



Waitakere City Council
Te Taiao o Waitakere

AMENDED NOTICE OF HEARING

HEARING BY COMMISSIONERS

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

REVISED Thursday, 27 November 2008 **TIME:** 9.30 am
DATE:

MEETING Council Chamber
ROOM

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

to consider a Resource Consent application for 42-46 Landing Road, Titirangi and to take any necessary action connected therewith.

Sharon Simiona .

18 November 2008

Sharon Simiona
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

| | | | |
|----------------|----|----|--------------|
| Commissioners: | Cr | VS | Neeson, JP |
| | Cr | WW | Flaunty, QSO |
| | Cr | JP | Lawley, JP |

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

**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD IN THE COUNCIL
CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD,
HENDERSON, WAITAKERE, ON, 27 NOVEMBER 2008,
COMMENCING AT 9.30 AM**

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1 NOTIFIED SECTION 127 APPLICATION OF THE RESOURCE MANAGEMENT ACT 1991 BY RICHMOND EDEN LIMITED (R MAXWELL) TO VARY THE CONDITIONS OF CONSENT OF LUC-2002-0091 AND LUC-2005-0926 WHICH WILL REMOVE THE REQUIREMENT TO CONSTRUCT A WALKWAY BETWEEN LANDING AND GRENDRON ROADS, AND REMOVE THE PROPOSED RECREATION RESERVE, AT 42 – 46 LANDING ROAD, TITRANGI

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RMA LUC-2008-661

N.B. This report sets out the advice of Consent Services to the Hearings Commissioners 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 Commissioners.

N.B. This report replaces the previous planner's recommendation following the applicants request to revise the application.

APPLICATION DETAILS

| | |
|--------------------------------|--|
| Planner: | Nick Pollard |
| Resource Consent No: | LUC-2008-661 |
| Site Address: | 42-46 Landing Road, Titirangi |
| Applicant: | Ralph Kerr Maxwell |
| Date Received: | 29 April 2008 |
| Legal Description: | LOT 17 DP 364620 |
| Address for Service: | 62 Tilby Drive Matua TAURANGA 3110 |
| Ward: | New Lynn 4 |
| Site Area: | 25862m ² |
| Previous RMA: | LUC-2002-0091 LUC-2005-0926 |
| Further Information Requested: | No |
| Date Requested: | N/a |
| Date Received: | N/a |
| Site Visit: | 13 September 2008 (as part of with drawn consents LUC-2007-1417 and LUC-2007-1515) |
| Any Affected Persons: | Yes |
| Approval Given: | No |

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent pursuant to Section 127 of the Resource Management Act to vary the conditions of consent of LUC-2002-0091 and LUC-2005-0926 which will remove the requirement to construct a walkway between Landing and Grendon Roads, and remove the proposed recreation reserve. The remaining balance of land would be absorbed into proposed Lots 9 and 10; and an easement will be provided over Lots 9, 10 and 12 in favour of Council to provide for the opportunity to construct and maintain a walkway and provide for public access. The total remaining reserve contribution will be payable to Council at the issue of title.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application pursuant to Section 127 it shall be regarded as Discretionary Activity, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the District Plan.

It should be noted that the current proposal requires an assessment of the potential amenity effects of not constructing a walkway, nor providing a reserve however the proposal includes an easement to provide pedestrian access for amenity and connectivity. In addition, the proposal would continue to have minor adverse effects on vegetation and earthworks on a site identified as being stability sensitive for the purpose of constructing the walkway.

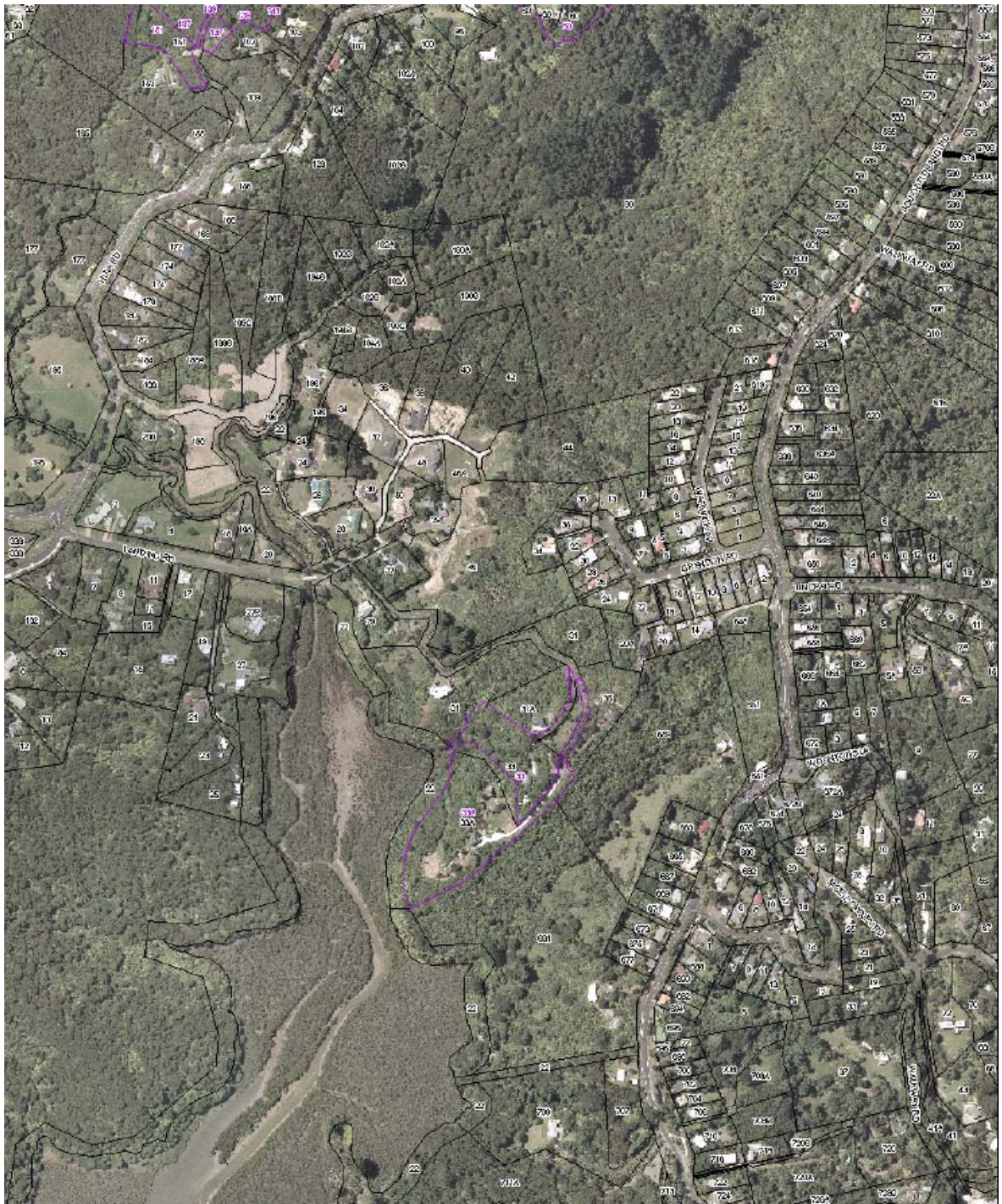
This application should not be seen as an opportunity to re-litigate any matters pertaining to the subdivision other than the change to the walkway and the loss of the reserve.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that **consent be approved** to the application to vary of the conditions of consent of LUC-2002-0091 and LUC-2005-0926.

It is considered that the adverse environmental effects that would be generated by the activity would be no more than minor and will be adequately avoided, remedied or mitigated by conditions. In addition, the proposed activity is not inconsistent with the relevant objectives and policies of the District Plan, the New Zealand Coastal Policy Statement and the Waitakere Ranges Heritage Area Act 2008.

2.0 LOCATION PLAN



Legal Description: Lot 1 DP 40532 and Lot 2 DP40532
Human Environment: Bush Living
Natural Environment: General/Managed
Hazards: Stability Sensitive
Roading Hierarchy: Local Road

3.0 PROPOSAL

The proposed amendment by the applicant seeks to amend the consented subdivision and would result in the following changes:

- Remove the requirement for the applicant to construct a walkway between Landing and Grendon Roads;
- Remove the proposed recreation reserve identified as Lot 15 on approved plans;
- The remaining balance of land would be absorbed into proposed Lots 9 and 10;
- Provide an easement over proposed Lots 9, 10 and 12. The easement is of suitable width and provides Council with the opportunity to construct the walkway.
- Remove the opportunity for the applicant to reduce their reserve (financial) contribution with the part of the costs of providing the walkway. The reserve contribution was reducible by 100% of the value of the land and 25% of the combined value of the land and construction cost, and under this proposal this reduction no longer be applicable and the applicant would be required to pay the full 6% reserve (financial) contribution as no open space provision is proposed to be vested (excluding the access leg from Grendon Road, Lot 18) in Council and 75% of the cost of the future walkway.

In the interim period between resource consent decisions and the application for this variation, the Waitakere Ranges Heritage Act 2008 has been enacted and the proposal, being within the Waitakere Ranges Heritage Area requires consideration of the effects of the proposal on relevant heritage features.

4.0 REASONS FOR THE APPLICATION

On 20/12/2002, a notified resource consent application was granted to Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots ranging in size from 1.5044ha to 2475m² with 200m³ of earthworks required for the formation of the carriageways required for shared access ways on a site at 39 Landing Road, Titirangi (refer LUC-2002-0091). This consent was granted subject to a number of conditions.

Three appeals were lodged in relation to the granting of the aforementioned consent by the Waitakere Ranges Protection Society Inc., DPK Singh and Others and the applicant (Richmond Eden Limited).

The appeals were resolved in the Environment Court by means of a Consent Order dated 16 December 2003.

A subsequent variation and extension of time was applied for (LUC-2005-0926) and granted on the 16/11/2005 which sought to vary a number of conditions and extend the lapse date of the consent to 16 December 2008.

From both decisions the following conditions are read.

In accordance with Section 127 the applicant has applied to change the following conditions:

- (A)(1) A) THAT pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:
- (1) The development shall proceed in accordance with the amended plans titled 'Preliminary Land Transfer Plan (Variation August 2005)' and 'Richmond Eden Limited (Maxwell) Option B 39 Landing Road Subdivision–Stage 2A (RMA 20020091) Detailed Variation Application Plan,-September 2005 Sheet 1' and 'Richmond Eden Limited (Maxwell) 39 Landing Road Subdivision–Stage 2A & 2B (RMA 20020091) Detailed Variation Application Plan,-September 2005 Sheet 2') prepared by (Jackson Clapperton & Partners Limited) and dated 29.09.2005) and the advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091, Figure 8, Proposed Landscape Plan, Figure 3 Appendix 5 Ecological Assessment both contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, including all information, submitted with the application and attached as Appendix Four in the Council report.
- (C) STAGE 2 (Being Stage 2A comprising Residential Lots 5, 6 & 8 inclusive & Shared Driveway Lot 16 and Stage 2B comprising Residential Lots 7, 9, 10, 11 and 12 inclusive, Shared Driveway Lot 14 & Recreation Reserve Lot 15).
- (PK1) Take note that Lot 15 shall vest in the Waitakere City Council as recreation Reserve pursuant to Section 239 of the Resource management Act 1991 and the owner shall supply Council with a copy of a certificate of title for the reserve. A solicitors undertaking to order and forward a copy of the title to Council will be required.
- Note:** The access way component of the area will be a minimum of 4m width (with the exception of the portion between 36 and 35 Grendon Road which will be the existing width).
- (PK2) In accordance with Section 108(2)(c) of the Resource Management Act 1991. Lot 15 shall be developed to Access Way standard with all works complying with the Waitakere City Council Code of Practice for City Infrastructure and Land Development. Landscape and Engineering Plans are to be prepared qualified Landscape Architects and Engineers to be submitted to the Parks Consent Planner for approval prior to any works commencing.
- *Note:** Details of the walkway entrance from Grendon Road along the existing entrance strip will be advised specified to the applicant after consultation with the neighbours at 34, 35 and 36 Grendon Rd (to be undertaken by Council). The applicant is to advise Council a minimum of two months prior to the details that information being required by the applicant. The walkway construction plan shall detail the following specific features and provide design and engineering details where required:

- Gravel and timber edged walkway with steps where required, 1 .5m in width, including drainage provision where possible (note that the walkway within the entrance strip from Grendon Road may need to be reduced in width due to site constraints), including drainage provision.
- The walkway shall follow the most accessible route as determined on site, and shall be located as far from the existing residential boundaries of, 34, 35 and 36 Grendon Road as can be achieved within the recreation reserve as indicated on the proposed plan, submitted 31 October 2003 by Jackson Clapperton & Partners Ltd and attached as Appendix 'A' to this consent order. The exact alignment shall be determined taking into consideration gradient and stability issues, including geotechnical assessment, prior to the landscape and engineering plans being submitted to Council for approval. The walkway will be confirmed on site by the Council taking into consideration the geotechnical assessment and input from the **above** neighbours prior to the approval of the landscape and engineering plans by Council.
- The area between the walkway and the existing property boundaries shall be planted with appropriate species to provide a buffer between the walkway and the adjoining properties. A weed removal and planting plan shall be prepared for that area as detailed in these conditions.
- A boundary fence shall be erected on the boundaries of 36 and 35 Grendon Road adjacent to the proposed walkway in line with the requirements determined through Council's consultation with the affected residents.
- Wherever possible existing large trees and planting along the existing entrance strip will be retained and that details of any proposed vegetation removal and/or replacement planting shall be determined by Council consultation with the residents of 36 and 35 Grendon Road.

If desired by the developer, permeable fencing can be installed at the boundaries between the walkway and the new lots (7, 9, 10 and 12) of the proposed subdivision.

Costs for these works shall be agreed between the Council and Consent Holder prior to any works being carried out

- (PK3) After formation of walkway the Recreation Reserve shall be left in a condition suitable for maintenance in accordance with Section 7.3.2 of the COP and to the satisfaction of the Parks Consent Planner. Weed removal and revegetation is to be implemented within the Recreation Reserve to the satisfaction of the Parks Consent Planner. A weed management and revegetation plan prepared by a qualified Landscape Architect in accordance with COP is to be submitted to the Parks Consent Planner within 3 months of the issue of this consent for Council Approval. It is recommended that reference is made to the publication "A guide for planting and restoring the nature of Waitakere City", published by the Council.

- (PK4) The developer is to be responsible for the maintenance of reserve including new planting, hard landscape works and weed control for a period of two years (from the date of vesting in Council) including the replacement of any dead or dying native vegetation, to the satisfaction of the Parks Consent Planner. A bond by way of cash or bank surety as determined by the Parks Consent Planner will be required to ensure the satisfaction of this condition; alternatively a maintenance cash contribution may be paid to Council and the maintenance will be undertaken by the Council. The contribution will be calculated at a rate of \$75 per annum per specimen tree (Pb 95 or larger) and \$7 per square metre of garden per annum.
- (PK5) Provide Council with "As Built" drawings of the development showing all services; levels, inverts, features and facilities as per requirements:
- A scaled tracing of the construction plan is to be updated showing all finished asset locations and types.
 - All underground services are to be shown on the plan with sizes, types, depth to invert and invert levels based on site datum on plan and new assets scheduled on a Asset Sheet (Client to provide format of Asset Sheet).
 - Any planted areas are to be shown to scale on the copy of the construction plan with areas sq. metres of planting, number of plants and type and assets scheduled on an Asset Sheet.
 - All products, fixtures, items and fittings with type, colour, model manufacturer name and contact telephone number are to be scheduled on a Asset Sheet.
 - Two copies of any special operating manuals for any new systems are to be provided.
 - Any special maintenance requirements to be scheduled and supplied.
- (LD2) The consent notice required by Conditions (EW8), (EW9), (AC10), (AC2) and (LD3) and the right-of-way, water supply, and drainage easements required by conditions (B)(1)(c), (d) and (e) above and the fencing agreement required by Condition (LD5) below, will be prepared by the Council Solicitor at the applicants cost when the following information has been received:
- (i) All necessary technical information.
 - (ii) The Land Transfer plan number allocated by Land Information New Zealand, and.
 - (iii) The name and address of the solicitor acting for the owner
- (LD5) In regard to Lots 7, 9, 10 and 12 the owners shall enter into a registerable fencing agreement with Council to the effect that the Council will not be liable to contribute towards the cost of creating or maintaining any dividing fence between any reserve or other land vested in or administered by the Council. Also that any fences facing the reserve shall be of visually permeable materials to enable good surveillance of the reserve.

(FC4) Pay to the Council a financial contribution equal to 6% (plus 12¹/₂%) of Quotable Value New Zealand Ltd (QV) market values to be obtained for the notional building sites on Lots 5 – 12 inclusive, as of the date of issue of this subdivision consent for reserve purposes pursuant to Section 407 of the Act for allotments shown on the plan, such amount being reducible by a credit for the underlying title and further reduced by an amount equivalent to 25% of the combined land cost (as determined by QV) and construction costs (as agreed by Council) of the pedestrian access way component contained on Lot 15. This contribution shall also be reducible by an amount equivalent to 100% of the land cost (as determined by QV) of Lot 15 (excluding the pedestrian walkway component of Lot 15). Council will obtain the valuation from QV at the time an application is made for survey plan approval under Section 223 of the Act. The consent holder shall pay QV costs for obtaining the valuation, (which will be invoiced by Council).

(FC6) Pay the required maintenance bond required by (PK4 above).

The consent holder has requested that the condition/s reads as follows:

(A)(1) (A) THAT pursuant to Sections 104, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

(1) The development shall proceed in accordance with the amended plans titled:

- 'Preliminary Land Transfer Plan (Variation October 2008)' and
- 'Richmond Eden Limited (Maxwell) Option B 39 Landing Road Subdivision - Stage 2A (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 1' and
- 'Richmond Eden Limited (Maxwell) 39 Landing Road Subdivision - Stage 2A & 2B (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 2')

prepared by (Jackson Clapperton & Partners Limited) and dated 29.09.2005 and

- The advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091, and
- Figure 8, Proposed Landscape Plan, Figure 3 Appendix 5 Ecological Assessment, contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, and
- Proposed Land Transfer Plan - March 2008

prepared by (Jackson Clapperton & Partners Limited) and dated 30.04.2008.

including all information, submitted with the application and attached as Appendix Four in the Council report.

(C) STAGE 2 (Being Stage 2A comprising Residential Lots 5, 6 & 8 inclusive & Shared Driveway Lot 16 and Stage 2B comprising Residential Lots 7, 9, 10, 11 and 12 inclusive, Shared Driveway Lot 14 & Recreation Reserve Lot 15)

~~(PK1) Take note that Lot 15 shall vest in the Waitakere City Council as recreation Reserve pursuant to Section 239 of the Resource Management Act 1991 and the owner shall supply Council with a copy of a certificate of title for the reserve. A solicitors undertaking to order and forward a copy of the title to Council will be required.~~

~~**Note:** The access way component of the area will be a minimum of 4m width (with the exception of the portion between 36 and 35 Grendon Road which will be the existing width).~~

~~(PK2) 1991. Lot 15 shall be developed to Access Way standard with all works complying with the Waitakere City Council Code of Practice for City Infrastructure and Land Development. Landscape and Engineering Plans are to be prepared qualified Landscape Architects and Engineers to be submitted to the Parks Consent Planner for approval prior to any works commencing.~~

~~***Note:** Details of the walkway entrance from Grendon Road along the existing entrance strip will be advised specified to the applicant after consultation with the neighbours at 34, 35 and 36 Grendon Rd (to be undertaken by Council). The applicant is to advise Council a minimum of two months prior to the details that information being required by the applicant. The walkway construction plan shall detail the following specific features and provide design and engineering details where required:~~

- ~~• Gravel and timber edged walkway with steps where required, 1.5m in width, including drainage provision where possible (note that the walkway within the entrance strip from Grendon Road may need to be reduced in width due to site constraints), including drainage provision.~~
- ~~• The walkway shall follow the most accessible route as determined on site, and shall be located as far from the existing residential boundaries of, 34, 35 and 36 Grendon Road as can be achieved within the recreation reserve as indicated on the proposed plan, submitted 31 October 2003 by Jackson Clapperton & Partners Ltd and attached as Appendix 'A' to this consent order. The exact alignment shall be determined taking into consideration gradient and stability issues, including geotechnical assessment, prior to the landscape and engineering plans being submitted to Council for approval. The walkway will be confirmed on site by the Council taking into consideration the geotechnical assessment and input from the **above** neighbours prior to the approval of the landscape and engineering plans by Council.~~
- ~~• The area between the walkway and the existing property boundaries shall be planted with appropriate species to provide a buffer between the walkway and the adjoining properties. A weed removal and planting plan shall be prepared for that area as detailed in these conditions.~~
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~~If desired by the developer, permeable fencing can be installed at the boundaries between the walkway and the new lots (7, 9, 10 and 12) of the proposed subdivision.~~

~~Costs for these works shall be agreed between the Council and Consent Holder prior to any works being carried out~~

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~~(PK4) The developer is to be responsible for the maintenance of reserve including new planting, hard landscape works and weed control for a period of two years (from the date of vesting in Council) including the replacement of any dead or dying native vegetation, to the satisfaction of the Parks Consent Planner. A bond by way of cash or bank surety as determined by the Parks Consent Planner will be required to ensure the satisfaction of this condition; alternatively a maintenance cash contribution may be paid to Council and the maintenance will be undertaken by the Council. The contribution will be calculated at a rate of \$75 per annum per specimen tree (Pb 95 or larger) and \$7 per square metre of garden per annum.~~

~~(PK5) Provide Council with "As Built" drawings of the development showing all services; levels, inverts, features and facilities as per requirements:~~

- ~~• A scaled tracing of the construction plan is to be updated showing all finished asset locations and types.~~
- ~~• All underground services are to be shown on the plan with sizes, types, depth to invert and invert levels based on site datum on plan and new assets scheduled on a Asset Sheet (Client to provide format of Asset Sheet).~~
- ~~• Any planted areas are to be shown to scale on the copy of the construction plan with areas sq. metres of planting, number of plants and type and assets scheduled on an Asset Sheet.~~
- ~~• All products, fixtures, items and fittings with type, colour, model manufacturer name and contact telephone number are to be scheduled on a Asset Sheet.~~
- ~~• Two copies of any special operating manuals for any new systems are to be provided.~~
- ~~• Any special maintenance requirements to be scheduled and supplied.~~

~~(LD2) The consent notice required by Conditions (EW8), (EW9), (AC10), (AC2) and (LD3) and the right-of-way, water supply, and drainage easements required by conditions (B)(1)(c), (d) and (e) above and the fencing agreement required by Condition (LD5) below, will be prepared by the Council Solicitor at the applicants cost when the following information has been received:~~

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

~~(LD5) In regard to Lots 7, 9, 10 and 12 the owners shall enter into a registerable fencing agreement with Council to the effect that the Council will not be liable to contribute towards the cost of creating or maintaining any dividing fence between any reserve or other land vested in or administered by the Council. Also that any fences facing the reserve shall be of visually permeable materials to enable good surveillance of the reserve.~~

(FC4) Pay to the Council a financial contribution equal to 6% (plus 12¹/₂%) of Quotable Value New Zealand Ltd (QV) market values to be obtained for the notional building sites on Lots 5 – 12 inclusive, as of the date of issue of this subdivision consent for reserve purposes pursuant to Section 407 of the Act for allotments shown on the plan, such amount being reducible by a credit for the underlying title and further reduced by an amount equivalent to 25% of the combined land cost (as determined by QV) and construction costs (as agreed by Council) of the pedestrian access way component contained on Lot 15. This contribution shall also be reducible by an amount equivalent to 100% of the land cost (as determined by QV) of Lot 15 (excluding the pedestrian walkway component of Lot 15). Council will obtain the valuation from QV at the time an application is made for survey plan approval under Section 223 of the Act. The consent holder shall pay QV costs for obtaining the valuation, (which will be invoiced by Council).

(FC6) Pay the required maintenance bond required by (PK4 above).

The applicant also requested that Conditions 1(c) and 1(h) be removed which related to the construction of the walkway under the original consent, however these had already been struck out by the Consent Order from the Environment Court dated 16.12.2003.

4.3 Overall, the application is considered to be a Discretionary Activity pursuant to Section 127 of the Act.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The site is located at the eastern end of Landing Road, approximately 400m from the junction of Huia Road and Laingholm Drive. Huia Road is a District Arterial Road and carries significant traffic to the wider City and from other coastal villages beyond the subject site such as Laingholm, Armour Bay, Huia and terminating at Whatipu. Laingholm Drive provides an alternative to Huia Road meandering along the coast line of the Little Muddy creek providing access to Laingholm Village and nearby beaches. To the west, the site abuts established residential sites served by Grendon Road, and Warwick Avenue both local roads with connections to the wider City via South Titirangi Road. The subject site includes a 5m wide entrance strip from Grendon Road. This access has not been formed and has been more or less incorporated into the gardens of the two adjoining properties -No. 35 and No. 36 Grendon Road.

There is a narrow bridge in Landing Road, which crosses the confluence of the Waituna and Waiohua Creeks at the head of the estuarine inlet 'Little Muddy Creek'. The area has been developed for large lot residential purposes with bush-style residential development occurring on the subject site and adjoining sites. This development has been undertaken in a manner which is more or less consistent with the underlying zoning and the continued dominance of natural features over built form is present albeit modified.

The land closest to Landing Road is moderately undulating but moving to the east becomes more steeply sloping with a steep slope up toward the sensitive ridge located along South Titirangi Road. The close contours can be observed on Figure 1 below, indicating a steep slope which traverses through No. 44 and No. 46 Landing Road and No. 90 Huia Road

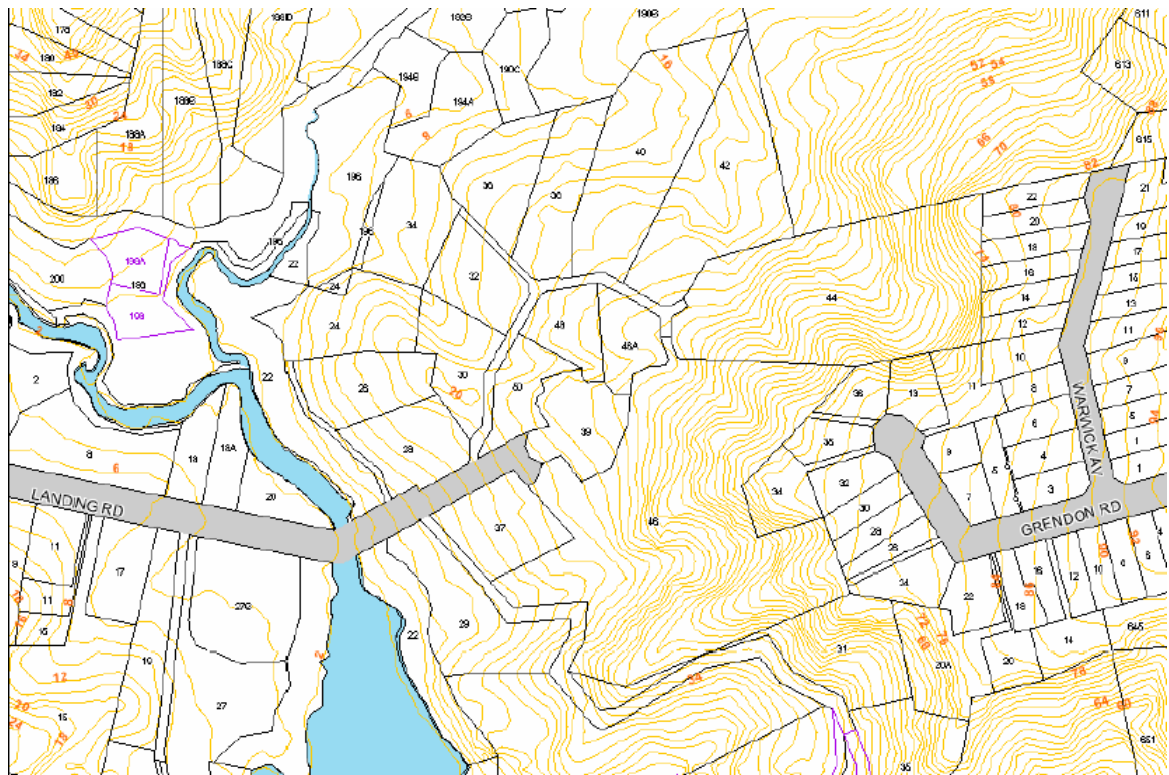


Figure 1: Topographical plan of the locality from Council's Geographical Information System (Eviewer)

The upper part of these slopes have been identified with a slope of up to 40°. There are three minor gully and ridge systems sloping down from the main ridge. There are no defined watercourses on the site but the topographical plan of the site provided as part of the original consent shows four ephemeral water courses crossing the site from east to west. The majority of the steep land is covered with vegetation and identified in the District Plan as Managed Natural Area. When inspected vegetation was primarily low scrub/regenerating bush with Kanuka, Cabbage tree, Hangehange and various tree ferns and also included a range of Environmentally Damaging Plants and other weed species including gorse, pampas, and ginger. There were few climax species present and this is consistent with the historic land use.

Differing land use patterns adjoin the site, to the east a moderate intensity of development has occurred with lots sizes varying from 908m² to 1588m² and generally sites contain a single dwelling with little or no bush cover retained on the sites. The landscape qualities of these sites appear to be compromised when considered with the underlying Bush Living Human Environment. To the west the larger lots 2000m²+ have retained some of the natural qualities anticipated. In addition to this Waitakere Ranges Human Environment is located over parts of No. 40 and No. 42 Landing Road. An extensive network of Open Space environment is located along both of the margins of the Little Muddy Creek (Little Muddy Creek and Gill Esplanade) and parts of the banks of the Waiohua and Waituna Creeks (Landing Road Reserve), with a moderate sized park with mown grass areas and exotic specimens, trees located beyond Huia Road identified as Tangiwai Reserve

5.1 BACKGROUND

As noted above the consent has been granted for the proposed subdivision which has largely been completed in accordance with LUC-2002-0091 and LUC-2005-0926. The subject site and its development has followed the approved plans with Stage 1 being completed and titles issued for Lots 1 - 4. The second stage was also in part completed with Lots 5 - 8 and 16 completed. The remaining lots which are as yet to be completed include Lots 9 - 12, 15 and 14 (an access lot). Consequently there are a range of lots with various stages of development present at this time.

The walkway was offered by the applicant as part of the proposal and detailed within the supporting Assessment of Environmental Effects (AEE) notified on the 13 February 2002, which notes:

“the creation of a walkway on the site would involve the creation of an access track along the edge of the ridgeline adjacent to Grendon Road and down the steep slopes of the ridge and connecting to Landing Road. The establishment of this walkway will enable a pedestrian connection between Titirangi village and the Little Muddy Creek Esplanade Reserve”

The planner's report included the proposed walkway within one of the reasons to recommend to grant consent, as follows:

“(iv) The design and layout of the subdivision, which utilises two shared driveways and clusters building platforms on the lower land behind the existing development in Landing Road would minimise the potential visual intrusion of the development in the neighbourhood and provision of a pedestrian walkway to link Grendon Road to the end of landing road and the future coastal walkway on the Manukau Harbour would be beneficial to the wider community and would satisfy objectives and policies in both the Regional and Waitakere City Proposed plan.”

This aspect of the proposal among others was considered by a subsequent appeal to the Environment Court. The consequential consent order retained the walkway component and this walkway whilst unimplemented is now considered as part of the receiving environment. Detailed assessment was undertaken through the above processes with respect to the proposed earthworks, vegetation removal, landscape amenity and preservation of amenity for nearby landowners including privacy, aural amenity and the consideration of potential for exposure to crime. It has also been acknowledged that geotechnical constraints exist on the site. A number of conditions were imposed on the consent to ensure that the proposed walkway could address the concerns of the community and mitigate any effects that may arise as a result of its construction and ongoing management by Waitakere City Council.

It is noted that the applicant has undertaken consultation and maintained communication with Council's Service Manager – Parks Planning, Renee Davies, with respect to the walkway and alternative applications LUC-2007-1417 and LUC-2007-1515 were lodged on the 14 August 2007 and the 27 August 2007. These combined applications sought to vary the conditions of LUC-2002-0091 and LUC-2005-0926 removing the walkway from Landing to Grendon Roads and building an alternative walkway with two bridge crossings along the riparian margins of the Little Muddy Creek through existing esplanade reserves, connecting Landing Road to Huia Road adjacent to Tangiwai Reserve. This received some Council Officer support given the difficulties and costs associated with the consented walkway. However, it was acknowledged that a notified process would remain appropriate and after further investigation the applicant abandoned this proposal in favour of the application at hand.

Following receipt of submissions and the previous planner's recommendation and in light of the overall negative response, the applicant has revised their proposal in an attempt to address the concerns of the community. As noted above the proposal now features an easement 6 metres in width which will traverse Lots 9, 10, 12 and 14. The easement will provide for public access and the ability for WCC Parks to construct and maintain a walkway through the lots.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

The application was publicly notified on 30 May 2008, The period for submissions closed on 30 June 2008. Notice of this application was served pursuant to Resource Management (Forms, Fees, and Procedure) Regulations 2003 Section 10(2) on persons as follows:

- (a) every person who, in the opinion of the consent authority, may be adversely affected by the granting of the application or by the review; and
- (b) any other iwi authorities, local authorities, persons, or bodies that the consent authority considers should have notice of the application or review.

Adversely affected persons and persons who made a submission in opposition to the original application are identified in the Section 93/94 determination located in Appendix Five attached at pages A419 to A438 of the original agenda and all were served with a copy of the application. 106 submissions were received. eight submissions supported the application, and 98 submissions opposed the application. Please refer to Appendix Three attached pages A24 to A317 of the original agenda for a summary and copies of the submissions that were received.

Section 37 Assessment

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

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

Section 37A(2)(b) also requires that the extension of time shall not have the effect of exceeding twice the maximum period specified in the Act unless the applicant agrees. It is noted that the extended submission period (40 days) would have been the 27 July 2008 14 late submissions have been received within this period, as follows:

| | | | | | |
|----|-----------------------------------|----------|-----|-----------------|-----------|
| 1. | Desmond & Pauline Burdon | 2/7/2008 | 8. | N Bielby | 1/7/2008 |
| 2. | Sara Donaghey & Maureen Blackburn | 2/7/2008 | 9. | Angela Main | 4/7/2008 |
| 3. | Serge & Denise Santoromito | 1/7/2008 | 10. | S T Court | 2/7/2008 |
| 4. | Claire Mason & Gordon Smith | 1/7/2008 | 11. | D Nash | 2/7/2008 |
| 5. | W J Steinijans | 1/7/2008 | 12. | A D Drake | 1/7/2008 |
| 6. | N A Taylor | 1/7/2008 | 13. | Robert Richards | 3/7/2008 |
| 7. | J M Taylor | 1/7/2008 | 14. | CJA Balfour | 15/7/2008 |

There are a further 4 late submissions received outside of the 40 working day period, the applicant has acknowledged these late submissions and accepted them. Those submissions are detailed below:

| | | | | | |
|----|-----------------------|-----------|-----|--------------------|-----------|
| 15 | Greg & Andrea Wallace | 14/8/2008 | 17. | Ross & Jo Duxfield | 19/8/2008 |
| 16 | Ian Ashcroft | 19/8/2008 | 18. | Karen & Stuart Lee | 19/8/2008 |

The late submissions do not raise issues that have not already covered by other submissions received during the submission period. It is considered that no one would be prejudiced by the acceptance of these late submissions, and acceptance of the submissions would not result in any delays. It is therefore recommended that all late submissions are accepted.

A447-A480 Given that the applicant has changed the proposal, albeit within the scope of the application, the submitters were given an additional period to comment on their previous submissions, it was not deemed appropriate to re-notify the application. The revised proposal including the public access easement was served on submitters on the 22 October 2008, and they were given a ten day period in which to respond, closing the 7 November 2008. The applicant provided confirmation that this process was acceptable and those further comments are located in Appendix Eight attached at pages A447 to A480 from the following persons:

| | | | | | |
|-----|--|------------|-----|--|------------|
| 19. | Chris Denton | 29/10/2008 | 31. | Chris Nipper | 6/11/2008 |
| 20. | John Denton | 29/10/2008 | 32. | Vivien van der Wal | 7/11/2008 |
| 21. | Greg Presland (on behalf of the Titirangi Residents and Ratepayers) | 29/10/2008 | 33. | Robert Richards (on behalf of the South Titirangi Residents and Ratepayers Association) | 7/11/2008 |
| 22. | Clive Taylor | 5/11/2008 | 34. | WH & CP Horrington | 7/11/2008 |
| 23. | Kath Dewar (on behalf of the Green Party) | 5/11/2008 | 29. | Dr Mels Barton | 6/11/2008 |
| 24. | Robert Schumann | 5/11/2008 | 30. | Dr Mels Barton (on behalf of the Waitakere Ranges Protection Society) | 6/11/2008 |
| 25. | Simon & Rosemary Alderson | 5/11/2008 | 31. | Chris Nipper | 6/11/2008 |
| 26. | Christine Mitchell | 5/11/2008 | 32. | Vivien van der Wal | 7/11/2008 |
| 27. | Neil & Christine Stott | 5/11/2008 | 33. | Robert Richards (on behalf of the South Titirangi Residents and Ratepayers Association) | 7/11/2008 |
| 28. | Lawrence Watt | 5/11/2008 | 34. | WH & CP Horrington | 7/11/2008 |
| 29. | Dr Mels Barton | 6/11/2008 | 35. | Frances & Reg Ball | 10/11/2008 |
| 30. | Dr Mels Barton (on behalf of the Waitakere Ranges Protection Society) | 6/11/2008 | | | |

6.1 Submissions

A Broad summary of submissions is discussed below and a summary of individual submissions attached as Appendix Three at pages A24 to A317 of the original agenda. It is noted that a number of submissions in opposition were pro forma, and therefore express the same issues.

Support

- The walkway will not enhance the amenity for residents of Landing and Grendon Roads;
- Environmental damage will occur through the construction of the walkway on vegetation and ongoing damage with increased litter;
- Residents will be adversely affected by the walkway and reserve with a loss of privacy, increased crime and reduced levels of safety for children;
- Alternatives requested including upgrading the Landing Road Bridge, pedestrian footpaths on Landing Road and the construction of a wharf structure on the Little Muddy Creek;
- The walkway is impractical and area unstable and therefore inappropriate for pedestrian traffic;
- The surrounding area has poor pedestrian amenity therefore pedestrian activity should not be encouraged; and,
- Adversely affects property values.

Opposition

- The walkway was provided as mitigation for the subdivision of the site;
- Insufficient information has been provided with regard to costs;
- Privacy and geotechnical concerns can be addressed through the design process;
- The walkway will connect two isolated communities (including South Titirangi Road, Laingholm, Waima, Woodlands Park), reducing fuel costs and travel distances, and providing access to public transport, schools, beaches and Titirangi Village, benefiting the wider community;
- The walkway represents the only opportunity to provide the connection between the two communities; and is a desired connection by the community;
- The walkway represents a historic connection; and connection to the coastal environment
- Walking tracks over similar terrain have been constructed and are adequately maintained by Waitakere City Council;
- The walkway will promote conservation and education providing access to the Green Network
- The provision of a cash contribution would not adequately address the effects of the subdivision
- The proposal undermines public confidence if granted
- The proposal is inconsistent with the Waitakere Ranges Heritage Act (2008) –Sub-section 8(a) and 8(i)
- Concerns over security and build ability are unfounded, and should have been addressed earlier;
- The walkway will provide an alternative connection, avoiding Huia Road; and,
- Walkway does not necessarily need to use boardwalk structures

Further Comments *(received after the 22 October 2008 modification)*

All additional comments are in support of previous submissions and continue to oppose the revised proposal noting that:

- The walkway should be constructed by the developer within a definite time frame to provide certainty and avoid any further delay;
- The developer should bear the costs associated with risk of the consent conditions
- Council should enforce consent conditions and not accept financial risk and burden of delivery from the applicant;
- The proposal will transfer the responsibility to mitigate effects to the Council rather than with the developer;
- An easement is difficult to administer and maintain;
- The proposal removes the opportunity to build a viewing platform over looking the Little Muddy Creek; and
- There are examples of areas where walkways could be built but have not within the immediate neighbourhood.

7.0 STATUTORY REQUIREMENTS

As noted, the proposal to change or cancel conditions of RMA requires consideration as a Discretionary Activity under the provisions of section 127 (3)(a) of the Resource Management Act 1991. In considering the application, the Council shall have regard to the matters specified in Section 104 which is subject to Part II of the Act. The relevant matters include a consideration of actual and potential effects on the environment, together with an assessment of the extent to which the proposed change(s)/cancellation is consistent with the Objectives, Policies and Rules of the District Plan.

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

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

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

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

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

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

The revision of the proposal now continues to provide for the walkway. Short term effects would remain that have previously been considered arising from the construction of the walkway, these include earthworks, vegetation clearance.

The opportunity for the walkway that would connect Landing Road with Grendon Road remains. However the mechanism by which it is implemented, maintained and legally held is altered. The walkway easement would provide the community with the opportunity to enjoy the bush qualities of the lots through which it passes including some vantage points, and further to this would be a wider benefit providing a pedestrian linkage which whilst distant, connects Titirangi Village with Coastal Villages and other coastal and bush natural areas.

The proposed walkway would provide the nearby community and future residents with further opportunities for recreation and appreciation of the regenerating native bush in this locality, pending access with views toward the steeper Waitakere Ranges to the west over Tangiwai Reserve.



Figure 2: The subject site within a wider context as viewed by ortho-photography (2005)

Subsequently these broad areas with respect of the proposed change are discussed below:

- **Vegetation Clearance and Earthworks**

It should be noted that the loss of vegetation and earthworks related to the construction of the walkway has already been assessed by the previous consent. The walkway will pass through private property within an easement, Council will have an obligation to maintain this area within the easement for weeds and access. It is noted that the quality of vegetation in this location is questionable and this was commented on by the applicant's ecologist in support of the original application:

"This area [Area 1] has low ecological value with extensive and aggressive weed infestations. Species diversity is very low, with little sign of natural regeneration. This area...is not significant native vegetation and so not correctly classified as belonging to Managed Natural Area.

...
Clearly in 1940 almost all of the northern hill and gully bush had been cleared and the vegetation to the east and northeast was uniform low manuka with very few remnant or older emergent trees.

...
The ecological implications of this are that most of the existing communities present are no more than 60 years old, probably much younger, and are not well developed or mature natural communities.

...
Any requirement for restoration effort across all of Area 1 would be excessive as mitigation in this case. Such a restoration would be a very costly exercise and only achievable in the long term with a dedicated programme. Such a programme, in light of the minimal adverse effects would be inappropriate.

An appropriate form of mitigation that has a chance of success is to concentrate restoration efforts in the few small areas [where] the natural regeneration has been the best and weed flora is least invasive.

The planner's report indicates that this assessment was independently peer reviewed; and goes on to note:

"It has been argued that the subdivision provides an opportunity to enhance the existing vegetation by removing weeds and replanting the eastern slopes and does not compromise current ecological values of the site. The mitigation measures offered include covenanting bush, providing pedestrian access through the site, development and implementation of animal pest and weed control programmes and revegetation..."

Ms Renee Lambert [now Davies]...indicated prior to the application being lodged that they did not want a reserve, stating 'our acquisition of bush reserve is usually restricted to areas of Protected Natural Area and coastal bush rather than Managed Natural Area. In this case, the bush in question is not of high value and is therefore not an area we would take as reserve land. I suggest that part of the reserve contributions required could go into the construction of the walkway track connection instead and the creation of an appealing walkway link through the subdivided area.' The costs of formation would however be the responsibility of the applicant, and the details of its formation would be required as part of the engineering site works.

Thus, should consent be granted, conditions would be required to ensure the pest and weed control programmes and revegetation were implemented and monitored prior to the issue of Section 224(c) certificate. The vegetation within the bush covenant would provide linkages with existing areas of native vegetation on properties surrounding the site. The integrity of the Green Network to the north, east and west would be retained."

It should be noted that Condition (PK 2) remains and requires the applicant to undertake weed removal and planting on Lots 9, 10 and 12 prior to the issue of title. It is considered that this work will ensure that this area of Managed Natural Area will re-generate.

Earthworks and land disturbance associated with the construction of the walkway are considered to be relatively minor and can be adequately controlled by conditions of consent. In addition, upon completion of works the implementation of planting and weed control will ensure that exposed areas are appropriately remediated back to a naturalistic state.

As previously identified, the site is within the stability sensitive area of the City and the site is noted as having severe geotechnical constraints for future development. This component of the proposal was extensively assessed under the previous consent and it was noted in the planner's report that:

"The Council's consultants ongoing concerns about the potential instability of the land when being developed have finally been resolved as a result of agreement to install subsoil drainage...By constructing these drains prior to the development of each lot slope of the subdivision would be protected as a whole so that the stability of the whole slope is not compromised."

With regard to the walkway, no specific comment is made within the supporting geotechnical reports provided with the original application as notified or within the planners report. In support of the Section 127 application at hand, a further geotechnical report has been provided which identifies the following:

"In the early 1970's a substantial slump of surface materials occurred in a westerly direction off the access strip running from Grendon road to the main body of the subdivision area. At the time Waitakere City Council undertook rectification works in extending the stormwater piping system down the slump zone to take the discharge point to underlying exposed to underlying mudstone sandstone strata...so that concentrate[d] stormwater would not be introduced into the weathered surface soil mantle.

In October 2006 a similar slump of surface material occurred at the rear of the two residential properties located at the northern end of Grendon Road.

While the 2006 slump is a little remote from the reserve area of Lot 15, the 1970 slump is at the northern face of the reserve Lot 15, and these slumps demonstrate vulnerability of the historic scarps...to further slump movement."

With respect to the walkway:

"The upper area of Lot 15 where the walkway has to be constructed, will be through the area 1 broadleaf weed shrubland zone, and will for the design of the walkway require the majority of it to be constructed as an elevated boardwalk supported on piles drilled through the potential land movement zone with piles designed to provide restraint of the movement forces generated by the on going surface creep movement. The steep cross fall of the slope over which the walkway will traverse dictates the elevated boardwalk approach with bridging of the ephemeral watercourse...the boardwalk will be in shadow...and the substantial elevation change from Grendon Road to the head of the accessway...will mean that a reasonable section of this walkway will involve stairs and landings, again constructed as an elevated structure on pile foundations.

On completion of such a walkway, it can be anticipated that on ongoing maintenance will tend to be difficult through remote access, the need for regular [attention] to clear bush debris and the need to maintain the non slip surface for safety reasons."

and concludes:

"a walkway...can be constructed subject to specific design to offset the potential for ground movement, but...will require substantial and probably expensive on going maintenance attention."

Subsequently it is considered that despite comment made in the AEE regarding 'geotechnical difficulties' in light of no evidence to the contrary, the walkway can be constructed to an adequate level of safety despite the constraints of the site. The proposal has been previously assessed by a Council's geotechnical engineer without concern.

- **Amenity Values**

'Amenity Values' is defined in Part 1, Section 2 of the RMA as being:

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

The District Plan also defines 'Amenity Values' as follows:

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

The proposal now provides for a walkway and removes the proposed reserve. The area of the walkway is within the Green Network and the proposed walkway will provide access not only to this area of re-generating bush also through to the Little Muddy Creek and beyond. Submitters have raised various issues around amenity, both in support and opposition to the proposal. It should be noted that, actual and potential effects with respect to amenity can be tangible or intangible.

Tangible effects include:

- the potential for increased human traffic, litter, nuisance and traffic generation;
- visual presence of the walkway; and
- loss of privacy.

Intangible adverse effects may include:

- loss of local recreational opportunities.

The submissions on this proposal identify the existing natural and physical qualities and characteristics of this environment, the proposal and its importance to the community.

- **Immediate Neighbourhood**

Some of the nearby neighbours have submitted in support of the proposal. Many of the issues raised by these residents have already been dealt with by the previous application and this should not be seen as an opportunity to re-litigate matters. As previously noted the walkway is, whilst not constructed now part of the receiving environment, conditions as previously imposed by the Environment Court will ensure that the walkway is appropriately designed to protect the amenity and privacy of the adjoining neighbours and that this process will include consultation with the neighbours at No. 34, No. 35 and No. 36 Grendon Road. It should be noted that case law clearly includes activities which are provided for by unimplemented consents as the determined by the Court of Appeal:

“the word ‘environment’ embraces the future state of the environment as it might be modified by the utilisation of rights to carry out permitted activities under a district plan. It also includes the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.”¹

Some nearby resident submitters have commented that the consented walkway will not improve the amenity of the neighbourhood, reducing their privacy and degrading the natural environment. It is considered that the walkway will maintain significant separation from these residential properties and that upon completion, WCC Parks will incorporate the walkway into its regular maintenance and management programmes which will include litter collection. Consequently, it is considered that the proposal will not significantly detract from the amenity enjoyed by nearby residents, and that the walkway whilst not built, is established as part of the environment by an unimplemented consent. The adverse effects of this aspect of the original proposal have already been assessed, with the points raised by submitters in support of the proposal being considered through the previous resource consents with respect to amenity and privacy.

- **Wider Community**

The submissions have identified a strong desire and support for the consented walkway. It is noted that on the whole pedestrian access and connectivity is valued by the community and within the Resource Management Act. The proposal provides for public access between areas of public land; and public access to and along the City’s waterways and coast with further potential connections to the esplanade reserve along the Little Muddy Creek. From the Planner’s report dated 5 December 2002 the following is noted:

¹ “Queenstown Lakes DC v Hawthorn Lakes Ltd, [2006] NZRMA 424.

“• Connectivity, accessibility, surveillance, safety, public access.”

A public pedestrian access way would be provided from Grendon Road to the shared accessway in the site and thence to Landing Road. Concerns have been raised about the pedestrian access in terms of safety and the need for lighting. However there is already a network of walkways throughout the City including Titirangi and they are popular for leisure activities for a large number of residents who are walkers. The provision of this walkway, which would provide public access to the coast is supported by the Auckland Regional Council as it is consistent with the Auckland Regional Policy Statement and Proposed Auckland Regional Plan; Coastal.

In addition the provision of a pedestrian walkway through the site to Landing Road would increase the accessibility of the coast to the general public.”

The proposal retains the opportunity for the connection to be constructed through the site, although no timeframe is proposed by WCC Parks Department. The potential for improved connectivity is retained with significant benefit to link the community across diverse topography and in addition, the proposal provides the opportunity for access into and beyond the subject site.

Numerous submissions have identified that this is the only opportunity for a connection to be developed between South Titirangi and Huia (and beyond). It is noted that this is not the case, a further opportunity is available that would link the Gill Esplanade to South Titirangi Road via the Tamariki Reserve. This is not currently proposed by Council and would represent a 2.3km longer route than that provided by the consented walkway.

The loss of the reserve is not considered significant given the sloping nature of the site, poor quality of bush and small size of the area to be vested. This is confirmed by Mrs. Davies comments above which noted that the reserve area never met the necessary criteria and rather the walkway was viewed as a greater community asset included within the proposal.

The proposed change of conditions and subsequent submissions received from the community has been reviewed by Waitakere City Council Park Department Planner, Ms. Huia Kingi who has provided comment in respect of these matters concluding that:

“Overall, Parks considers that there are a number of benefits in providing the walkway and reserve as summarised below.

- (b) **Accessibility.** The walkway will provide a public connection through to South Titirangi Road which on the basis of the submissions would form part of an important public connection. It has also been noted that this site provided for an historical walkway around 60 years ago.
- (c) **Access to Local Schools.** The walkway would provide access to local schools and public transport meeting a number of Council's policies.
- (d) **Other Benefits.** The walkway will contribute to other benefits including health, outdoor amenity, outdoor recreation including scenic walks, hiking, biking and running.

Qualified with the following:

“Parks - Possible Restraints on Construction of Walkway

The following aspects may be possible restrictions in respect of the construction of the walkway.

- (a) *The design and construction of the walkway, given the topography of the site, would be likely to cost the Council in excess of the Reserve Contribution - and therefore additional funding would need to be sought through the Council in order to pay for the construction of the walkway.*
- (b) *That given the above aspects it may not be possible to construct the walkway in the near future."*

Ms. Kingi's conclusions are concurred with, and it is noted that the applicant will be required to pay the remainder of the 6% reserve contribution which was previously offset by the provision of land for reserve purposes and the walkway's construction. In addition, it is considered appropriate that the applicant provide a further 75% of the value of construction costs associated with the walkway in accordance with (FC 4) imposed on the Environment Court decision and to be revised by this consent. This financial contribution will be payable prior to the issue of 224 and conditions will be imposed which reflect the revised proposal.

As noted by Ms Kingi's comments, there is significant interest in the community in opposition to the proposal to remove the walkway. This indicates a level of demand for the connection.

8.1.7 Summary

Ultimately, the consented walkway represents a connection which is anticipated within the community and will provide for recreation, access and would be beneficial to the wider community. It is considered that the easement as proposed will provide adequate potential to construct the walkway in the future. The loss of the reserve is not considered to be significant given the quality of the bush and that the walkway can proceed without the need for the reserve. It is considered that the revised proposal including the loss of the reserve and the provision of an easement to include the future walkway and would have no more than minor effects.

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

8.2.1 District Plan Policies and Objectives

It is considered that the proposed development would not be inconsistent with the objectives and policies of the District Plan.

As noted above pedestrian access and connectivity is desired by the Community and, this is supported by the District Plan objectives and policies. Objective 4 seeks to manage the effects of land use on the environment, noting the importance of maintaining air quality. As noted above the proposal will provide access from Huia and Landing Road to South Titirangi Road, widening residents transport choices although the nature of the track will be limiting given its steepness. Submitters have also indicated that school children will use the walking track.

However, the walkway will most likely represent an additional recreational track for the community within the local catchment providing recreational opportunities that do not rely on private automobiles providing access to the coast, swimming beaches and other reserves and tracks. Overall it is considered that the proposed walkway will provide alternatives, consistent with Policy 4.3, to motor vehicles; and, widen the communities choices creating links to local neighbourhoods, shops, schools, community facilities, local recreation areas and access routes to and through, including the Green Network. It is therefore considered that if granted the proposal would continue to be consistent with Policy 4.3 and Objective 4.

Objective 11 reflects the importance of visual and neighbourhood amenity and the qualities sought by the community with regard to settlement in each of the City's Human Environments. The objective specifically identifies achieving a quality of settlement *"which is sympathetic to, protects and enhances the dominant natural and physical features... including maintaining and enhancing: the natural and physical features that give each rural and coastal village its particular and unique character; the complex, mixed landscape of the foothills"* which in this instance is relevant to the subdivision with amenity for the existing development being achieved by building platform placement, weed control and replanting and the provision of a walkway. The application continues to provide for the potential for the walkway and will therefore provide amenity to the community when it is constructed with improved opportunities for recreation through walking, access to the Managed Natural Area and the coast and the opportunity for views over the wider outstanding landscape.

Policies 11.5, 11.12 and 11.51 provide further guidance with respect to amenity. Policy 11.51 makes reference to the context of subdivision within a locality, and the need to mitigate for adverse impacts generated by a proposal and Policy 11.5 makes specific reference to new public open space and it is noted that proposed easement would maintain and improve access to local neighbourhoods, create a neighbourhood focal point which acknowledges the nature of the location, the Outstanding Landscape and its position within the Green Network. Ultimately the walkway enhances public access to other Open Space, the coast and overall enhances the amenity values of the surrounding environment and the adjoining neighbourhood character.

Policy 11.12 identifies the impact of increased vehicle trips on amenity and a number of submissions have raised points which note the potential value of the walkway to provide alternatives to private motorcar travel, with improved access to public transport and recreational opportunities in the locality which could reduce or avoid the need for the use of private motor vehicles. It is however acknowledged that the walkway will not be an easy accessway, nevertheless the walkway will provide alternatives for the community and reduce the overall trip length between the isolated neighbourhoods.

Objective 10 introduces the importance of health and safety with respect to amenity values noting that the objective seeks - *"to maintain and enhance those natural and physical characteristics that contribute to the wellbeing of residents...including maintaining: a safe environment; and accessible environment, which includes enhancing public access to and along the coast and waterways and between areas of public land; adequate levels of on-site privacy"*. As noted above matters surrounding the walkway and the perceived effects on amenity including safety and privacy that the walkway may have, has already been considered by the Environment Court, and further assessment in this instance is considered unnecessary other than to note the conditions proposed by the consent order will adequately manage these effects. The applicant and submitters have also raised concerns over the stability of the area required for the walkway. As also noted above the geotechnical reports supporting the current application have indicated that a walkway can be constructed to address the geotechnical constraints of the site. It is therefore considered that the existing development including the walkway and reserve is consistent with Objective 10 and Policy 10.7.

Policy 10.8 seeks to ensure that land use development provides for the safe and efficient movement of people whilst maintaining and enhancing the sustainability goals of the City. It is noted that the proposed walkway connects an isolated community and provides the community with more choices including and encouraging walking.

Policy 10.20 identifies the value associated by the community with respect to the public access noting that:

“Subdivisions should be designed and adequate public access set aside so that:

- Potential demand for public access between areas of public land ; and*
- Potential demand for public access to and along the City’s waterways and coast; and,*
- Potential for recreational use of the adjacent sea, harbour, river or lake;*

Can be provided for, where that use or access is compatible with protection of conservation values.”

The walkway easement would not be contrary to this policy, resulting in the potential for access to the pedestrian road network, reserves and the coast. It is noted that the Managed Natural Area in this location is of poor quality and would be improved as part of the works associated with the subdivision of land and the consequential construction walkway would enhance access to the Green Network.

8.2.2 Rules and Assessment Criteria

The proposed change does not infringe any rules of the District Plan or increase the intensity of any infringement. It is noted that the proposal infringed the proposed Bush Living Environment Subdivision rules as a Non-complying Activity – the original application pre-dates the Titirangi-Laingholm Subdivision Rules. Assessment Criteria have been developed to address the issues covered in the objectives and policies and are a useful guide in assessing the effect of an activity. The proposed change has been considered in relation to the relevant assessment criteria and the following is noted:

Assessment criteria 10(f) – The extent to which the subdivision design integrates with the surrounding neighbourhood character and rural landscape.

The easement would provide the potential for the linkage between the two communities and would result in a development which is more integrated within the context of the established nearby neighbourhoods.

Assessment criteria 10(z) – The extent to which the subdivision, where relevant, provides for public access to and alongside the coast, streams, lakes and wetlands.

The walkway provides access and views of the Little Muddy Creek and surrounds. Significant amenity and recreation opportunities are provided by the walkway easement which would be provided for under this proposal and, as noted above the community and RMA places high values on access to the coast.

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

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

- New Zealand Coastal Policy Statement (NZCPS)**

Chapter 3 Activities Involving the Subdivision, Use or Development of Areas of the Coastal Environment

Part 3.1 considers the maintenance and enhancement of amenity values. As noted in the previous planners report:

“The nearest boundary of the subject site is approximately 70m from the shoreline of the Little Muddy Creek Inlet. There is an ephemeral water course in the gully adjacent to part of the proposed pedestrian walkway between Lots 10 and 12. Providing and forming the pedestrian access would provide an opportunity to clear weeds and plant trees and shrubs suitable for riparian margins in the gully adjacent to the pedestrian access. As this gully discharges into the Little Muddy creek there should be improvements in the environment of the gully for fauna inhabiting it, which may include some aquatic species. Overall the removal the removal of weed species from the site should improve the quality of the natural landscape in the future. In addition the provision of a pedestrian walkway through the site to landing Road would increase the accessibility of the coast to the general public.”

It is considered that the easement provides for the walkway and the application does not reduce the potential for community access to the coast, consequently it is considered that the proposal is not inconsistent with the objectives and policies of the NZCPS.

8.5 Waitakere Ranges Heritage Area Act 2008

The site is located within the Waitakere Ranges Heritage Area and the application was lodged after the Waitakere Ranges Heritage Area Act 2008 was enacted.

8.5.1 Purpose

The purpose of the Waitakere Ranges Heritage Area Act 2008 is:

to -

- 3(1)(a) recognise the national, regional, and local significance of the Waitakere Ranges Heritage Area; and
- 3(1)(b) promote the protection and enhancement of its heritage features for present and future generations.

8.5.2 Relevant objectives

The relevant objectives of the Waitakere Ranges Heritage Area Act are:

- (a) to protect, restore, and enhance the area and its heritage features;
- (b) to ensure that impacts on the area as a whole are considered when decision are made affecting any part of it;
- (d) to recognise and avoid adverse potential, or adverse cumulative, effects of activities on the area's environment (including its amenity) or its heritage features; and
- (i) to recognise that people live and work in the area in distinct communities, and to enable those people to provide for their social, economic, environmental, and cultural well-being.

The policies from the District Plan relevant to the consideration of the above objectives are - Policy 4.3, 10.7, 10.8 10.20, 11.5, 11.12, and 11.51.

Section 13 requires the purpose of the WRHAA and its objectives to be given 'particular regard' in evaluating Discretionary resource consent applications and in making decisions. This will be discussed in detail in the following section.

8.5.3 Relevant heritage features

The relevant heritage features are:

“7(1) The heritage area is of national significance and the heritage features described in subsection (2), individually or collectively, contribute to its significance.”

7(2)(g) the opportunities that the area provides for wilderness experiences, recreation, and relaxation in close proximity to metropolitan Auckland:

8.5.4 Assessment of Waitakere Ranges Heritage Area purpose and objectives

The Act requires that:

13 Resource consents

- (1) *When considering an application for resource consent for a **discretionary** or non-complying activity in the heritage area, a consent authority—*
 - (a) *must have **particular regard** to—*
 - (i) *the purpose of this Act and the relevant objectives; and*
 - (ii) *the relevant provisions of any national policy statement or New Zealand coastal policy statement; and*
 - (b) *must consider the objectives having regard to any relevant policies in the regional and district plans.*
- (2) *The requirements in subsection (1)(a)(i) are in addition to the requirements in the Resource Management Act 1991.*

The proposal maintains an opportunity for the community to access and enjoy the Waitakere Ranges Heritage Area which includes this site and access to Waitakere Ranges sites beyond. The proposal is considered to achieve Objective 8(a) *“to protect, restore, and enhance the area and its heritage features”*, notably those identified in feature 7(2)(g) relating to opportunities for recreation. The proposed easement provides enhanced recreation opportunities and the proposal does not adversely affect pedestrian access and the proposal continues to enhance recreation opportunities, public access and the wellbeing of those that live there.

It is considered the proposal is not inconsistent with the objectives and policies of the District Plan, as identified above. In accordance with the requirements of 13(1)(b), I therefore consider that the proposal is not inconsistent with the relevant objectives of the Waitakere Ranges Heritage Area Act, which must be given ‘particular regard’ in any assessment.

In the Waitakere Ranges Heritage Area relevant provisions of the NZCPS must be had particular regard to, meaning that a careful and explicit consideration of these is required. The NZCPS (Policy 3.1.2) identifies that plans should identify coastal areas that require special protection because of their particular value or significance, and, together with the provisions of the Waitakere Ranges Heritage Area Act, this leads to an approach in the coastal areas of the Waitakere Ranges that emphasises the protection and enhancement of the heritage features. Accordingly, while the coastal natural character of the Heritage Area does vary in its nature and quality, the generally constrained ability of this area to absorb development without adverse effects means that development should be carefully controlled in terms of its location, scale and nature, and opportunities to enhance community wellbeing through public access realised where possible.

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

8.5.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

- **Certainty, and Funding**

A number of submissions raise concerns over whether the walkway will ever be built and whether the financial contribution will be adequate to cover the costs of its construction. WCC Parks Planner, Ms Huia Kingi has provided comment noting that:

“Generally, the construction of a walkway like this would be paid for out of the reserve contribution providing there was a sufficient contribution to meet the costs.

...

We will be taking a reserve contribution of 6% of the value of all the new lots. We will be able to use the contribution to pay for the costs of the walkway. If there is not enough contribution to cover the costs then we will need to get the council to approve the additional funding.

...the condition provides that the consent holder will contribute an amount towards the costs of the walkway.”

It is noted that the revised proposal does not provide certainty that the walkway will be built in the near future, however if community demand remains high and is supported in Annual Plan submissions from the community, it is possible that the walkway can be provided for and constructed in the near future. Following a review of submissions Councils Parks Planning staff are aware of the community desire with respect to the walkway and connection. It is considered that the contributions to be provided by the applicant will be adequate for the construction proposal.

- **Alternatives**

Submitters have raised the possibility of constructing other community assets in lieu of the walkway these include the construction of a jetty on the Little Muddy Creek, the upgrading of the Little Muddy Creek Bridge, and kerb and channel upgrading of Landing Road. It is considered that these are beyond the scope of the Section 127 application and in addition have not been proposed by the applicant subsequently these matters cannot be considered by this application.

- **Property values**

Submitters have raised that the proposed walkway will have adverse effects on their property values exposing them to crime and anti-social behaviour. These matters with respect to maintaining amenity values have been previously considered by the Environment Court and this application should not be seen as an opportunity to re-litigate these matters. Further to this it is noted that the Resource Management Act and the associated resource consent process deals with the environmental effects of the development and therefore does not directly consider property values. Case law on the effects that such a development would have on property values, has been clear that the economic value of property cannot be considered as an environmental adverse effect.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

It is considered that the proposal would not be inconsistent with Sections 5, 6, and 7 of the Resource Management Act 1991.

The purpose and principles of the Act have primacy over all other considerations set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources be sustainably managed in such a way that enables communities to provide for their social, economic and cultural well-being while avoiding, remedying or mitigating adverse effects on the environment. Furthermore, the Act requires that amenity values and the quality of the environment shall be maintained and enhanced.

In this case it is considered that the proposed change is consistent with sustainable resource management principles. In particular, the proposal would retain public access opportunities to the Green Network and the coast and would have an overall a positive effect on the potential amenity provided by this asset. The walkway would provide improved amenity and increase connectivity for the community providing access to the nearby beaches, Titirangi Village and public transport and in addition the walkway improves the network of walkways and trails available in the local area, this improved amenity would ensure the social and economic wellbeing of local.

Sections 6(a) and (b) identify the preservation of the natural character of the coastal environment and outstanding natural landscapes as matters of national importance. It is considered that the easement and walkway would result in improved access and that this would ensure that the maintenance and management of the degraded natural features can occur. The proposal on the contrary would not be inconsistent with these sections of the Act as the easement would retain the potential for accessibility for the community and the proposed maintenance and enhancement would occur. Similarly the proposal would maintain public access to and along the coastal marine area (section 6(d)).

Sections 7(c) and (f) require that particular regard be had to the maintenance and enhancement of amenity values and the quality of the environment. As discussed extensively in this report, it is considered that the proposal would have an overall adverse affect on amenity values reducing public access and opportunities for recreation in this area. It is considered that previous concerns also raised by submitters in support of the proposal relating to privacy and safety have been satisfactorily dealt with by conditions of consent.

The proposed change does not raise any section 8 (Treaty of Waitangi) issues, given that it would be undertaken on privately owned land within a modified area, archaeological reports have been submitted in support of the previous application and Council's Treaty partners have had the opportunity to comment on this proposal.

Overall, the proposed development is therefore considered to not be inconsistent with the purpose and principles of Part II of the Act.

10.0 CONCLUSION

The Section 127 application seeks to vary the conditions of consent of LUC-2002-0091 and LUC-2005-0926 by Richmond Eden Limited, at 42 – 46 Landing Road. This would result in the removal for the requirement to construct a walkway between Landing and Grendon Roads, and remove the proposed recreation reserve, and the remaining balance of land would be absorbed into proposed Lots 9 and 10.

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 conditions of consent. It is considered that the easement will retain the potential for the walkway and the loss of the recreation reserve will not lead to an overall decline in the amenity values of the area.

The proposal is considered to not be inconsistent with the objectives and policies of the district plan which seek to enhance and maintain amenity values and provide the public with access to the green network and coastal areas. as noted in the submissions there is considerable opposition of the proposal in the community beyond those immediately adjoining neighbours who have supported the proposal citing previously raised concerns to the environment court with respect of exposure to crime, loss of privacy and matters of ground stability. no evidence has been presented in support of the proposal stating that ground stability is compromised and it is considered on balance that the proposal has an overall negative impact on the wider amenity effects with respect to community well being.

The proposal can meet the section 104d gateway tests with effects being no more than minor and the proposal not being inconsistent with the policies and objectives of the district plan.

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

11.0 RECOMMENDATION

A. That pursuant to Section 37 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, the following late submissions be accepted:

| | | | | | |
|----|-----------------------------------|----------|-----|-----------------|-----------|
| 1. | Desmond & Pauline Burdon | 2/7/2008 | 8. | N Bielby | 1/7/2008 |
| 2. | Sara Donaghey & Maureen Blackburn | 2/7/2008 | 9. | Angela Main | 4/7/2008 |
| 3. | Serge & Denise Santoromito | 1/7/2008 | 10. | S T Court | 2/7/2008 |
| 4. | Claire Mason & Gordon Smith | 1/7/2008 | 11. | D Nash | 2/7/2008 |
| 5. | W J Steinijans | 1/7/2008 | 12. | A D Drake | 1/7/2008 |
| 6. | N A Taylor | 1/7/2008 | 13. | Robert Richards | 3/7/2008 |
| 7. | J M Taylor | 1/7/2008 | 14. | CJA Balfour | 15/7/2008 |

As no persons will be prejudiced by the acceptance of these late submissions, nor result in unreasonable delay.

The following late submissions received outside the extended 40 day period have been accepted by the applicant.

| | | | | | |
|-----|-----------------------|-----------|-----|--------------------|-----------|
| 15. | Greg & Andrea Wallace | 14/8/2008 | 17. | Ross & Jo Duxfield | 19/8/2008 |
| 16. | Ian Ashcroft | 19/8/2008 | 18. | Karen & Stuart Lee | 19/8/2008 |

B. That pursuant to Sections 104,104B, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, consent be **approved** to the application by Richmond Eden Limited to a Section 127 application to vary the conditions of consent of LUC-2002-0091 and LUC-2005-0926 which will remove the requirement to construct a walkway between Landing and Grendon Roads, and remove the proposed recreation reserve, with the remaining balance of land absorbed into proposed Lots 9 and 10 and an easement provided for a walkway over Lots 9, 10, 12 and 14 at 42 – 46 landing Road, being Lot 17 DP 364620 for the following reasons:

- (i) The actual or potential adverse effects of the proposal are no more than minor and can be mitigated through the imposition of recommended conditions of consent to the extent that they would be no more than minor. The loss of the recreation reserve would have no more than minor effects and the potential for the walkway is retained as a significant community asset which positively contributes to the wellbeing and amenity of the wider community.
- (ii) No evidence has been provided in support of the application stating that ground stability of the site is compromised to the point that the proposed walkway would be unsafe.

- (iii) The proposal is not inconsistent with the objectives and policies of the District Plan and in particular, Policies 4.3, 10.8, 10.20, 11.12, and 11.51, as they relate to air quality, Outstanding Landscapes, visual and landscape amenity, health and safety, and public access to the Green Network and the coast.
- (iv) The proposal is not inconsistent with Part II of the RMA and the policy direction provided by the New Zealand Coastal Policy Statement and the Auckland Regional Policy Statement.
- (v) The proposal is not inconsistent with the Waitakere Ranges Heritage Act and in particular the proposal is considered to achieve Objective 8(a) with respect to heritage features 7(2)(g) relating to opportunities for recreation, noting that the easement provides the potential for the walkway which retains recreation opportunities, public access and contributes to the wellbeing of those that live there.

Consent shall be subject to the following conditions:

(A)(1) A THAT pursuant to Sections 104, 108 and 113 of the Resource Management Act 1991 and Section 348 of the Local Government Act 1974, consent be granted to the application (RMA 20020091 and SPW 21464 Amended) by Richmond Eden Limited (R Maxwell) to subdivide a 6.9716ha site into 12 lots (being Stage 1 comprising Lots 1 – 4 inclusive and Stage 2A comprising Lots 5 6, and 8 and Stage 2B comprising Lots 7, 9, 10, 11 and 12) ranging in size from 1.5049ha to 1920m² with 2000m³ of earthworks for the formation of the carriageways on the shared driveways at 39 Landing Road, Titirangi, being Lot 8 DP207383 for the following reasons:

- (1) The development shall proceed in accordance with the amended plans titled:
 - 'Preliminary Land Transfer Plan (Variation August 2005)' and
 - 'Richmond Eden Limited (Maxwell) Option B 39 Landing Road Subdivision – Stage 2A (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 1' and
 - 'Richmond Eden Limited (Maxwell) 39 Landing Road Subdivision - Stage 2A & 2B (RMA 20020091) Detailed Variation Application Plan, - September 2005 Sheet 2')

prepared by (Jackson Clapperton & Partners Limited) and dated 29.09.2005 and

- The advance copy of the Land Transfer Plan W21464 Amended (which shows access lot 16) and all referenced by Council as RMA20020091, and
- Figure 8, Proposed Landscape Plan, Figure 3 Appendix 5 Ecological Assessment, contained in the Assessment of Environmental Effects Landing Road Titirangi, dated January 2002, and
- Proposed Land Transfer Plan - March 2008

prepared by (Jackson Clapperton & Partners Limited) and dated 30.04.2008

including all information, submitted with the application and attached as Appendix Four in the Council report.

(B) STAGE 2

(1) Section 223 Requirements

- (c) Provide a pedestrian right-of-way over Lot 14 in a Memorandum of Easements endorsed on the survey plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon." Note: the easement document will be prepared by Council's Solicitor at the applicant's cost.
- (j) Provide an easement in gross in favour of Council over parts of Lot 9, 10 and 12 for access in a memorandum of easements endorsed on the plan. Include in the Section 223 approval on the plan, "subject to the granting or reserving of the easement(s) set out in the Memorandum hereon." Note: the easement document will be prepared by Council's Solicitor at the applicant's cost.

(C) STAGE 2 (Being Stage 2A comprising Residential Lots 5, 6 & 8 inclusive & Shared Driveway Lot 16 and Stage 2B comprising Residential Lots 7, 9, 10, 11 and 12 inclusive, Shared Driveway Lot 14 & Recreation Reserve Lot 15)

(PK1) ~~Take note that Lot 15 shall vest in the Waitakere City Council as recreation Reserve pursuant to Section 239 of the Resource Management Act 1991 and the owner shall supply Council with a copy of a certificate of title for the reserve. A solicitors undertaking to order and forward a copy of the title to Council will be required.~~

~~**Note:** The access way component of the area will be a minimum of 4m width (with the exception of the portion between 36 and 35 Grendon Road which will be the existing width).~~

(PK2) ~~In accordance with Section 108(2)(c) of the Resource Management Act 1991, Lot 15 shall be developed to Access Way standard with all works complying with the Waitakere City Council Code of Practice for City Infrastructure and Land Development. Landscape and Engineering Plans are to be prepared qualified Landscape Architects and Engineers to be submitted to the Parks Consent Planner for approval prior to any works commencing.~~

- ~~• ***Note:** Details of the walkway entrance from Grendon Road along the existing entrance strip will be advised specified to the applicant after consultation with the neighbours at 34, 35 and 36 Grendon Rd (to be undertaken by Council). The applicant is to advise Council a minimum of two months prior to the details that information being required by the applicant. The walkway construction plan shall detail the following specific features and provide design and engineering details where required:~~
- ~~• Gravel and timber edged walkway with steps where required, 1.5m in width, including drainage provision where possible (note that the walkway within the entrance strip from Grendon Road may need to be reduced in width due to site constraints), including drainage provision.~~
- ~~• The walkway shall follow the most accessible route as determined on site, and shall be located as far from the existing residential boundaries of, 34, 35 and 36 Grendon Road as can be achieved within the recreation reserve as indicated on the proposed plan, submitted 31 October 2003 by Jackson Clapperton & Partners Ltd and attached as Appendix 'A' to this consent order. The exact alignment shall be determined taking into consideration gradient and stability issues, including geotechnical assessment, prior to the landscape and engineering plans being submitted to Council for approval. The walkway will be confirmed on site by the Council taking into consideration the geotechnical assessment and input from the above neighbours prior to the approval of the landscape and engineering plans by Council.~~

~~The area between the walkway and the existing property boundaries shall be planted with appropriate species to provide a buffer between the walkway and the adjoining properties. A weed removal and planting plan shall be prepared for that area as detailed in these conditions.~~

- ~~• A boundary fence shall be erected on the boundaries of 36 and 35 Grendon Road adjacent to the proposed walkway in line with the requirements determined through Council's consultation with the affected residents.~~
- ~~• Wherever possible existing large trees and planting along the existing entrance strip will be retained and that details of any proposed vegetation removal and/or replacement planting shall be determined by Council consultation with the residents of 36 and 35 Grendon Road.~~
- ~~• If desired by the developer, permeable fencing can be installed at the boundaries between the walkway and the new lots (7, 9, 10 and 12) of the proposed subdivision.~~
- ~~• Costs for these works shall be agreed between the Council and Consent Holder prior to any works being carried out~~

~~(PK3) After formation of walkway the Recreation Reserve shall be left in a condition suitable for maintenance in accordance with Section 7.3.2 of the COP and to the satisfaction of the Parks Consent Planner. Weed removal and revegetation is to be implemented within the Recreation Reserve to the satisfaction of the Parks Consent Planner. A weed management and revegetation plan prepared by a qualified Landscape Architect in accordance with COP is to be submitted to the Parks Consent Planner within 3 months of the issue of this consent for Council Approval. It is recommended that reference is made to the publication "A guide for planting and restoring the nature of Waitakere City", published by the Council.~~

~~(PK4) The developer is to be responsible for the maintenance of reserve including new planting, hard landscape works and weed control for a period of two years (from the date of vesting in Council) including the replacement of any dead or dying native vegetation, to the satisfaction of the Parks Consent Planner. A bond by way of cash or bank surety as determined by the Parks Consent Planner will be required to ensure the satisfaction of this condition; alternatively a maintenance cash contribution may be paid to Council and the maintenance will be undertaken by the Council. The contribution will be calculated at a rate of \$75 per annum per specimen tree (Pb 95 or larger) and \$7 per square metre of garden per annum.~~

~~(PK5) Provide Council with "As Built" drawings of the development showing all services; levels, inverts, features and facilities as per requirements:~~

- ~~• A scaled tracing of the construction plan is to be updated showing all finished asset locations and types.~~
- ~~• All underground services are to be shown on the plan with sizes, types, depth to invert and invert levels based on site datum on plan and new assets scheduled on a Asset Sheet (Client to provide format of Asset Sheet).~~
- ~~• Any planted areas are to be shown to scale on the copy of the construction plan with areas sq. metres of planting, number of plants and type and assets scheduled on an Asset Sheet.~~
- ~~• All products, fixtures, items and fittings with type, colour, model manufacturer name and contact telephone number are to be scheduled on a Asset Sheet.~~
- ~~• Two copies of any special operating manuals for any new systems are to be provided.~~
- ~~• Any special maintenance requirements to be scheduled and supplied.~~

(LD2) The consent notice required by Conditions (EW8), (EW9), (AC10), (AC2) and (LD3) ~~and the right-of-way, water supply, and drainage easements required by conditions (B)(1)(c), (d) and (e) above and the fencing agreement required by Condition (LD5) below,~~ will be prepared by the Council Solicitor at the applicants cost when the following information has been received:

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

(LD5) ~~In regard to Lots 7, 9, 10 and 12 the owners shall enter into a registerable fencing agreement with Council to the effect that the Council will not be liable to contribute towards the cost of creating or maintaining any dividing fence between any reserve or other land vested in or administered by the Council. Also that any fences facing the reserve shall be of visually permeable materials to enable good surveillance of the reserve.~~

(LD6) A consent notice shall be registered on the Titles of Lots 9, 10, 12 and 14 providing for public pedestrian access, access for WCC Parks officers and contractors to undertake construction and maintenance of a walkway, no landowner shall obstruct the passage of the public or Council Officers with the defined easement.

(FC4) Pay to the Council a financial contribution equal to 6% (plus 12¹/₂%) of Quotable Value New Zealand Ltd (QV) market values to be obtained for the notional building sites on Lots 5 – 12 inclusive, as of the date of issue of this subdivision consent for reserve purposes pursuant to Section 407 of the Act for allotments shown on the plan, such amount being reducible by a credit for the underlying title ~~and further reduced by an amount equivalent to 25% of the combined land cost (as determined by QV) and construction costs (as agreed by Council) of the pedestrian access way component contained on Lot 15. This contribution shall also be reducible by an amount equivalent to 100% of the land cost (as determined by QV) of Lot 15 (excluding the pedestrian walkway component of Lot 15).~~ Council will obtain the valuation from QV at the time an application is made for survey plan approval under Section 223 of the Act. The consent holder shall pay QV costs for obtaining the valuation, (which will be invoiced by Council).

and:

Pay to Council 75% of the projected construction costs associated with the walkway; this amount shall be agreed and paid prior to the issue of titles to the satisfaction of the Manager, Resource Consents and the Manager, Parks and Open Spaces.

(FC6) ~~Pay the required maintenance bond required by (PK4 above).~~

Report prepared by (Nick Pollard), Resource Planner.

