages and the subject development does not propose the removal of protected vegetation. However, the provision of a parking area at the rear of No.517 would limit the opportunity for native vegetation to be established and therefore reduce the opportunity for future ecological linkages through the area. Overall it is considered that there would be no more than minor adverse effects on the stability of ecosystems as a result of the proposal.

8.1.9 Overshadowing, physical dominance, and privacy

The proposal does not propose any major changes to the built development at No 521 South Titirangi Road. The only significant change will be in signage that will be mounted on the existing masonry wall.

There is a residential dwelling, No.519, between the proposed café and the parking area at No.517. There is currently no fence between the residential dwelling and the proposed parking area but the application proposes a 1.8 metre high fence that is intended to shield the property from car headlights and some noise. Although, as pointed out above the parking area will be raised above the natural ground level at the boundary and therefore the fence may not obscure all vehicle lights (particularly for higher vehicles such as 4 wheel drives) or overlooking from café patrons.

Outdoor seating at the café will be behind the existing masonry wall. This wall forms a retained area for the paved courtyard. To the north of the wall is the paved driveway to the garage at no.521. The courtyard is raised above natural ground level and the patrons using outdoor seating will be visible from the bedrooms of the adjoining residential property at No.519. It is considered that there may be a loss of privacy to the property at No. 519 above what may be expected within a Living Environment zoning and above effects that are experienced from the existing optometrist. The owner and occupier of No.519 have objected to the proposed landuse change on the basis of a loss of privacy and amenity.

The café will be approximately 50 metres from the nearest adjoining residence to the west. In addition the café will be separated from residential development at the rear by the existing minor household unit. It is considered that due to the degree of separation and the vegetation buffer at the rear of the lot there will be no adverse effects from physical dominance and/or loss of privacy resulting from the café to the residents along Huia Road

8.1.10 Surveillance, safety, public access,

The building has a minimal setback of 2.0 metres from the front boundary and there will be indoor seating that looks directly to the street therefore increasing surveillance of the public street.

The applicant is proposing bollard lighting for the rear parking area to provide some safety for patrons using the café. In addition it has been identified in the parking study that on most evenings there is ample street parking available after 7:00 pm, therefore patrons to the café can safely travel to and from cars.

8.1.11 Summary

In summary, it is the writer's opinion that although individually effects may be minor taken accumulatively the potential adverse effects of the proposed activity with opening hours 7.00 am to 10.00 pm 7 days a week, on the dwelling at No. 519 South Titirangi Road are more than minor, and can not be adequately mitigated through appropriate conditions of consent. Further, having regard to the meaning of the word 'effect', the potential adverse effects are such that this activity does not meet the requirements of section 104(1)(a) of the RMA.

8.2 SECTION 104(1)(D): RELEVANT OBJECTIVES, POLICIES, RULES AND OTHER PROVISIONS OF A PLAN OR PROPOSED PLAN

The relevant assessment criterion from the District Plan, together with comments as to whether each criterion can be satisfied are provided in the following sections of this report.

8.2.1 Rules and Assessment Criteria - Bush Living Environment

The proposal is assessed against the relevant rules and assessment criteria of the Bush Living Environment under the District Plan are as follows.

8.2.1.1 Traffic Generation - Non-Residential Activities (Non-Complying Activity)

Rule 9 of the Plan provides for non-residential activities with up to 20 vehicle movements per day or 1% of the road's traffic volume, whichever is the greater, to be assessed as Limited Discretionary Activities. The proposal is anticipated to result in anywhere between 30 to 120 additional traffic movements per day and as a result requires assessment as a non-complying activity.

Although a non-complying activity, the assessment criteria provided for the assessment of limited discretionary activities is utilised as a guide in assessing this component of the application.

(a) *"The effects of traffic generation on:*

- the characteristic level of quiet in the area;*
- the capacity of roads giving access to the site, having regard to the road's function in the Roding Hierarchy;*

- *the safety and efficiency of road intersections;*
- *the amenity of front sites due to traffic generated by the non-residential use of any rear sites;*
- *the safety of road users, including cyclists and pedestrians;*
- *the reduction of overall levels of traffic and encouragement of other, less polluting forms of transport such as walking, cycling and public transport; and*
- *the neighbourhood character."*

The above criteria (where relevant to this application) are addressed in turn as follows:

- South Titirangi Road is designed to carry a reasonable level of traffic, as a 'collector' road, as it distributes traffic over a considerable distance and between local and arterial roads. The existing level of traffic noise would therefore be greater than for a local road, and it is not anticipated that the increased traffic as a result of the café would result in increased traffic noise that would cause a noticeable effect over this existing ambient level;
- As noted, South Titirangi Road is a collector road, and is therefore a traffic carrying road at a level between local roads and arterial roads. According to the Council's Transport Assets, the traffic associated with the proposed café will not compromise the traffic carrying function of South Titirangi Road;
- In terms of safety of café patrons, it is proposed that a separate pedestrian access is provided into the parking area via a footpath (on the southern side of the driveway);
- The ability of customers and employees to access the site by other means than by private vehicle will be dependent on the location of their homes relative to the subject site and the potential of combined trip generation to other community uses in the area (i.e. school, library etc). A reduction in traffic in this regard is therefore an uncertain outcome; and
- The traffic generation effects of the proposal on the surrounding neighbourhood are required to be considered in terms of the character of this neighbourhood and the collector road function of South Titirangi Road. As earlier noted, the surrounding area of Titirangi is characterised by the following landuses; a restaurant and bar, residential buildings, a church, telephone exchange, community centre, library, fire station, and further to the north, Lopdell House. The additional traffic effects of the proposal can therefore be viewed in the context of these activities and existing traffic volumes, and are likely to easily merge into the general day-to-day traffic that is generated by this wide variety of activities, as supported by the traffic report submitted with the application.

8.2.1.2 Car Parking and Driveways (Controlled Activity)

The access to the proposed parking area is the existing vehicle crossing used by the optometrist which currently utilises parking at the front of the development. The access to the site has been assessed by Council's Transport Assets Engineer and it is concluded that given the number of proposed traffic movements in relation to the roading network the access can function without causing adverse effects to the safety and amenity of the roading network.

The rear parking area will be accessed via the undercroft garage. This would require some modifications and signage warning of maximum heights to ensure the safety of users.

8.2.1.3 Signs (Non-Complying Activity)

Rule 13 of the District Plan specifies a limit of 1.5m² for signage that is located within a site and is not illuminated. The application for resource consent proposes the following signage all within the property boundaries at No.521 South Titirangi Road:

- Free standing sign to be placed in the garden to the left of the entrance path mounted on a post. Sign dimensions 1200mm (width) x 800mm. Sign to be backlit;
- The name of the café "Siren", to be mounted in free standing letters on the masonry wall. Sign dimensions 3500mm (width) x 1200mm; and
- Signage advising customers of parking at No.517 to be mounted on the northern side of the masonry wall. Sign dimensions 1000mm x 700mm.

It is considered that the size and location of signage proposed is generally low key and consistent with signage on other non-residential land uses in the area. Although it is not considered appropriate that the free standing sign include illumination of any kind. Illuminated signage is not prevalent within the area. It is considered that subject to no illumination the signage would be appropriate in the context of the mixed use of land use activities in the locality and would have effects that are no more than minor on the visual amenity of the surrounding environment.

8.2.2 Rules and Assessment Criteria – Managed Natural Area

8.2.2.1 Earthworks (Non-Complying Activity)

The proposal involves up to 181m³ of earthworks over an area of 290m². A timber retaining wall with a maximum height in fill of approximately 1.2 metres and in cut on the northern boundary of 1.65m will also be constructed. All earthworks will be within the boundaries of No.517 South Titirangi Road. These earthworks are required in order to provide for the proposed car parking areas. As the volume of earthworks are associated with development of parking areas and are located within a site designated as being within a 'moderately sensitive ridgeline', the proposal requires assessment as a non-complying activity.

The relevant assessment criteria provided for the assessment of discretionary activities is therefore utilised as a guide in assessing the effects of this non-complying component of the application.

- (a) *"The extent to which the scale of earthworks is consistent with the scale of development being undertaken."*

The scale of earthworks will be used to provide the necessary level areas on the site for parking associated with the proposed café. Given the topography of the site, the volume of earthworks is considered to be consistent with the scale of the proposed development.

- (b) *"The extent to which earthworks adversely affect the potential for restoration or enhancement around the area of earthworks."*

The site has been mostly cleared of native vegetation and is currently an area of grassland that at the time of the site visit appeared to be not maintained. Due to the area of the proposed parking there is a reduced amount of land that could accommodate the potential for restoration planting. Although there does exist around the parking area the opportunity to provide landscaping that would enhance the amenity of the site as well as provide screening to adjoining sites.

- (c) *"The extent to which earthworks reduce the amount, range and linkages between representative vegetation, fauna habitat and natural features."*

The proposed earthworks are effectively limited to the rear half of No.517 and will not have any significance on natural landscape features, or fauna habitat, beyond the site boundaries. It is not proposed to remove any vegetation and opportunities exist to require planting to enhance the amenity of the site.

- (d) *"The extent to which earthworks adversely affect the significance or landscape value or natural character of natural landscape elements or other natural features."*

The proposed modification of the site arising from the earthworks will result in the development of a level area. It is considered that the retained area will not be significantly altered from the existing topography of the site, and the proposal will not have an adverse effect on any natural landscape features in the locality.

- (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."*

A150-A195 A geotechnical report has been prepared and submitted as part of this application and is attached at pages A150 to A195 as Appendix 9. As a result of those assessments, it is considered that the proposal will not have an adverse effect on the stability of the subject site, or any adjacent sites.

- (h) *"The extent to which earthworks adversely affect the visual amenity of the site or adjoining sites."*

The subject site is essentially a modified site, such that the proposed earthworks, subject to the formulation and implementation of landscaping, will not have an adverse visual effect on the site or any adjoining sites.

- (i) *"The extent to which cut and fill activities involving earthworks are confined to the site rather than being transported off the site."*

Given the cut to fill design of the area to be earthworked it is anticipated that the applicant will seek to utilise as much of the earthworks on-site due to the costs involved in transportation of earthworks material. It is considered that movements to and or from the site resulting from the earthworks will be minimal and a temporary effect that will be no more than minor.

- (j) *"The extent to which earthworks may harm the health and safety of residents."*

The proposed earthworks are not considered to have any potential to harm the health and/or safety of neighbouring residents. Based on the findings of Soil & Rock Consultants it is considered that the proposal will not have an adverse effect on the stability of any adjacent sites and any adverse effects could be mitigated by conditions of consent.

- (k) *"The extent to which heavy vehicle traffic generated to the site by earthworks activities creates:*

- *physical damage to a road; and*
- *a situation hazardous or unsafe to road users."*

South Titirangi Road is a collector road which Transport Assets confirm is suitable to accommodate traffic movements associated with the removal of earth from the site (if necessary), as well as having the capacity for construction traffic associated with the proposal in general.

- (l) *"The extent to which earthworks are necessary to accommodate development otherwise permitted by the Plan."*

The earthworks are necessary to develop the proposed parking area which is associated with the proposed café at No.521 the use of which is a Discretionary Activity. As stated elsewhere in this report it is considered that the use of the existing residential dwelling of No.521 for a café has the potential to generate effects to the dwelling at No.519 that are more than minor.

8.2.2.2 Impermeable Surfaces (Limited Discretionary Activity)

This proposal is to create new 242.6m² parking area on 517 South Titirangi Road, Titirangi with Gobi Block Covering. There is no proposed change to the existing impermeable surfaces at No.521.

The site is located on the western side of South Titirangi Road. The site area on 517 South Titirangi Road is 1012m². The site is located near the top of the catchment and steeply falling towards Manukau harbour. The site is located in the Titirangi / Laingholm stormwater catchment. There is a natural gully along the rear end of the downstream properties.

The site is located in the non-reticulated area. The site lies in a mixture of General and Managed Natural areas. Hence, the allowable total impermeable area on this site is a maximum 15% of the total site area.

As the proposal is to increase the impervious area by more than 15%, mitigation will be required for runoff generated from 1 in 2 year storm from the additional impermeable area to the predevelopment level. The tank location and dispersal device as shown in the stormwater drainage layout plan by AR Civil Consulting, dated February 2009, is acceptable to Council. It is considered that the applicant has demonstrated that the site can adequately accommodate the increased impermeable surfaces and any potential effects can be mitigated by conditions of consent.

8.2.3 Rules and Assessment Criteria - City Wide Rules

8.2.3.1 Natural Hazards - Limited Discretionary Activity

The proposal would involve buildings on land that is known by the Council to be subject to a Natural Hazard of instability. With respect to the assessment criteria 1(a) - 1(g) contained in Rule 1 of the Natural Hazards Rule, the following is noted:

A150-A195

The proposal requires earthworks and retaining walls for the development of a parking area at the rear of 517 South Titirangi Road. The application includes a report from Soil and Rock engineering consultants who conducted site analysis that included an assessment of soil stability, attached at pages A150 to A195 as Appendix 9. The report concluded that the site is sufficiently stable for the proposed car park and driveway retaining wall and subject to design of the walls by a chartered engineer will not cause a risk to the environment or adjoining properties. It is considered that the effects could be adequately managed through conditions of consent.

8.2.4 Objectives and Policies

It is considered that the proposed development would not be consistent with the objectives and policies of the current District Plan. The Plan is "effects-based" in its approach to natural and physical resources and it has been demonstrated in the previous environmental assessment of effects that there are adverse effects arising from the current proposal that cannot be mitigated by conditions of consent, particularly in relation to amenity values.

The relevant objectives (and policies) considered to be of relevance to this proposal are:

- Objective 10 - Protecting Amenity Values (10.2, 10.3, 10.6, 10.11, 10.13, 10.14, 10.16, 10.17); and
- Objective 11 - Protecting and Enhancing Amenity Values (11.1, 11.10, 11.11, 11.12, 11.13, 11.18).

A196-A210 A copy of these objectives and policies is attached at pages A196 to A210 as Appendix 10. It is considered that the proposal has not met the criteria of these objectives and policies as summarised below.

Policy 10.2 states; *Activities in residential and rural areas should not emit noise such that causes a nuisance to occupants of surrounding properties.*

It is acknowledged that whilst the café in this location could be managed in a manner that would minimise noise disturbance it is considered under the current proposal there will be additional noise disturbance above what may be anticipated within a Bush Living Environment. In additions Policy 11.3 of the District Plan states that - *activities should be carried out in a way that maintains the characteristic levels of quiet of each Human Environment.*

It is considered that the establishment of a non-residential landuse particularly one that is open till 10:00 pm adds to the cumulative effects of noise in this location and may result in effects that are more than minor. Given the current zoning of the property as Bush Living Environment the use of a residential property as a café would not be envisaged by adjoining residential properties and/or the community and this is reflected in the current polices of the District Plan.

Policy 11.13 is designed to protect a level of quiet found in different Environments and avoid incremental rises in noise to the level such that the amenity value associated with that quiet is adversely affected. While there are a number of non-residential activities in the general locality it is also observed that the landuses on the western side of South Titirangi Road do not generate noise significantly above what would be expected for a residential activity and generally have hours of operation during business hours.

Policy 10.6 states; *buildings, storage and parking areas should be designed and placed on-site, or screened in a way that maintains the privacy and onsite amenity of adjacent residential properties, including the privacy of outdoor space. Particular regard should be had for the protection of privacy within the more intensively settled Living and Rural Villages Environments.*

Policy 11.10 states; *that Non-residential activities should be designed and managed in a way that adequately screens any associated car parking, vehicle access and storage areas from view, from residential sites.*

As discussed above the proposed parking area at the rear of No.517 will be on a raised ground level with retaining walls along the southern boundary of over 1.0 metre. The application proposes a 1.8 metre fence along the boundary with No.519 but given the height of retaining this fence will not prevent overlooking and glare from the headlights of vehicles and thus causing a loss in amenity to the private rear yard of the adjoining residential property.

In addition Policy 10.14 states; *Activities should be of a scale and located and managed in a way that any traffic generated by the activity, including heavy traffic, does not detract from the capacity of the road to cater safely for motor vehicles, pedestrians and cyclists, and the wellbeing of residents occupying surrounding sites.* As discussed earlier in the report Transport Assets Engineer has concluded that the traffic generated by the café will not adversely effects the safety of the roading network but the proposed parking area at the rear of No.517 does have a significant potential to negatively affect the amenity and therefore the wellbeing of the adjoining residential property at No.519.

As per Policy 11.18 *Non-residential activities (other than retail activities) may be located within residential areas of the City, provided that the individual and cumulative impacts of such a provision do not adversely affect amenity values and neighbourhood character or fragment residential activities to the point that essential residential character is lost, and the safety of residents is harmed.* The application has not demonstrated that the amenity of the residential dwelling at No.519 will not be adversely affected and it is of concern that the combined change of landuse with parking provided on another property will cause fragmentation of the residential landuse and generally add to the cumulative adverse effects.

As discussed above the District Plan defines Amenity Values as *The natural and physical characteristics of an area that contribute to people's enjoyment of it.* It is considered that the proposed café at 521 South Titirangi Road with parking at the rear of No.517 will negatively affect the amenity of the dwelling at No.519 to an extent that is more than minor and would not be anticipated within a Bush Living Environment. Overall, it is considered that the current proposal is not in accordance with the policies and objectives of the District Plan where they relate to protecting the amenity of residential areas.

8.3 SECTION 104(1)(C): AUCKLAND REGIONAL POLICY STATEMENT

The Auckland Regional Policy Statement identifies the strategic direction for the Auckland Region. It advocates intensification within the existing urban areas of the Region which may then be able to accommodate the Region's growth for a longer period of time. The Policy Statement also identifies that planned urban development may improve the relationship between residential development and employment opportunities in order to reduce the need for travel. Intensification should, however, be balanced within infrastructural limitations and protection of the natural environment and amenity values. Titirangi Village is a well established local centre providing services for the local community and residents of adjoining communities that travel via the village to and from employment and other regional services *i.e.* residents of Huia and Cornwallis. Although the proposed café is outside the Titirangi Village as identified in the District Plan it is within an area where there are a number of well established non-residential uses. Generally it is considered that this proposal would be consistent with the provisions of the Regional Policy Statement.

8.4 SECTION 104(1)(f): REGIONAL PLAN OR PROPOSED REGIONAL PLAN

No other consents are required for this proposal under any regional plans.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

The purpose and principles of the Act 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 Act requires that amenity values and the quality of the environment are to be maintained and enhanced.

9.1 SECTION 5

Section 5 in Part II of the Act identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

In particular this proposal is concerned with provision of a café that provides a service, and to a lesser degree social infrastructure for the immediate and wider community. It is worthy to note that there are a number of eating establishments within the Titirangi Village. It is acknowledged that the applicant has provided a petition supporting the establishment of the café but this does not clearly articulate that a café in this location would significantly contribute to the community's social, cultural and/or economic well being. Whilst it is acknowledged that the subject area along South Titirangi Road is characterised by a mix of commercial, community and residential activities it is considered that the properties on the western side of South Titirangi Road have effects that are considerably less intrusive than the café proposal. It is considered that the café as per the current proposal would not be appropriate within the environment, and would not be able to establish and operate in such a way that the amenities of the neighbourhood would not be adversely affected to less than a minor degree.

It is therefore considered that the granting of this application would be contrary to the overriding purpose of the Act.

9.2 SECTION 6

In addition, the proposal is not considered to adversely affect any matters of national importance. It is considered that any adverse effects arising from the proposal and the proposed mitigation are limited in significance to the surrounding urban neighbourhood and environment.

9.3 SECTION 7

Section 7 identifies a number of "other matters" to be given particular regard by the Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

It is considered that there are no other matters considered relevant to this application for resource consent.

9.4 SECTION 8

Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. There are no known Treaty of Waitangi issues relevant to this application, and no submissions have been received from Iwi authorities.

10.0 CONCLUSION

The applicant seeks consent to convert an existing residential dwelling at No.521 South Titirangi Road to be used as a café with opening hours 7.00 am to 10.00 pm 7 days a week. Parking for the café will be provided at the rear of No.517 South Titirangi Road. The proposal is assessed as a non-complying activity under the provisions of the District Plan due to matters regarding traffic generation, earthworks and signage.

It is considered that the proposal does not meet the criteria for granting consent as the potential adverse environmental effects as they relating to the residential dwelling at No.519 are more than minor and cannot be adequately mitigated through the imposition of conditions of consent. It is considered that the establishment and operation of the cafe will lead to a decline in the amenity values of the property at No.519. It is considered that the issues raised by the submitters cannot be adequately addressed through the imposition of conditions.

The current proposal is considered to be inconsistent with objectives and policies of the District Plan which seeks to protect the privacy and amenity of residential development in Living Environments, in this instance the Bush Living Environment.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application does not meet the threshold requirements of sections 104 of the Act and that it is therefore recommended that the consent be declined.

11.0 RECOMMENDATION

12.1 It is recommended pursuant to section 37 of the Resource Management Act 1991, that the Commissioners have regard to the late submission received from M and L MacLeod on 16 June 2009.

12.2 It is recommended pursuant to section 104, 104B and 113 of the Resource Management Act 1991, that **consent be refused** to land use resource consent application LUC-2009-364, being a non-complying activity to convert an existing residential dwelling into a cafe with seating for up to 50 people, with parking provided at another site; with associated non-residential landuse, signage, vehicle crossing, traffic, earthworks, natural hazard and impermeable surfaces land use infringements at 517 and 521 South Titirangi Road (being Lot 1 (517) DP23754 and Lot 7 (521) DP19000) for the following reasons:

- (a) Adverse effects associated with the total hours of operation, the night time use seven days a week and the raised parking area at the rear of No.517 will detract from and erode, rather than maintain or enhance, the amenity values associated within the immediately surrounding residential environment and adverse effects to the residential dwelling at No.519 cannot be mitigated by conditions of consent.
- (b) The proposal does not sit comfortably with the relevant objectives, policies and assessment criteria that seek to maintain and enhance amenity values (Objective 10, policies 10.2, 10.6, objective 11, policies 11.10 and 11.13)
- (c) In terms of Part 2 of the Act it is not clearly determined that there would be a community benefits arising from the proposal and it is considered that the adverse effects arising from the proposed use may erode the amenity values and quality of the environment particularly in relation to adjoining properties as intended by sections 5 of the Act.

Report prepared by: Senior Resource Planner: Mandy Sherring.

Peer Review: Team Leader Consents: Jeannette Ibrahim.

