



**AGENDA FOR AN ORDINARY MEETING OF THE HEARINGS COMMITTEE TO BE HELD  
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,  
ON THURSDAY, 10 JULY 2003, COMMENCING AT 9.30 AM.**

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**TABLE OF CONTENTS**

<b><u>ITEM</u></b>		<b><u>PAGE NO.</u></b>
1	APOLOGIES	1
2	URGENT BUSINESS	1
3	CONFIRMATION OF MINUTES	1
4	NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY DJ & EM MARCH AND RM NICHOLSON TO SUBDIVIDE A 4.6HA LOT INTO THREE SEPARATE TITLES OF BETWEEN 1.54HA AND 1.58HA IN AREA, RESULTING IN LOTS THAT WOULD NOT ACHIEVE THE PERMITTED LEVEL OF DENSITY IN THE WAITAKERE RANGES ENVIRONMENT, WOULD GENERATE A YARD INFRINGEMENT ON PROPOSED LOT 1, AN INFRINGEMENT OF BUILDING COVERAGE AT 3% ON PROPOSED LOTS 1 AND 3, AND WOULD REQUIRE 27.6M <sup>3</sup> OF EARTHWORKS ASSOCIATED WITH THE FORMATION OF THE SHARED DRIVEWAY SURFACE AT 44 TE AUTE RIDGE ROAD, BETHELLS	2

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**1 APOLOGIES**



**2 URGENT BUSINESS**

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

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

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



**3 CONFIRMATION OF MINUTES**

Ordinary - Thursday, 20 February 2003  
Special - Thursday, 27 March 2003  
Special - Thursday, 17 April 2003

**RECOMMENDATION**

That the minutes of the Ordinary Meeting of the Hearings Committee held on Thursday, 20 February 2003, the Special Meeting of the Hearings Committee held on Thursday, 27 March 2003 and the Special Meeting of the Hearings Committee held on Thursday, 17 April 2003, as circulated, be taken as read and now be confirmed.



**4 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY DJ & EM MARCH AND RM NICHOLSON TO SUBDIVIDE A 4.6HA LOT INTO THREE SEPARATE TITLES OF BETWEEN 1.54HA AND 1.58HA IN AREA, RESULTING IN LOTS THAT WOULD NOT ACHIEVE THE PERMITTED LEVEL OF DENSITY IN THE WAITAKERE RANGES ENVIRONMENT, WOULD GENERATE A YARD INFRINGEMENT ON PROPOSED LOT 1, AN INFRINGEMENT OF BUILDING COVERAGE AT 3% ON PROPOSED LOTS 1 AND 3, AND WOULD REQUIRE 27.6M<sup>3</sup> OF EARTHWORKS ASSOCIATED WITH THE FORMATION OF THE SHARED DRIVEWAY SURFACE AT 44 TE AUTE RIDGE ROAD, BETHELLS**

**WAITAKERE WARD**

**RMA 20021212**

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

**1.0 INTRODUCTION AND RECOMMENDATION**

**1.1 Nature of the Application**

The applicant seeks consent to subdivide a 4.6ha lot into 3 separate titles. The resultant parcel areas would respectively be 1.58ha for proposed Lot 1 with a building coverage of 3%, 1.54ha for proposed Lot 2 with an existing building coverage of 1%, and 1.54ha for proposed Lot 3 with a building coverage of 3% of this title area. Consent would also be required for an infringement of the Plan's bulk and location controls as the subdivision would result in an infringement of the 10m side yard. This is because the existing 'barn' would be located 3m from the side boundary at its closest point. Finally consent would be required for approximately 27.6m<sup>3</sup> of earthworks associated with the formation of the dual strip concrete surface over the existing shared driveway. Overall, these activities would result in an infringement that is non-complying under the District Plan.

**1.2 Resource Management Issues Raised**

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

The proposed subdivision would result in the creation of residential lots that are far smaller than the minimum lot size of 4 hectares, which is specified as the minimum lot requirement in the Waitakere Ranges Environment. All dwellings, ancillary buildings, access areas (including vehicle crossovers), and on-site infrastructure requirements, are already in place and have been lawfully established by way of resource consent (RMA 3702/77). Therefore the subdivision would not create an immediate need for an increase in building coverage, vegetation clearance or earthworks associated with the creation of driveways or infrastructure. The existing dwellings are serviced via two existing vehicle crossings. Council's traffic engineers have agreed to the creation of a dual strip driveway along the proposed right of way serving Lots 1 and 3.

The proposal requires resource consent for a **non-complying subdivision** resulting in Lots of between 1.54 and 1.58ha in area. The creation of these lots would result in a situation where the existing buildings on the parent title would contribute to an infringing level of building coverage on two of the resultant titles. Limited Discretionary consent would be required for a total building coverage of 464m<sup>2</sup> (3%) and 420m<sup>2</sup> (3%) on Lots 1 and 3, which would exceed the permitted level of coverage of 300m<sup>2</sup> in the Waitakere Ranges Environment. Further consent would be required for a side yard infringement, resulting from the creation of the site boundary for proposed Lot 1 in a position where it is within 3m of the existing barn. Finally consent would be required for approximately 27.6m<sup>3</sup> of earthworks associated with the upgrading of the shared driveway surface. A full description of the necessary consents is provided in Section 4 of the following report.

### 1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for a three lot subdivision, resulting in infringements to the Plan's rules for density, building coverage, yard setbacks, and earthworks associated with a shared driveway outside of an approved building platform. It is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of both the Transitional and partially Operative District Plans will be satisfied.

## 2.0 APPLICATION DETAILS

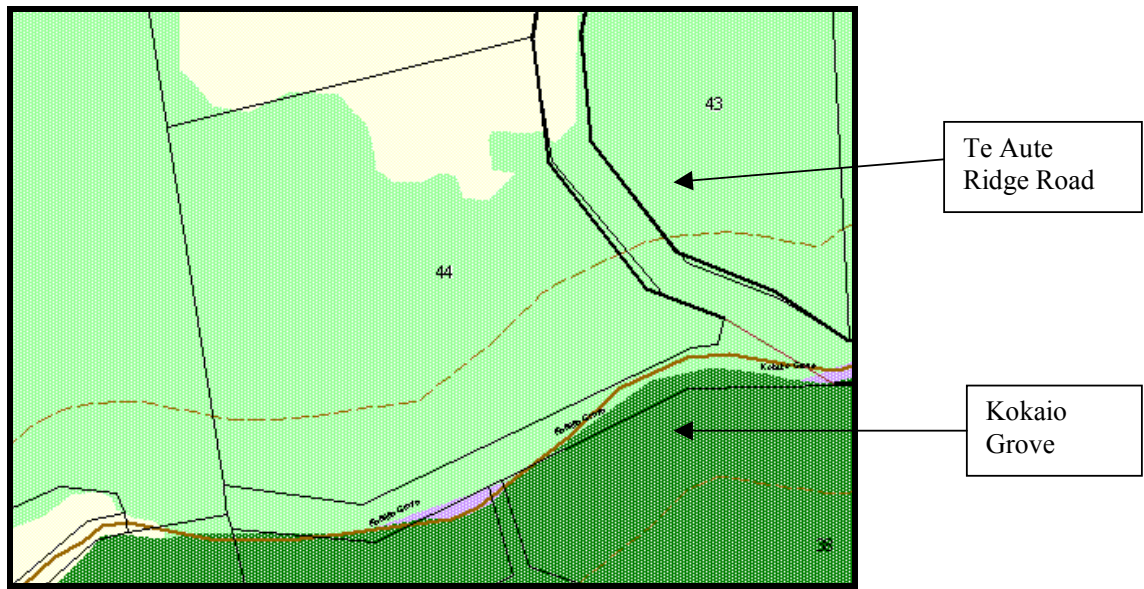
Planner:	Rochelle Edwards
Site Address:	44 Te Aute Ridge Road West, Bethells
Applicant:	DJ & EM March, and RM Nicholson
Date Received:	28 June 2002
Resource Consent No:	RMA 20021212 (Land Use), RMA 20021355 (Sub) SPW 21568
Building Consent No:	N/a
Legal Description:	Lot 1 DP 58776
Address for Service:	Attn: Melanie Jesson Cato Bolam Consultants PO Box 21555 Henderson
Site Area:	4.6ha
Unit Site Area(s):	1.54ha, 1.54ha & 1.48ha
Transitional Plan:	
Zoning:	Landscape Protection 2
Section:	Waitemata
Hazards:	No hazards are identified in the Transitional District Plan
District Plan:	
Human Environment:	Waitakere Ranges Environment
Natural Area:	Managed / General
Landscape Elements:	Sensitive Ridge
Hazards:	No known hazards
Roading Hierarchy:	Local

Further Information Required: Yes - Required written consents, review of scheme, details of conditions requiring covenants, and a suspension at the request of the applicant.

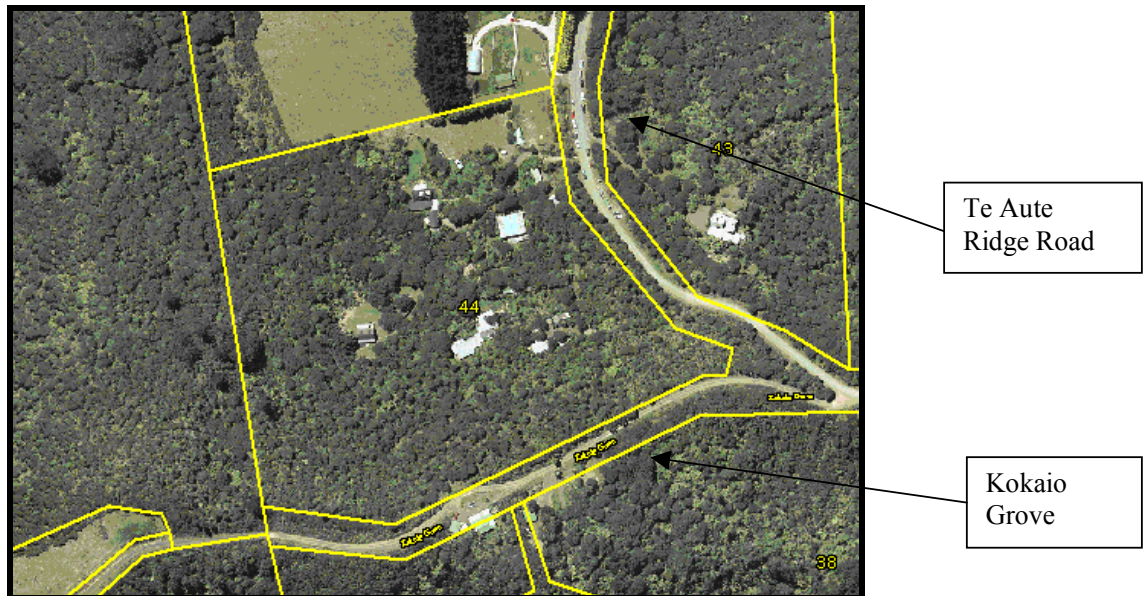
Date Requested: 12/07/02, 27/07/02, 22/10/02, 01/03/03

Date Received: 24/07/02, 18/10/02, 25/10/02, 13/06/03

### 2.1 Location Plans



Locality Diagram A: Natural Areas Map Locality Plan



Locality Diagram B: Aerial Site Locality Plan

### 3.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

#### 3.1 Site Description

##### Location

The subject site is located at the intersection of Kokako Grove and Te Aute Ridge Road. The parcel is therefore to the north of Kokako Grove and to the West of Te Aute Ridge Road. Te Aute Ridge Road is a large loop road connecting to Bethells Road and the subject site is located near the western end of this road. The site is approximately 10 minutes driving distance from Bethells Beach.

##### Built Form and Infrastructure

The site contains three reasonably substantial residential dwellings. Each of these dwellings has internal or detached garaging, and vehicular access to the road. Access to two of the dwellings is shared over a single metal driveway, with the third dwelling utilising a separate and independent metal access and driveway.

The site contains a large barn, which has been used as an informal community building for many years. Consent has never been granted for the use of this barn as a community building. The landowners currently use this building as an additional common area. This barn contains a bathroom and kitchen facilities, a mezzanine floor, which is currently used as temporary accommodation, and a common room area on the ground floor. This barn was originally constructed out of second-hand materials and is in a state of disrepair.

Other structures dispersed across the site include a dilapidated house, once used as a residential dwelling, an additional shared garaging area, and several storage sheds that appear to have been constructed on an ad hoc basis by the occupants of the land.

The site has no formal connection to a reticulated stormwater system and water runoff drains informally toward adjoining sites to the west. The site has no connection to a public wastewater system and wastewater is managed via a septic tank system. These systems were established at the time the dwellings were constructed and were approved by Council's building inspectors.

##### Vegetation and Natural Landform

The site slopes away from Te Aute Ridge Road toward the northwest. The highest point of the site is along the southern boundary, which is located at the top of a sensitive ridgeline. Therefore parts of the site provide extensive views across the wider natural countryside. The site is considered to be of significant natural value because of its rural location and proximity to protected natural areas and large public reserves.

Historically the land is likely to have been grazed. However at the present time, with the exception of the established residential dwellings, cleared access ways and outdoor areas associated with each dwelling, the bulk of the site is clad in regenerating native bush. The exception to this is a smaller portion of land in the northeastern corner of the site that may be described as pastoral and in grass. It is also clear that the applicants have undertaken replanting of some of the former pasture land with selective native trees in order to enhance regeneration of native species within this fauna habitat.

### 3.2 Site History

Land-use consent for development on the applicants' site was originally sought in 1977 for a specified department from the Operative District Scheme, and the Landscape Protection Rules under Proposed Plan Change No 104. Permission was sought to erect two new residential dwellings, convert an apiary / workshop into a third dwelling, construct a communally used barn, and the planting of vegetation as part of the establishment of a self-sustaining community. At the time consent was sought, the applicants proposed that there would be no vehicular access to the site and that they had ***no intention to subdivide the site***. Permission was granted on the 15<sup>th</sup> December 1977 (Ref 3702/77) for the proposed development. Conditions imposed on this consent required that the development proceed in accordance with plans submitted, that sewage and stormwater disposal be to the satisfaction of Council, and that development comply with all of Council's other relevant bylaws. The table below outlines the timeframe of the subsequent development and the stage of completion of each of the building permits. The applicant has advised that the metalled driveway was formed during the construction of the third dwelling in 1980.

Building Consent Reference	Proposal	Stage of Completion
ABA75001628 (21/11/1975)	Workshop Apiary	Completed
ABA76006147 (21/12/1976)	Barn	Completed
ABA79011308 (02/02/1979)	Carport	Completed
ABA79011512 (06/03/1979)	Dwelling	Shown as current but Council files indicate that the Code of Compliance has been signed off.
ABA81018114 (25/09/1981)	Dwelling	Completed
ABA81018522 (18/11/1981)	Addition to Dwelling and Wood Fire	Completed
ABA83022081 (02/03/1983)	Carport	Completed
ABA85027802 (25/03/1985)	Addition to Dwelling	Current
ABA86031988 (17/10/1986)	Carport	Current

Therefore it is considered that much of the development on site has been lawfully established by way of resource and building consent. It is noted however that building consent was never issued for the formal conversion of the apiary into a residential dwelling. The occupant of this dwelling has advised that this conversion took place gradually between 1976 and the end of 1977 (at which time this structure was occupied as a residential dwelling). Presumably Council's inspectors would have noted that these works would have been undertaken prior to the application to erect a carport associated with this dwelling in February of 1979. There are no notes on Council's files recording this to be the case however an assumption can be made that at this time this structure had become a habitable dwelling and was occupied as a permanent home. It is also noted that a later application in November of 1991 was recorded on Council files as being an addition to this "dwelling". A number of small ancillary buildings that have been erected on site, do not appear to have been lawfully established by way of building consent.

## 4.0 PROPOSAL

### Proposed Density

The applicant seeks consent to separate the 3 existing dwellings into 3 independent lots. This would require the non-complying subdivision of the parent title at 44 Te Aute Ridge Road, which is 4.6159ha in area. The proposed areas of the 3 lots would be **Lot 1 = 1.58ha**, **Lot 2 = 1.54ha**, **Lot 3 = 1.54ha**, each of which would include a residential dwelling and carport or garaging facilities. The subdivision would be configured so that the communally shared barn would be located within proposed Lot 1.

### Shared Driveway Access and Associated Earthworks

A 5m wide right of way easement would be registered on the title of Lots 1 & 2 over the existing driveway access, and would continue to serve the dwellings on these lots. This driveway would be upgraded to meet Council's standards for shared areas using a dual strip driveway, which would drain directly to each side of the access way across the full length of the drive. This arrangement would follow the existing drainage patterns. Council would also require the upgrading of the existing vehicular crossings to the Code of Practice strand for a Residential Vehicle Crossing (Unkerbed Roads) SD 3.12.

The upgrading of the driveway would necessitate 27.6m<sup>3</sup> of earthworks to form a dual strip driveway. This volume of earthworks has been calculated on the basis that each strip would be 800mm wide along the length of the right of way easement, whereby Council would require these surfaces to be positioned 800mm apart to accommodate the movements of a vehicle. These strips would be excavated to a maximum depth of 150mm.

### Infrastructure Proposals

Council's plumbing and drainage inspector, Glen Moser, has reviewed the wastewater disposal arrangements on the parent site and on the proposed lots as shown on the scheme plan. He has confirmed that each site would contain septic tank systems and that each system would be able to adequately serve the wastewater requirements of each proposed lot. Therefore no further wastewater services or associated infrastructure would be required on any of the proposed sites. No further stormwater disposal systems would be required as a result of the formation of the shared driveway.

### Building Coverage Arising from Proposed Subdivision

A consequence of the subdivision application would be the creation of lots containing an infringing level of building coverage. It is noted however that this level of building coverage would still be well within the 10% permitted level of impermeable surfaces for sites not connected to a reticulated stormwater system. Details of this coverage and estimates of previous vegetation clearance associated with this coverage are shown in Table A below:

**Table A: Specific Details of the Proposed Lots**

Proposed Lot Number	Proposed Lot Area	Proposed Impermeable Surfaces <i>(The Plan provides for 10% of the net site area where there is no connection to a reticulated stormwater system).</i>	Proposed Building Coverage <i>(The Plan Provides for 15% of the net site area or 300m<sup>2</sup> whichever is the lesser).</i>	Total Vegetation Clearance	Total Area of Site Clear of Vegetation
Lot 1	1.58ha	464m <sup>2</sup> + 100m x 1m total width of dual strip driveway = 564m <sup>2</sup> or 4%	464m <sup>2</sup> or 3%	464 + area of shared driveway (approx 100m x 5m wide carriageway) = 964m <sup>2</sup> or 6%	964m <sup>2</sup> (+ 2,500m <sup>2</sup> area originally used as pastoral land) = 3464m <sup>2</sup> or 22%
Lot 2	1.54ha	140m <sup>2</sup> + existing metalled driveway area of 150m <sup>2</sup> approx = 290m <sup>2</sup> or 2%	140m <sup>2</sup> or 1%	140 + area of shared driveway and cleared area around the dwelling (approx split driveway area of 150m <sup>2</sup> + 100m <sup>2</sup> around the dwelling) = 390m <sup>2</sup> or 2.5%	390m <sup>2</sup> or 2.5%
Lot 3	1.54ha	420 + existing metalled driveway = 630m <sup>2</sup> or 4%	420m <sup>2</sup> or 3%	420 + area of driveway (approx 70m x 3m carriageway) = 630m <sup>2</sup> or 4%	630m <sup>2</sup> or 4%

The applicant has not submitted any proposal to increase this level of existing building coverage. The only increase in impermeable surfaces would be that arising from the creation of the dual strip driveway over the existing driveway surface. Therefore the proposal would not require the further clearance of vegetation.

Proposal to Restrict Further Building Coverage

The applicant has been liaising with the Waitakere Ranges Protection Society with regard to the nature of the proposal, the level of on-site building coverage, and the potential for further development on the proposed sites. At a pre-hearing meeting it was concluded that no further development (in the form of building coverage or vegetation clearance) should take place on proposed Lots 1 and 3, in the event that the application is approved. Both the applicants and the Society recognised the potential need to increase the building coverage within proposed Lot 2, given that this dwelling is relatively small and may not adequately accommodate an average scale household unit. Consequently, the applicants have reached an agreement with the Waitakere Ranges Protection Society to register a covenant on all titles relating to the protection of bush on the proposed sites. The covenant would also prohibit the erection of any minor household units or accessory buildings on the new lots created, and would restrict the maximum allowable area of building coverage to areas detailed below:

Lot Number	Maximum Building Coverage on Site as Prescribed by Covenant on Title
Lot 1	452m <sup>2</sup> (existing 464m <sup>2</sup> - 12m <sup>2</sup> garden shed to be removed as detailed on scheme plan S13962 S3)
Lot 2	188m <sup>2</sup> (existing 140m <sup>2</sup> - Building coverage limit to be increased by 48m <sup>2</sup> through removal of buildings on Lots 1 and 3)
Lot 3	384m <sup>2</sup> (existing 420m <sup>2</sup> - 36m <sup>2</sup> shed to be removed as detailed on scheme plan S13962 S3)

Consultation

A1-A10

The applicant consulted with the following parties prior to lodging the application: the landowners and occupiers of the properties at 43 Te Aute Ridge Road, 46 Te Aute Ridge Road, 38 Te Aute Ridge Road, 40 Te Aute Ridge Road, 42 Te Aute Ridge Road, 4 Kokako Grove, 5 Kokako Grove, 7 Kokako Grove, all owners of 3 Kokako Grove, and the Royal Forest and Bird Protection Society. Some preliminary conversations were also held between the applicants and the members of the Waitakere Ranges Protection Society prior to the submission of the resource consent application to Council. The details of that consultation are appended to the application as notified, as attached at pages A1 to A10.

**4.0 REASONS FOR THE APPLICATION**

Consent is required under those provisions of the Transitional and partially Operative District Plans for the following reasons:

**4.1 Proposed District Plan (1995)**

Waitakere Range Environment - Subdivision Rules

Non-Complying Activity Consent would be required for a subdivision resulting in lots of between 1.54ha & 1.58ha, which are below the minimum lots size of 4ha, as required by the Plan in the Waitakere Ranges Environment. Consent would therefore be sought pursuant to Rule 11.3 of the Subdivision Rules (Waitakere Ranges).

## 4.2 Transitional District Plan

The majority of the Proposed Plan has been deemed Operative (on 27 March 2003), with appeals still outstanding against the subdivision rules. Therefore the subdivision provisions of the Transitional District Plan are still applicable to the assessment of this application.

### Landscape Protection 2 Zone

Non-Complying Activity Consent would be required for a subdivision pursuant to Ordinance 11.2.5(a), where the proposed lots would be between 1.54ha and 1.58ha in area, and would therefore be less than the minimum permitted lot size of 4ha.

## 4.3 Operative Plan (Deemed Operative in Parts, March 2003)

### Waitakere Ranges Environment - Yards

Limited Discretionary Activity Consent would be required for infringing the yard setback rule in the Waitakere Ranges Environment. The creation of the boundary between Lots 1 and 3 would result in a situation where the "Barn" and the shared carport, which would be located entirely within Lot 1, would be within 10m of the side boundary adjoining proposed Lot 3. The barn would be approximately 3m from this side boundary at its closest point. Consent would therefore be required pursuant to Rule 5.2.

### Waitakere Ranges Environment - Building Coverage

Limited Discretionary Activity Consent would be required for infringing the permitted level of building coverage. The District Plan provides for buildings having a building coverage of not more than 15% of the net site area or 300m<sup>2</sup> whichever is the lesser. The proposed subdivision would result in 464m<sup>2</sup> or 3% of the net site area of Lot 1, 140m<sup>2</sup> or 1% of the net site area of Lot 2, and 420m<sup>2</sup> or 3% of Lot 3. Consent would therefore be required pursuant to Rule 6.2.

### Waitakere Ranges Environment - Car Parking and Driveways

Controlled Activity Consent would be required for the creation of a shared driveway that is over 20m in length. Whilst an informally built driveway has previously been constructed on site, the proposal to create a legal right of way agreement as part of the proposed subdivision would require the construction of a formed dual strip driveway surface to serve Lots 1 and 2. Consent would therefore be required pursuant to Rule 9.2.

### Managed Natural Area / General Natural Area

Limited Discretionary Activity Consent would be required for earthworks outside of an approved building platform that are less than 30m<sup>3</sup> and are associated with the creation of a driveway. More specifically, the construction of the dual strip driveway would require approximately 27.6m<sup>3</sup> of excavation to mould the concrete strips into the existing metal and soil layer. Consent would be required pursuant to Rule 3.2.

4.4 Overall, the application is considered to be a Non-Complying Activity. The proposal complies with all other development controls under the Transitional and Proposed District Plans.

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

## 5.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

*A11-A24*

The application was publicly notified on 30 October 2002 and the period for submissions closed on 18 November 2002. Five submissions were received. Two submissions supported the application, and three submissions opposed the application, as attached at pages A13 to A24 for copies of the submissions that were received. A map showing the location of the submitters as attached at pages A11 to A12.

### 5.1 Submissions

General issues raised in the submissions received by Council as outlined as follows below:

#### In Opposition

Submitter two opposed subdivision below 4ha as he considered that the “special nature of the area” is protected by these restrictions. Submitter three opposed any non-complying subdivision in the Waitakere Ranges. She felt that the subdivision would provide increased developmental opportunities in this area and that an exemption to the Waitakere District Plan’s rules would set a precedent for further non-complying subdivision in the Waitakere Ranges. She asked that the application be declined or subject to restrictions which prevent the erection of minor units or any further developments on the sites. Submitter 4 objected to the proposal and stated that it did not promote sustainable management of natural and physical resources, would be inconsistent with the purpose and principles of the Resource Management Act, would be contrary to the objectives, policies and explanatory statements in the Waitakere District Plan. They also felt that granting the consent would allow the generation of significant adverse effects on the environment including cumulative effects, would provide increased development opportunities on land such as accessory buildings and additional site coverage. They concluded that any grant of consent should be subject to conditions, which avoid the possibility of additional development opportunities arising on the land.

#### In Support

Submitter 1 supported the application, subject to Council allowing no further building coverage or the construction of new access ways. He supported the application because of the unique characteristics of the site and states that the development would be of such a scale that the integrity of the District Plan would not be compromised. He also requested that the natural features of the site and the amenity of the area would be maintained. Submitter 5 supported the application as they felt that the development would put what already exists into a new legal form, and that the present situation is satisfactory.

### 6.2 Pre Hearing Meeting

A pre-hearing meeting was held between the following parties on 12 December 2002:

- Rochelle Edwards (Council Planner);
- Bruce Hawkins (Council Team Leader);
- Jeffie Mulder (Planning Consultant);
- Margaret Campbell (Submitter / landowner 43 Te Aute Ridge Road);
- John Edgar (President Waitakere Ranges Protection Society);
- Douglas Allan (Solicitor Waitakere Ranges Protection Society);
- Elizabeth & Derek March (applicants);
- Ronnie Nicholson (applicant).

A39-A41

A copy of the agenda, attendance list and minutes from the meeting as attached at pages A39 to A41.

In summary, the main issues addressed at this meeting were as follows:

- The Waitakere Ranges Protection Society explained that the key issues at stake were the potential for the cumulative subdivision of the Waitakere Ranges, and the potential for further minor household units and accessory buildings being constructed on site. Further to this the society felt that the District Plan mechanisms may not be able to adequately safeguard further development on the proposed lots and demonstrated the potential for further development under these rules as a consequence of the proposed subdivision.
- Margaret Campbell (owner/occupier 43 Te Aute Ridge Road) said that she was concerned about cumulative effects and the potential for this subdivision to set a precedent for similar development throughout the Waitakere Ranges Environment. She raised concerns about future changes to the District Plan, which could allow for further development on these smaller lots.
- The Waitakere Ranges Protection Society commented that the way to resolve the potential for a precedent is to make what can happen in future the same as what can happen now.
- The applicant explained how they were proposing to use covenants or similar mechanisms to prevent further building coverage and vegetation clearance on the proposed lots.
- The Waitakere Ranges Protection Society concluded that they would require details of the proposed covenants on building coverage and vegetation clearance, confirmation that no household units would be permitted, and conditions specifying that “dwellings” would have to be in a single structure and that a “sleep out” or other accessory buildings would not be included in this definition.
- Margaret Campbell asked to be informed of all further information and correspondence received by Council and of the position that the Waitakere Ranges Protection Society chose to take on the application.

An initial meeting was also held at Council’s offices on 7 August 2002 between Rochelle Edwards (Council Planner), Gordon Griffin (Council’s Landscape Architect), and Elizabeth March (Applicant). The purpose of this meeting was to discuss the original scheme to subdivide the property into 5 lots and to highlight adverse aspects of this proposal. Subsequent to this meeting a revised application was submitted to Council applying for the subdivision of the site in three separate lots.

## **7.0 STATUTORY REQUIREMENTS**

### **7.1 The Weighting of District Plans**

The Resource Management Act 1991 requires consideration of both the Transitional and partially Operative District Plans prior to the Proposed Plan becoming operative. As determined by case law the regard to be given to the different plans can be weighed up in relation to what stage in the process of becoming operative a proposed plan is. In this case the majority of the Proposed Plan has been deemed Operative (on 27 March 2003), with appeals still outstanding against the subdivision rules and one outstanding appeal (Ref. A53), which relates to the density provisions of the Waitakere Ranges Environment where applicants propose to erect minor household units. As the applicants are not proposing to erect any further buildings on the site(s), and the proposal would be **non-complying** by virtue of the subdivision requirements, the outcome of this appeal would not impact on this application.

## 7.2 Non-Complying Activities

A42-A53

The relevant policies and criteria which apply under the Transitional and partially Operative District Plan and the Resource Management Act 1991 are set out in more detail in pages A42 to A53 attached to Appendix 9 of this report. This should be referred to as the legal framework within which the application should be addressed.

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 105(2A) 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 either the partially Operative District Plan or the Transitional District Plan.

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 to 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.

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

### 8.1 Assessment of Environmental Effects (104(1)(a)): Actual and potential effects on the environment.

#### 8.1.2 Water Quality and Quantity

A30-A33

Council's drainage engineer, Mr Richard Thomas, has reviewed the application and the impact of the proposed subdivision on water quality and quantity. His specialist report, as attached at pages A30 to A33 of this report, notes that there is no public drainage reticulation serving this site. Further to this he states that there is no public water reticulation system so roof water is collected and re-used to supply the dwellings on the site. He notes that stormwater from roof water overflow or other impermeable areas is disposed of on site.

As discussed above, the only physical change to the site that would result as a consequence of the subdivision would be the formation of the dual strip driveway across the length of the driveway easement over proposed Lot 1. Mr Thomas has therefore assessed the impact of this new impermeable surface area. His report states that the dual strip driveway would minimise the effect of increased stormwater runoff by following natural drainage patterns and by not concentrating the disposal of stormwater in one location. He has suggested that the dual strip system would allow stormwater to shed off the drive and mimic the existing drainage runoff patterns.

Mr Thomas concludes that EcoWater would support the application subject to conditions being imposed to prevent the construction of minor dwelling units and to limit extensions to the existing dwellings. As such conditions would be imposed, it is considered that the proposal would have a de minimis impact on water quantity and quality.

Council's Plumbing and Drainage Inspector, Mr Glen Moser, has reviewed the septic tank systems on the site. As each of the proposed lots would be able to accommodate an independent septic tank system, and each site would be large enough to be served by the existing systems, the proposed plumbing and drainage arrangement would have a de minimis impact on downstream water quality and quantity.

As noted in the site description, it is evident that the applicants have converted areas of former pastoral land into parcels of dense native bush. It is considered that this increase in vegetative cover would have a positive impact on the absorption of stormwater and wastewater within the site boundaries.

### **8.1.3 Native Vegetation, Vegetation and Fauna Habitat**

As discussed above, the applicants are proposing to impose covenants on the titles of the new lots to prohibit any further vegetation clearance for the purpose of building or development. As much of the remainder of the site is clad in native bush and is within the Managed Natural Area, the Plan's rules for vegetation alteration in this environment would protect this habitat. The upgrading of the shared driveway would not require further vegetation removal, and there would be no building in the drip line of vegetation. Further to this, the site has sufficient infrastructure in place to serve the proposed lots, therefore there would be no upgrading required in the drip line of trees or shrubs. Therefore it is considered that the proposed subdivision would not result in the removal of native vegetation or impact on the wider Green Network.

It is considered that the selective native planting, which has been undertaken around the built areas of the site, has improved the coverage of native vegetation on the site and has provided an important linkage with the densely clad areas of native bush to the south of the parent title. It is also considered that the proposed covenants would provide Council with an additional mechanism to protect fauna habitat.

### **8.1.4 Land / Soil**

The site is within a bush clad rural area, which has not been modified by urban development. This site is not known by Council to be subject to any natural hazards such as inundation, subsidence or flooding. As discussed above, the only works required as a consequence of the proposed subdivision would be the upgrading of the shared section of the driveway serving proposed Lots 1 and 2. This upgrading would involve the laying of 2 x 800mm wide concrete strips along the length of the right of way easement. These strips would be approximately 800mm apart and would be a thickness of 150mm in depth. In order to form each strip the applicant is proposing to excavate a gravel area of 800mm x 115m (the approximate length of the right of way easement), to a depth of 150mm. Therefore the total earthworks requirement associated with the creation of this dual access strip would be approximately  $(13.8\text{m}^3 \times 2) = 27.6\text{m}^3$ .

These excavated areas would be filled with concrete to form a stable and maintenance free driveway surface. The alignment or camber of the existing gravel driveway surface would not be altered or excavated to a further degree.

Whilst the earthworks are considered to be relatively minor and would be confined to the formation of the driveway surface, it is considered appropriate that conditions are imposed requiring that sediment and erosion controls are put in place during these works to prevent sediment load from mixing with stormwater runoff and any potential contamination of downstream watercourses would be avoided.

Overall it is considered that the proposed subdivision would require minimal re-contouring or changes to the existing landform, natural drainage patterns and soils, and that the effect of the subdivision on land and soils would be de minimis.

#### **8.1.5 Air**

As 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**

##### Variety and Extent of Species

As discussed in Section 5.2.2 of this report and in the site description, the lawfully established development on the site would have necessitated the clearance of some native vegetation and the modification of the fauna habitat. However photographic evidence suggests that the applicants would have, where possible, utilised the cleared pastoral land to form their building platforms. This is most notable in the area where a dwelling and accessory buildings have been built on the portion of the parent site that would become Lot 1.

The proposed subdivision would require no further vegetation removal, and the gradual re-planting undertaken by the applicants on the site would have contributed to an improvement in the variety and extent of native species across the site. Further to this, it is considered that the applicant's proposal to impose a covenant on the titles to prohibit vegetation clearance associated with building and development, would continue to protect the variety and extent of native species.

##### Isolation / Ecological Linkages

The site and its surrounds are of considerable natural value. Whilst the site is not registered in the Plan as an Outstanding Landscape, it is within the Waitakere Ranges Environment and Kokako Grove provides access to the settlement at Bethells Beach. Much of the site is in the Managed Natural Area and contains a mix of mature and regenerating native bush. In addition to this a strip of land up to 50m in width, which lies parallel to Kokako Grove, is located on a sensitive ridgeline. The site's isolated nature and proximity to Bethells Beach enhances its natural value.

It is considered that the effect of the non-complying subdivision on the natural environment and ecological linkages with the wider Green Network would be minor. This is because the subdivision would create an opportunity to impose further restrictions on building coverage and vegetation removal on site, thereby having a positive effect on the protection of the fauna habitat. It is also noted that the effects arising from the construction of buildings on the overall Green Network, have been offset by the continual and appropriate replanting of native tree species on site.

##### Iwi Concerns - Degradation of Mauri

As discussed above, the proposed subdivision would not require the removal of vegetation or modification of the natural landform. Therefore it is considered that with the Green Network left in its present state, and with increased measures to protect vegetation and the natural landscape, the proposed subdivision would not result in the degradation of Mauri. Te Kawerau A Maki have been consulted through the notification process and have confirmed that as covenants would be used to restrict further vegetation clearance, the proposal would not contribute to the degradation of Mauri.

### **8.1.7 Outstanding Natural Features; Landforms, Geological Sites**

The subject site is not identified in the District Plan as being within an area 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. It is noted that Map 3.6(E) *Views in Waitakere City* identifies a view across the Waimanu sand dune, Te Aute Ridge Road and Waiti Stream to Bethells Beach and the mouth of the Waitakere River, when viewed from Te Aute Ridge Road, approximately 300m northwest of the applicant's site (Ref 57). It is considered that the proposed subdivision would have no effect on this significant view-line.

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

The site does not contain any water bodies or wetlands and is not located along the coastline. The site is several kilometres from Bethells Beach and is far enough from the nearest wetland to have a de minimis effect on the natural character of this feature. The proposed upgrade of the driveway access would require a minimal level of earthworks the effects of which would be managed and contained within the site.

### **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). Whilst it is located within the Waitakere Ranges Environment, the proposed subdivision would have a de minimis effect on this landscape. 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**

#### Impacts on Built Form

As discussed above, all buildings on the site have been lawfully established by way of resource and building consents, and the subdivision would not require any further building or the upgrading of stormwater and wastewater systems beyond normal maintenance requirements. Therefore it is considered that the proposed subdivision would have no impact on the bulk or visual amenity of built form on the site.

As all of the dwellings were lawfully established as buildings capable of accommodating an average household, it is considered that the proposal would have a de minimis effect on any increase in intensity such as vehicular movements and the level of privacy enjoyed by residents in the area. Clearly the legal separation of the three dwellings would provide for the occupation of each proposed site by three independent households, occurs in the present situation. As no further building is proposed, it is considered that the current sense of community and neighbourhood character would be unchanged by the subdivision of the units on to three separate titles. Should the occupant of proposed Lot 2 decide to undertake further alterations or extensions to their dwelling, as recognised in the proposed covenant arrangement, these alterations would be subject to the building coverage requirements in this environment and would be subject to the approval of Council.

The sense of streetscape would also be unchanged as the vehicular crossovers from Te Aute Ridge Road have already been formed and are in use. Council would require the upgrading of these crossovers, however they are already of a reasonable standard and their upgraded appearance, when viewed from the streetscape, would be largely unchanged.

### Amenity Values

- *Landscape modification, encroachment above ridgelines, landscape values, views.*

A portion of the site is covered by a Moderate Sensitive Ridge (65m), as shown on the Plan's Natural Areas Maps. The top of this ridgeline is roughly located in line with the eastern end of Kokako Grove. In using aerial photographs it appears that the garage and an accessory building associated with the dwelling on Proposed Lot 3 is within this identified Sensitive Ridge Area. The remainder of the land on this Sensitive Ridge is densely clad in mature native vegetation and would be protected by the proposed covenants relating to vegetation clearance on proposed Lots 2 & 3. As the proposed subdivision would not result in the removal of vegetation on this ridgeline and would result in the use of a covenant or similar mechanism to prevent any further building on proposed Lot 3, the proposed subdivision would not result in any further encroachment above ridgelines, or development that would modify the landscape or impact on views.

The creation of the dual strip driveway would have a de minimis effect on the landscape values of the parent title as a partly metalled driveway has already been formed, and the new surfaces would only be visible from within the proposed sites.

- *Noise, dust.*

As discussed above, the proposal would not increase the level of residential intensity on the site above what has already been lawfully established by way of specified departure under the Town and Country Planning Act 1977. Therefore it is unlikely that the proposed subdivision would result in an increase in the level of noise generated by the permitted residential activities, or an increase in the level of dust being produced by vehicles servicing these dwellings. Overall it is considered that the proposed subdivision would have a de minimis effect on noise and dust.

- *Infrastructural capacity & availability.*

There is no public drainage or public water reticulation serving this site, and roof water is collected and re-used to supply the dwellings on the site. Stormwater from roof water overflow or other impermeable areas is disposed of on site. Council's EcoWater department have concluded that the stormwater drainage systems on the current site are acceptable and that the upgrading of any infrastructure on site would not be required. The only exception would be where further building or development were to take place on the site or within proposed Lot 2. Such development would again be subject to the approval of Council. As covenants would be imposed to restrict building coverage, and the shared driveway would be constructed with a dual strip surface that would drain according to the existing natural drainage patterns, the proposal would have a de minimis adverse effect on stormwater infrastructure.

Further to this, Council's Plumbing and Drainage inspector has established that each of the proposed lots would be able to accommodate an independent septic tank system, and each site would be large enough to be served by the existing systems. He has recommended that a condition be imposed on this consent requiring the consent holders to ensure that all wastewater and stormwater disposal systems for existing dwellings be confined to each separate lot and that there be a 100% reserve area in place for a repeatable effluent disposal field for each lot. He also recommended that stormwater disposal from the dwellings and proposed right of way driveway be to the satisfaction of Council's EcoWater department. With these conditions in place it is considered that the proposed subdivision would have a de minimis impact on drainage.

Therefore it is considered that the proposal would have a de minimis impact on infrastructural capacity and availability.

- *Traffic generation, on-street parking, driver safety, pedestrian safety, roading capacity and roading network, traffic noise, vehicle movements, access and driveway manoeuvring, driveway width and gradient.*

Council's traffic engineers estimate that vehicle movements from a typical residential dwelling are between 6-8 movements per day. As all dwellings were lawfully established on the parent title, it could be argued that Council have consented to between 12 and 16 vehicle movements per day moving from one site access, and 6-8 movements per day at the other site access. As the proposed subdivision would not result in an increase in the number of residential dwellings over the larger site area and would not generate a change in the use of each dwelling, it is considered that the proposed subdivision would not result in an increase in vehicular movements to and from the proposed sites.

Further to these comments about the generation of vehicular movements, Council's Traffic Engineer, Mr Adam Moller, has reviewed the subdivision proposal. Mr Moller has made the following comments in his specialist report:

- The existing entry/exits to the site are considered to be generally adequate. However as there is the potential for the tracking of metal from the driveway entrance to the public road, Council would require that this access be upgraded to comply with the Code of Practice. Hence, a condition would be imposed requiring that applicant seal the vehicle crossings between the edge of the road seal and the property boundary, in accordance with Council's standards.
- The visibility and site distances from the access points are considered to be adequate.
- It is considered that a sufficient level of on-site car parking would be provided.
- The Traffic Engineer does not anticipate that traffic generation would increase from the present levels as a consequence of the proposed subdivision.
- The existing driveway is a mix of loose chip metal and earth. As a portion of this driveway will become shared property after the subdivision, it is appropriate to upgrade it to comply with Council's subdivision standards. In discussions with EcoWater it has been agreed that a dual strip concrete driveway is the most appropriate method of upgrading the shared access area as this design would minimise the creation of new impermeable surface. This design would also assist in retaining the natural drainage patterns on the site.

Overall it is concluded that, subject to conditions requiring that the vehicle crossovers and shared portion of the driveway area is formed to Council's standards, the proposed subdivision would have a de minimis impact on traffic generation, the capacity of the wider road network, driveway safety and off - site parking demand.

#### **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 heritage item identified in the District Plan. Council's Te Kawerau A Maki Trust Environmental Officer, Mr Wayne Knox, has commented that Te Henga is an area of high cultural heritage significance to Te Kawerau a Maki. Mr Knox is not clear whether there are any wahi tapu on the proposed sites, however he considers that given the extended period of use of the site, it can be assumed that there is no current issue that the iwi would have in this regard. He comments that if wahi tapu or other cultural heritage issues do come to the attention of the iwi in the future regarding this site or its vicinity, Te Kawerau a Maki will take appropriate actions. These will not however impact the current application for subdivision consent.

Mr Knox states that Te Kawerau A Maki are concerned that subdivision at this level of density has the potential to set a precedent for future subdivisions outside of the proposed district plan limitations. However they acknowledge that this is an exceptional circumstance, and that any future bids to subdivide less than 4ha based on this precedent should not be heeded.

Mr Knox concludes that given that environmental impacts resulting from this subdivision would be minimal and that covenants would be put in place to prevent excessive development of the land, Te Kawerau A Maki have no concern in this regard and have no objection to the proposed subdivision.

### **8.1.12 Cumulative Effects and Precedents**

The matter of the potential for a non-complying subdivision of this scale to result in cumulative effects or set precedents for further such development have been raised in pre-hearing discussions with the applicant and in the submissions received by Council.

#### Cumulative Effects

The Resource Management Act (1991) includes “*Any cumulative effect which arises over time or in combination with other effects*” as part of its wider definition of *effect*. Consideration has therefore been given to whether the proposed subdivision would give rise to cumulative effects. Recent Environmental Court decisions, known as Arigato and Dye, suggest that a consent authority must examine the effect on the environment where other sites could gradually repeat this pattern of development and accumulate those same effects on each new application, resulting in wider effects as a consequence of the repetition of that same effect on different properties over time. As discussed earlier in this report, the proposed subdivision would not result in an increase in building coverage, other than what may be provided for as a condition of consent at a future date on proposed Lot 2. It was also concluded that the proposal would not require an upgrade of on-site infrastructure, result in a shift in the location of driveways or vehicle crossovers, or necessitate further vegetation clearance. Therefore the accumulation of other developments with the same level of negligible effect, would have a de minimis cumulative effect on the Waitakere Ranges Environment and on the Te Henga community.

#### Precedent Effects

Precedent effect has been described by the Environment Court as being an effect of that activity itself. By comparison a Cumulative effect is an effect that will happen as per the definition under s3 of the Act. Recent case law suggests that no two applications are ever the same however the granting of one consent may well have an influence on how another application should be dealt with. The extent of that influence will obviously depend on the extent of the similarities. Case law suggests that consideration should be undertaken of particular features of a site that may or may not relate to potential development on other sites. With respect to the present application, it is considered that the proposed subdivision would be unique for the following reasons:

- All dwellings and extensions to dwellings on the site were lawfully established by way of specified departure under the Town and Country Planning Act;
- The subdivision would not result in a requirement for the upgrade of infrastructure on any of the resultant lots; and
- Both crossovers into the site have been legally established, and only minor works would be required to upgrade the crossovers and the shared driveway areas to meet Council's code of practice standards. No further crossovers or vehicular access ways would be required.

It is considered that these features are particularly unique to the site and the weight of the decision would have been with the original Council decision to grant resource consent for the applicants' communal development proposal. By comparison a similar application at 3 & 7 Te Aute Ridge Road, which has been used by one of the submitters as an example of the potential for precedent effects, contained dwellings on a site whereby resource and building consents were not originally granted for multiple unit development on two sites. Further to this, additional upgrades to infrastructure and roading / access were required to legitimise this development.

In addition to these unique circumstances the proposed development would result in Council having an opportunity to use further mechanisms to restrict building coverage and vegetation clearance on the site, ultimately resulting in a reduced development potential on the property. Therefore it is considered that there are exceptional circumstances in this case that are different to other developments to conclude that the proposed subdivision would be unlikely to establish a precedent for further similar development in the Waitakere Ranges Environment.

### 8.1.13 Summary

The proposal is to undertake a three lot subdivision of a 4.6159ha lot into sites ranging in size between 1.54ha and 1.58ha, resulting in a **non-complying** level of density in the Waitakere Ranges Environment, an infringement of the 10m side yard control, an infringement of the permitted level of building coverage on two of the proposed sites, and approximately 27.6m<sup>3</sup> of earthworks associated with the formation of a shared driveway area.

The subdivision would require the upgrading of the proposed right of way access over the existing driveway serving proposed Lots 1 and 2. This would be a temporary inconvenience to the residents on the site, however as these sites are owned and occupied by the applicants, and all disturbed soils would be contained within the site, these effects would be de minimis.

As the proposal would not require any further building or development, the upgrade of infrastructure or the formation of access ways, or the clearance of vegetation, it is considered that there would be no further physical effects arising from the proposed subdivision.

It is concluded that the potential for a precedent effect would be no more than minor as the site contains exceptional circumstances that would preclude other subdivisions in the Waitakere Ranges from being assessed in the same manner. Cumulative effects arising from the development would be minor as the subdivision itself would have de minimis adverse effects on the environment and the effect of these impacts being repeated would be minor.

It is the report writer's opinion, that the potential adverse effects of the proposed activity are no more than minor, and can 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 can meet the requirements of Section 104(1)(a).

## 8.2 District Plan Considerations (104(1)(d)): Relevant Objectives, Policies, Rules and other provisions of a Plan or Proposed Plan

### 8.2.1 District Plan

#### 8.2.1.1 Assessment Criteria

The assessment criteria relating to the proposed activity have been addressed in the effects discussion under Section 8 above and therefore will not be discussed in full detail. However a brief assessment against the relevant assessment criteria is provided below.

## Subdivision and Density

(11a)

*The extent to which the subdivision design avoids the need for clearance of native vegetation, retains or links significant vegetation and fauna habitat areas, contains proposals to plans with native vegetation to those areas of the site within the restoration natural area, avoids development on natural landscape elements and heritage features, minimises soil erosion, encourages on-site water retention, avoids development on floodplains and uses drainage methods that protect and enhance streams.*

The proposed subdivision would avoid the need for clearance of native vegetation and the proposal would provide an opportunity for Council to use further mechanisms to prevent further clearance and protect elements of the Green Network. The proposal would not entail any further built development and any future development on proposed Lot 2 would be restricted to the existing cleared areas. The only physical works being undertaken on site, as part of the subdivision proposal would be the formation of part of the existing driveway surface. Therefore the proposal would be consistent with this criterion as it would avoid development on natural landscape features, and would maintain the existing infrastructure without impacting on soils or downstream watercourses.

(11d)

*The extent to which sites are provided with practical vehicle access to a road.*

The subdivision has been designed to ensure that the existing driveways and vehicle crossovers remain in place and are used to provide legal access from the three proposed lots to Te Aute Ridge Road.

(11k)

*The extent to which the design and capacity of the wastewater treatment and disposal system has regard to the upstream catchment and effects on the downstream catchment, including likely future development.*

As no further building coverage is proposed, Council's specialists have confirmed that the existing rainwater collection systems are able to meet the demands arising from the development on the site. The septic tanks systems were also considered to be adequate to meet the needs of each new site. The proposal would incorporate Council's recommendation of a dual strip design of driveway, which would be able to disperse of stormwater from this new surface to areas within two of the three proposed lots. Therefore the formation of this new surface would not result in off-site flooding or adversely affect the downstream catchment. Therefore it is considered that sufficient infrastructure is already in place to ensure that the proposal would be consistent with this assessment criterion.

(11o)

*The extent to which subdivision adversely affects the historical, cultural or spiritual significance of any site or waahi tapu of significance to iwi and the mauri (life force) of water, native vegetation, fauna habitat and land.*

Te Kawerau A Maki have concluded that the proposal would have no adverse effects on the historical, cultural or spiritual significance of the site and its surrounds, or the mauri of native vegetation and water. No known sites of waahi tapu would be adversely affected by the proposal.

## Yards

5(a)

*The extent to which buildings are located a sufficient distance back from the site boundary to avoid more than minor adverse effects on the natural landscape.*

The yard infringement would only arise from the creation of a new boundary behind an existing building. Therefore the yard infringement would have no further impact on the natural landscape. The outlook from the nearest adjoining dwellings would be unchanged, therefore the proposal would be consistent with this criterion.

5(b)

*The extent to which buildings are located in a position, which maintains opportunities to retain vegetation around the edges of the site.*

Restoration planting has already been undertaken around the edges of buildings and subsequently around the edge of the proposed land parcels. It is considered that the creation of a boundary behind an existing building would not reduce opportunities for planting around these edges.

5(c)

*The extent to which buildings are located in a position which allows for safe traffic movement on and off the road and car parking and manoeuvring off the road.*

The final boundary arrangement was decided upon as it provided the most practical use of the existing driveway to serve the dwellings on proposed Lots 1 and 2. Therefore it is considered that the position of the "barn" relative to the site boundaries would allow for safe traffic movement on and off the road and car parking and manoeuvring off the road.

## Building Coverage

(6a)

*The extent to which the scale of buildings detracts from the natural landscape.*

The proposed subdivision would not result in an increase in the level of building coverage on the site. Furthermore, there is significant vegetation on site that serves as a natural screen between the existing buildings on the parent title and views of the property from adjoining sites. Therefore it is considered that the proposal would be consistent with this criterion, as it would not increase the level of building coverage that has been permitted by way of resource consent, and the feature on the site would continue to serve as the dominant feature of this landscape.

6(b)

*The extent to which building coverage creates pressure on existing infrastructure or the receiving ability of the surrounding natural environment from the buildings or the activities to be conducted within them - in particular on water supply, wastewater and stormwater drainage, water tables, proximity to water courses, soils, and road access.*

Council's specialists have confirmed that the existing stormwater drainage and collection devices are adequate to meet the demands arising from the level of on-site building coverage. As no further building coverage is proposed, the subdivision would not place any further pressure on existing infrastructure, water tables, soils, road access, or downstream watercourses.

## Earthworks

3(a)

*The extent to which earthworks degrade or lead to the degradation of existing water quality in the adjoining stream, river, lake, harbour or sea.*

It is considered that subject to the imposition of a conditions requiring that the applicant put sediment and erosion controls in place during the works period, the proposed earthworks would not lead to the degradation of downstream watercourses.

3(g)

*The extent to which earthworks reduce the extent, range and linkages between vegetation, fauna habitat and natural features.*

The earthworks would not be within the drip line of protected vegetation and would not require the removal of vegetation, as they would within an existing gravel driveway surface.

### 8.2.1.2 Policies and Objectives

The relevant objectives and polices in relation to this proposal relate to subdivision in the Waitakere Ranges resulting in a **non-complying** level of density, building coverage, and a side yard infringement.

#### Subdivision and Density

Policy 9.9 states the following:

*Activities should be managed in a way that avoids, remedies or mitigates damage to or clearance of native vegetation from the outstanding coastal and Waitakere Ranges landscapes.*

The proposed subdivision would not result in the clearance of native vegetation within this significant natural landscape. Furthermore, the proposal would provide Council with an opportunity to impose further mechanisms to assist in the protection of native bush and the on-site fauna habitat. Therefore it is considered that the proposed subdivision would be consistent with this policy.

Policy 9.14 states the following:

*Subdivision should be designed in a way that:*

- *Minimises the intrusion of structures and driveways into the natural landscape, and subsequent effects on landscape character;*
- *Avoids, where possible, the placement of structures and driveways so that they intrude on to Natural Landscape Elements; and*
- *Minimises adverse effects on other natural features, including native vegetation and heritage objects and sites.*

The proposed subdivision has been designed to separate three existing residential dwellings and associated garaging in such a way that the resultant land parcels would have the least impact on the natural landscape. For example, the configuration of the proposed lots would ensure that the proposed right of way access to Lots 1 and 2 would be defined over an existing driveway surface. This would avoid any need for further vegetation clearance of physical works over a new area that would result in the creation of a third driveway surface. The proposed subdivision would not impact on the placement of existing structures on site or alter their relationship with natural landscape elements. Finally the proposed layout of the subdivision would not result in any change to natural features or sites of historical or cultural value. Therefore it is considered that the proposed subdivision would be consistent with this policy.

Policy 10.17 states the following:

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

The proposed subdivision would not result in further development on the site. It has been determined through the assessment of affects contained in Section 8 of this report that the site already contains sufficient infrastructure to serve the needs of the dwellings on the site and that the proposed subdivision, coupled with the creation of the dual strip driveway, would not result in increase pressure for further drainage mechanisms on site. The proposal subdivision would therefore be able to adequately meet water supply, wastewater drainage and stormwater disposal requirements on the site to provide for the health of all residents.

Policy 11.9 states the following:

*Structures and access ways should be placed in such a way that they do not encroach visually on those natural landscape elements that have been identified as contributing to the amenity of an area. Particular regard should be had for the placement of structures so that intrusion above any sensitive ridgeline when viewed from a public place is avoided, or where unavoidable, remedied or mitigated.*

The proposed subdivision would not alter the placement of structures on site, which have already been positioned to have regard for the natural landscape. As discussed above, access ways would remain in the same position as what currently exists and this has been made possible by the proposed right of way easement to serve proposed lots 1 and 2. Finally the proposed subdivision would have no impact on the development on the sensitive ridgeline to the south of the site.

### **Building Coverage**

Policy 11.3 states the following:

*Buildings and structures should be located so that they maintain the neighbourhood character, visual amenity of the surrounding area and the characteristic streetscape of the area, including providing for:*

- *the overlooking of streets by buildings;*
- *maintaining characteristic links between private and public space arising from the orientation of houses and the way they face the street;*
- *the setback of buildings from the road boundary;*
- *planting of section frontages;*

*in a way that gives particular regard to variations in amenity values, and neighbourhood character.*

The proposed subdivision would not result in an increase in the level of building coverage on the site, previously permitted by a resource consent. The location and orientation of these buildings is set back from the road boundary, and has provided generous spacing between dwellings where vegetation is in existence to screen each dwelling from the adjoining neighbour. The dwellings are not clearly visible from the road boundary and the proposed subdivision would not alter the character of this neighbourhood or the level of amenity in this area. Therefore it is considered that the proposed subdivision would be in accordance with this policy.

## Yards

Policy 10.6 states the following:

*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.*

The positioning of the barn within the side yard of proposed Lot 1 would not impact on the privacy of the adjoining neighbours. This is because this structure is not a residential dwelling and has been deemed unsuitable for permanent residential accommodation. Further to this, sufficient screening is in place behind the structure to prevent any overlooking from the communal activities in the existing barn into the dwelling on proposed Lot 3. Therefore it is considered that the proposed subdivision would be consistent with this policy.

## Shared Driveway

Policy 10.16 states the following:

*Driveways, carriageways and car parking areas should:*

- *Be laid out in a way that provides for the safe circulation of vehicles and pedestrians;*
- *Be of sufficient design quality to ensure the safe passage of motor vehicles, cyclists and pedestrians and discharge of stormwater;*
- *Be designed to avoid edge fretting;*
- *Allow safe, ready access to adjoining sites.*

Section 8 of this report has already established that the location of the shared driveway and the formation of the formed dual strip surface would be safe for shared vehicle access, would be designed to discharge runoff within the site, and would not result in vegetation removal so edge effects would be negligible. Therefore it is considered that the proposed development would be consistent with this proposal.

## Earthworks

Policy 1.8 states the following:

*Activities, including the management of forestry and woodlots should be carried out in a way that avoids, remedies or mitigates, so minimising, the movement of soils and sediment and other contaminants into receiving waters, and the degradation of water quality in a way that destroys or reduces their:*

- *ability to support in stream vegetation and fauna;*
- *ability to be used as a food source;*
- *clarity, quality and flow, and suitability for swimming.*

The proposed works would be in accordance with this policy as sediment and erosion controls would be put in place to minimise the movement of soils and the potential for contamination in receiving waters.

## Summary

A42-A53

It is considered that the proposal would be consistent with the objectives and policies of the Plan. The Plan is “effects based” in its approach to natural and physical resources and it has been demonstrated in the previous assessment of effects that subject to conditions, any effects arising from the proposal would be no more than minor. A summary of relevant policies as attached at pages A42 to A53.

### 8.4 Any Other Matters the Consent Authority Considers Relevant (104(1)(i))

#### 8.4.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

There are no further issues raised by submitters that are not covered elsewhere in this report.

#### 8.4.2 Bonds/Reserve Contributions

The reserve contribution has been considered in accordance with the Resource Management Act 1991. The sum to be paid in lieu of reserves will be computed from the gross realisation value of 600m<sup>2</sup> notational building sites on Lots 1 - 3 (supplied by QV Valuations), as shown on the plans submitted with the application at the time of survey plan approval with credit for the existing certificate of title.

The applicant's have queried the requirement to take this reserve contribution as they note that a development contribution was not taken at the time the second and third dwellings were constructed on the site. Section 271(a) of the Local Government Act defines *Development* as follows:

- (1) *For the purposes of this Part of the Act the expression “development” means development or redevelopment (other than subdivision) by -*
  - (a) *Constructing, erecting, or altering any one or more buildings or other works for the purpose of providing 3 or more new or 2 or more additional household units ....”*

This section of the act became operative on 1 April 1979. Prior to this date, Council had no opportunity to take a development or reserve contribution under this Act. As established earlier in this report, the first dwelling was converted from an apiary and a second dwelling was erected on this site prior to the enactment of this Act. As “development” has not occurred after this date because “two or more additional household units” have not been constructed since this amendment has been operative, Council has had no previous opportunity to take a reserve contribution. Therefore it is appropriate that this contribution be taken at the time of subdivision from one to three lots. It is recommended that an appropriate condition be imposed on this resource consent to address this requirement.

#### 8.4.3 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. In particular, attention is likely to be directed toward the implementation of conditions relating to the installation of sediment and erosion controls, the appropriate formation of the dual strip driveway, and compliance with restrictions on building coverage and vegetation clearance on site.

### 8.3 Auckland Regional Policy Statement (104(1)(c))

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

The Regional Policy Statement includes land adjacent to the coast from which surface drainage may flow directly to the Coastal Marine Area as a feature of the coastal environment. Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of these areas and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways.

It is considered that Section 2 (Regional Overview and Strategic Direction) is of relevance. In particular Policy 2.5.2.3 states:

*“Urban development is to be contained, within the metropolitan urban limits shown on Map Series 1 and the limits of rural and coastal settlements as defined so that:....*

- (ii) Environmental values protected by the metropolitan urban limits of rural or coastal settlements are not adversely affected, and that the integrity of those limits is maintained”.*

Further to this Policy 2.5.3.5 states:

*“The subdivision, use and development of rural land is to be managed so that:*

- (i) The life supporting capacity of rural soils is safeguarded so far as is practical;*
- (ii) The ability of rural resources to meet the needs of future generations is maintained; ....*
- (iv) Significant adverse effects on the environment, including effects on the rural character of rural areas and on regional significant environmental values, are avoided; and where avoidance is not practicable, adverse effects are remedied or mitigated”.*

The proposed subdivision would be within a regionally significant rural landscape as it would be within the Waitakere Ranges Environment and would be in near proximity to a coastal area. This development would be outside of the Metropolitan Urban Limits, therefore protection of this significant natural resource is paramount. As discussed earlier in this report, the proposed subdivision would not result in an increase in built structures, any upgrading of wastewater and stormwater infrastructure, the relocation of existing driveway areas or the creation of new vehicle crossovers into the site. Further to this, it would provide an opportunity for Council to utilise further mechanisms to assist in the protection of this natural area. Therefore it is considered that the proposed subdivision would not be contrary to these regional policies.

### 8.7 Any Relevant Regulations Made Under the Resource Management Act 1991(104(1)(b), Any Relevant Designations or Heritage Orders (104(1)(b))

There are no relevant designations or heritage orders that apply to the proposed sites or their immediate surrounds.

## 9.0 PART II 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.

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 such a way that enables people and communities to provide for their social and cultural well-being and their health and safety without significantly compromising the needs of future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment as demonstrated through the assessment in Section 8 of this report.

It is considered that that the proposal is consistent with sustainable resource management. In particular this proposal is concerned with the subdivision of a parcel of land containing three lawfully established dwellings, and the formation of a shared driveway area in a protected rural environment.

The proposal would allow for the subdivision of a 4.6159ha lot into 3 lots of 1.54ha, 1.54ha and 1.58ha, that subject to conditions restricting further building coverage and vegetation clearance on the site, would be able to be undertaken in such a way that the amenities of the neighbourhood and long-term vitality of the Waitakere Ranges and the wider Green network would not be adversely affected.

The proposal is not considered to adversely affect any matters of national importance, as addressed in Section 6 in Part II of the Act. It is considered that the adverse effects arising from the proposal and the proposed mitigation are limited in significance to the surrounding neighbourhood.

Section 7 identifies a number of "other matters" to be given particular regard by Council in the consideration of any assessment for resource consent, and includes efficient use of natural and physical resources, and the maintenance and enhancement of amenity values. It is considered that the proposal would not be contrary to any other such matters.

Section 8 addresses matters relating to the principles of the Treaty of Waitangi. Iwi consultation has been undertaken by the applicant during the processing of the applicant and Council's Te Kawerau A Maki Trust Environmental Officer, Mr Wayne Knox, has commented that Te Henga is an area of high cultural heritage significance to Te Kawerau A Maki. He concludes however that environmental impacts resulting from this subdivision would be minimal and that covenants would be put in place to prevent excessive development of the land. Therefore Te Kawerau A Maki have no concern in this regard and have no objection to the proposed subdivision. Therefore it is considered that appropriate iwi have been consulted on this matter and it is considered that the proposal would be undertaken in such a way that it would be not be contrary to the Treaty's principles.

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal would provide for a three lot subdivision, resulting in infringements to the Plan's rules for density, building coverage, yard setbacks, and earthworks associated with a shared driveway outside of an approved building platform, without significantly affecting 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.

As such it is considered that the proposal would be consistent with Sections 5, 6, 7, & 8 or the Resource Management Act 1991 in that any adverse effects on the environment can be avoided, remedied or mitigated through conditions of consent and the amenity values and the quality of the environment can be maintained and enhanced.

#### **10.0 EVALUATION IN ACCORDANCE WITH SECTION 105 OF THE RESOURCE MANAGEMENT ACT 1991**

The threshold test in Section 105(2A) of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (105(2A)(a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (105(2A)(b)). As discussed in Section 7.0 of this report the Plan is now operative, with the exception of the Transitional provisions for subdivision. Therefore little weight shall be given to the objectives, policies and rules of the Transitional Plan relating to subdivision as the partially Operative Plan is considered to be the dominant document.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies Section 105(2A) in that subject to appropriate conditions of consent requiring mitigation the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the District Plan. Jurisdiction to grant consent has therefore been established.

#### **11.0 CONCLUSION**

The applicant seeks consent to subdivide a 4.6ha lot into three separate titles of between 1.54ha and 1.58ha in area, resulting in a yard infringement on proposed lot 1, an infringement of building coverage of 3% on both proposed lot 1 and proposed lot 3, and 27.6m<sup>3</sup> of earthworks associated with the formation of the shared driveway surface. The subject site is located at 44 Te Aute Ridge Road, Te Henga. The site is zoned Landscape Protection 2 under the Transitional District Plans, and Waitakere Ranges Human Environment, and General & Managed Natural Areas, under the Rules of the District Plan.

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 proposed subdivision would not lead to a decline in the amenity values of the area.

The proposal is considered to be consistent with the objectives and policies of the Plan, which seek to maintain the amenity of rural environments, and prevent adverse effects on fauna habitat and the life supporting capacity of streams, wetlands and coastal environments.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies Section 105(2A) in that subject to appropriate conditions of consent the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the District Plan.

It is considered that the issues raised by the submitters **can** be adequately addressed through the imposition of appropriate conditions.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **merits consent** in accordance with Sections 104 and 105 of the Resource Management Act 1991.

## RECOMMENDATIONS

**A** That pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be granted** to the application by DJ and EM March and RM Nicholson to subdivide a 4.6ha lot into three separate titles of between 1.54ha and 1.58ha in area, resulting in lots that would not achieve the permitted level of density in the Waitakere Ranges Environment, would generate a yard infringement on proposed lot 1, an infringement of building coverage at 3% on proposed lots 1 and 3, and would require 27.6m<sup>3</sup> of earthworks associated with the formation of the shared driveway surface at 44 Te Aute Ridge Road, being Lot 1 DP58776 for the following reasons:

- (i) The proposal to subdivide a 4.6ha site into three lots of 1.54ha, 1.54ha, and 1.58ha would rationalise an existing land ownership situation whereby three separate and unrelated household units occupy three lawfully established dwellings on a single title. As such, the proposal would enable each household to independently own a share of the parent title without requiring the upgrading of wastewater infrastructure or stormwater disposal measures within each proposed site, or require the creation of new vehicle crossovers or identified driveway areas.
- (ii) The proposal would result in an infringement of the side yard control that would not be visible from the streetscape and would not alter the existing situation, to other than through the reconfiguration of the site boundaries. The formation of the shared driveway area would necessitate earthworks whereby any adverse effects would be mitigated by sediment and erosion controls. The proposal to form a dual strip driveway surface would achieve Councils Code of Practice requirements for shared driveways without resulting in an increase in stormwater runoff to adjoining sites.
- (iii) The proposal would result in non-complying development outside of the Metropolitan Urban Limits that would not result in cumulative adverse effects, would provide an opportunity for mechanisms to be used to further restrict development and vegetation clearance on this site, and would be an exceptional situation that would not set a precedent for development in similar rural areas.
- (iv) The proposal would be in accordance with all other relevant objectives, policies, and assessment criteria of the District Plan.

Consent shall be subject to the following conditions:

### Earthworks

1. **Before commencement of any works and until completion of exposed earth site works**, adequate sediment and erosion control measures shall be constructed and maintained by the consent holder. The control measures must be maintained until the site has been adequately stabilised against erosion. The construction and maintenance shall be in accordance with 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.

2. 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. Should any material be deposited on the street, it shall be removed immediately at the expense of the consent holder.
3. All necessary action shall be taken to prevent a dust nuisance to neighbouring properties; including, but not limited to, the staging of areas of works, and suspension of all operations if necessitated by the prevailing conditions to the satisfaction of the Manager Resource Consents.

#### Vehicle Crossover

4. The consent holder shall upgrade the existing vehicular crossings to Council's Code of Practice strand for a Residential Vehicle Crossing (Unkerbed Roads) SD 3.12.

#### Plumbing and Drainage

5. The consent holder shall ensure that wastewater and stormwater disposal systems for existing dwellings are confined to each separate lot and that there is 100% reserve are for a repeatable effluent disposal field for each lot. Stormwater disposal from the dwellings is to be to the satisfaction of EcoWater.

### **SPW 21568 (RMA 20021355)**

- B** That Subdivision Consent Application Plan No SPW 21568 (RMA20021355) being a Non Complying activity to subdivide a 4.6ha lot into three separate titles of between 1.54ha and 1.58ha in area at 44 Te Aute Ridge Road, being Lot 1 DP58776 comprised in CT 13B/1444 by DJ & EM March and RM Nicholson be granted subdivision consent pursuant to Sections 94 and 105 of the Resource Management Act 1991 and be approved pursuant to Section 348 of the Local Government Act 1974, and that:-

#### **1: SECTION 223 REQUIREMENTS**

A survey plan of the subdivision will be approved pursuant to Section 223 of the Act within 3 years provided that the advertised survey plan-signing fee has been paid and that the following conditions have been complied with to the satisfaction of Council.

- (a) Provide for right-of-way and service easements over parts of Lots 1 lettered 'A' in the Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon."
- (b) As required by Condition (LD 2) below, define and letter the Land Covenant areas (labelled B, C, D, E & F on SPW 21568) showing the areas of Lots 1, 2, and 3, which are required to be preserved and which are to be the subject of a performance bond.

Take note that street numbers for the lots on the survey plan will be confirmed 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.

### **SHARED DRIVEWAY AND ECOWATER CONDITIONS**

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

- (SD 1) Before the commencement of any work, obtain the approval of Council to engineering plans and specifications prepared in accordance with Council's "Code of Practice for City Infrastructure and Land Development" detailing the proposed upgrading of the shared driveway
- (SD 2) Form and construct the shared driveway over parts of Lot 1 lettered A and provide stormwater control to the satisfaction of the Council. Notes:
- (1) Inspection of the boxing prior to concrete pouring (or the subgrade prior to pavement construction) is required. Contact 836-8000 extension 8725, at least 48 hours prior to the inspection being required.
  - (2) All bends shall have a minimum inside turning radius of not less than 6.5m.
  - (3) The minimum width of the carriageway on shared driveways is specified in Councils District Plan (2.7m for 3-5 lots) and the construction details are given in Councils "Code of Practice for City Infrastructure and Land Development." (150mm thick up to 4 lots). The consent holder shall form a driveway surface area of 2 x 800mm wide service strips, separated by a distance of 800mm between each strip, to a depth of 150mm over the existing driveway surface, to meet these Code of Practice standards.
- (SD 3) Provide adjacent to or on the bend in the shared driveway, a minimum 0.6m-diameter convex mirror on the bend of the driveway to provide for safe vehicle movements, to Councils satisfaction.

### **LEGAL DOCUMENTATION**

These conditions will be signed off by Consent Services.

- (LD 1) Take Note that Council being satisfied that adequate access to Lot 2 thereon is provided over other land pursuant to an easement of right-of-way appurtenant to that allotment, and a condition imposed under Section 220(1)(b)(iv) Resource Management Act 1991 therefore resolves that the provisions of Section 321(1) of the Local Government Act 1974 shall not apply to those Allotments by virtue of Section 321(3)(c).
- (LD 2) Pursuant to the provisions of Section 407 of the Act, ensure that no native trees on Lots 1-3 inclusive (to be suitably defined on the survey plan) shall be removed without the prior approval of Council. A consent notice pursuant to Section 221 of the Act will be required to be issued and registered on the new titles to be issued for the affected lots and pursuant to Section 108(1)(b) of the Act, a performance bond in the amount of \$100,000 will be required.

(LD 3) A consent notice pursuant to Section 221 of the Act will also be required to be issued and registered on the titles of the new lots for the following matters:

- (i) That no minor household units shall be erected on any of the new lots created.
- (ii) That no accessory buildings for residential purposes (ie. sleep outs) shall be permitted on any of the new lots created.
- (iii) That the maximum building coverage of the total site shall not exceed the existing building coverage (1,024m<sup>2</sup>), and shall be divided as follows;
  - Lot 1: 452m<sup>2</sup> (existing 464m<sup>2</sup> - 12m<sup>2</sup> garden shed to be removed as detailed on scheme plan S13962 S3)
  - Lot 2: 188m<sup>2</sup> (existing 140m<sup>2</sup> - Building coverage limit to be increased by 48m<sup>2</sup> through removal of buildings on Lots 1 and 3)
  - Lot 3: 384m<sup>2</sup> (existing 420m<sup>2</sup> - 36m<sup>2</sup> shed to be removed as detailed on scheme plan S19362 S3)
- (iv) That areas of bush marked on the scheme plan shall be protected. Should any stock, including horses and goats, be introduced on site, these bush areas shall be fenced by a stock proof fence as specified under one of the clauses 6, 7, or 8 of the second schedule of the Fencing Act 1978, to the satisfaction of the Manager, Resource Consents.

(LD 4) The consent notices required by conditions (LD 2 & LD 3) above will be prepared by the City Solicitor at the applicant's cost when the following information has been received:

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

### **FEES, BONDS AND 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 any engineering, works supervision and 224c processing fees as incurred. These fees 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%) of Quotable Value market values to be obtained for 600m<sup>2</sup> of notational building sites on Lots 1 - 3 as of the date of issue of this subdivision consent for reserve purposes pursuant to Section 407 of the Act for the allotments shown on the plan, such amount being reducible by a credit for the underlying title. Council will obtain the valuation from Quotable Value New Zealand Limited (QV) at the time an application is made for survey plan approval under section 223 of the Resource Management Act. Pay also QV costs for obtaining the valuation, which will be invoiced by Council.

## GENERAL

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

- (GL 1) Advise Council the name of the Consultant and/or person/s who will be the developers representative fulfilling engineering responsibilities as detailed in section 1.4.1 of Councils Code of Practice for City Infrastructure and Land Development.
- (GL 2) 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.

## ADVICE NOTE

- (AN 1) It is recommended the applicants liaise with the NZ FIRE Service regarding fire fighting coverage and protection measures and that agreed measures are implemented. Such measures might include dedicated water storage tanks, residential sprinkler systems, fire alarms etc.
- (AN 2) To minimise the increase in stormwater runoff resulting from upgrading the shared driveway utilise a dual strip design that does not collect and concentrate stormwater but allows it to shed off the drive to mimic existing runoff patterns. Engineering approval from Councils Road & Traffic Unit and EcoWater is required for shared driveway designs differing from the Code of Practice.

Report prepared by: Rochelle Edwards, Resource Planner.

