



**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD AT WAITAKERE  
CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE,  
ON THURSDAY, 16 APRIL 2009, COMMENCING AT 9.30 AM**

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**1 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE  
RESOURCE MANAGEMENT ACT 1991 BY KISHORE AND MINA PATEL TO  
UNDERTAKE A 3 LOT SUBDIVISION AND ERECT TWO NEW DWELLINGS AT 47  
TITIRANGI ROAD, NEW LYNN.**

**LUC 2008-0383 AND SUB 2008-0388**

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

**APPLICATION DETAILS**

Planner:	Kate Morrissey
Site Address:	47 Titirangi Road, New Lynn
Applicant:	Kishore and Mina Patel
Date Received:	13 March 2008
Resource Consent No:	LUC 2008-0388 / SUB 2008-0383
Legal Description:	LOT 10 DEEDS 520
Address for Service:	BCL Surveyors, PO Box 109207, Newmarket
Site Area:	1012m <sup>2</sup>
Unit Site Area(s):	Lot 1: 309.2m <sup>2</sup> (gross area less shared driveway and road widening designation) Lot 2: 223m <sup>2</sup> Lot 3: 248m <sup>2</sup>
Building Consent No:	Yet to be submitted
Operative District Plan:	
Human Environment:	Living 2
Natural Area:	General
Landscape Elements:	None
Hazards:	No
Roading Hierarchy:	Regional Arterial
Designations:	Road Widening: WCCRW10 – 5m from existing road boundary
Proposed Plan Changes:	Plan Change 26

## 1.0 INTRODUCTION AND RECOMMENDATION

### 1.1 Nature of the Application

The applicant seeks to subdivide the original site into three lots with net unit areas less than 450m<sup>2</sup>, including the incorporation of the existing development and the erection of two new dwellings which would exceed the level of building coverage permitted in the Living Environment. Resource consent is required for further infringements to Height in Relation to Boundary, Outdoor Space, Car parking and Driveway rules. The proposed development would also result in earthworks outside the building platform and impermeable surface areas greater than 60% of the site area.

### 1.2 Resource Management Issues Raised

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

The significant resource management issues associated with the proposal relate to residential density and neighbourhood character, residential amenity on and off site, visual amenity, and car parking and traffic matters.

### 1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be refused** to the application to undertake a 3-lot subdivision, including the construction of two new residential dwellings at 47 Titirangi Road. It is considered that the environmental effects that may be generated by the activity would be more than minor and could not be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will not be satisfied.

## 2.0 LOCATION PLAN



**Figure 1:** 2008 Aerial photograph indicating the subject site to be subdivided and the existing building

<b>Site Address:</b>	47 Titirangi Road, New Lynn,
<b>Legal Description:</b>	LOT 10 DEEDS 520
<b>Human Environment:</b>	Living 2 Environment, within Medium Density Housing Radius
<b>Natural Environment:</b>	General Natural Area
<b>Roading Hierarchy:</b>	Regional Arterial
<b>Designation:</b>	WCCRW 10 - Road Widening northern side from Great North Road to Lot 1 DP 41916: 5.0 metres from the existing road boundary

### 3.0 PROPOSAL

The applicant proposes to increase the density of the existing site (1,012m<sup>2</sup>) by erecting two, two-storey dwellings on the vacant land at the rear of the site. The net site areas for each dwelling would be less than 450m<sup>2</sup>. The size and design of these buildings will result in a number of infringements to the bulk and location rules of the District Plan. It is also proposed to subdivide the original site to create three new lots and a shared driveway. The impermeable surface area of the site would be increased to 68.3% of the site area. The applicant proposes to erect a new 1.8 metre high close boarded fence along the eastern boundary and plant a row of Totara trees along the northern boundary. The layout and design for each lot is detailed below:

Note: The "Scheme Plan" (Plan No. 6119/10/01 Rev A; dated July 2007) shows the fence to run outside of the site boundary lines. The measurements have been taken from the boundary line; not the fence line.

#### 3.1 Proposed Lot 1

Lot 1 would be formed around the existing building which contains an operating dairy and two bedroom residential dwelling. The gross site area would be 479.0m<sup>2</sup>. The shared driveway over Lot 1 measures 91.17m<sup>2</sup>. Further to this there is a 5.0m deep road widening designation that runs along Titirangi Road measuring an area of 78.8m<sup>2</sup>. Net site area is therefore reduced to 309.2m<sup>2</sup>. The existing building is 209.6m<sup>2</sup> or 204.68 (exclusive of that portion of the dwelling (24.92m<sup>2</sup> within the road-widening designation) and the District Plan requires the provision of one covered car park measuring 20m<sup>2</sup>, thus the total building coverage for Lot 1 would be 204.68m<sup>2</sup> or 66.19% of net site area. The outdoor living area for Lot 1 would be approximately 83m<sup>2</sup> (not including areas less than 3.0m in width) with a northern bearing. There would only be one on-site car parking space for Lot 1. Delivery vehicles to the dairy would be required to park on the road, as is the current practice.

#### 3.2 Proposed Lot 2

Lot 2 would have a net unit area of 223m<sup>2</sup>. It is proposed to construct a two-storey, four-bedroom dwelling with a building coverage of 96.5m<sup>2</sup> or 43.3% of net site area. This includes an internal double garage with an extra wide door measuring 5.3 metres. Outdoor space would be 97.0m<sup>2</sup> with a northern bearing and a minimum width of 3.0 metres. The area beneath the pergola is not included in this figure as it falls within the definition of a building, due to its height and area, under the District Plan. The south-eastern wall of the dwelling would be directly along the boundary line creating an infringement to the southern daylight recession plane by between 0.95m and 1.44m in height over a distance of 6.5 metres. There would also be an infringement to the eastern daylight recession plane by a height of 0.3m over a distance of 10.8 metres.

#### 3.3 Proposed Lot 3

Lot 3 would have a net unit area of 248m<sup>2</sup>. It is proposed to construct a two-storey, four-bedroom dwelling with a building coverage of 93.0m<sup>2</sup> or 37.5% of net site area.

This includes an internal double garage with an extra wide door measuring 5.3 metres. Outdoor space would be 72.7m<sup>2</sup> with a northern bearing and a minimum width of 3.0 metres. The area beneath the pergola is not included in this figure as it falls within the definition of a building, due to its height and area, under the District Plan. The south wall of the dwelling would be directly along the boundary line creating an infringement to the southern daylight recession plant by between 1.3m and 2.07m over a distance of 7.0 metres.

### 3.4 Shared Driveway

Vehicle access to the site would be via the existing vehicle crossing and driveway along the western boundary. The driveway would be extended to provide access to the rear dwellings. The driveway would be 3.0 metres wide along its entire length, measured from the western boundary line to the side wall of the existing building.

Because the width of the driveway meets the side of the existing building the clearance height is impeded by the eaves of the building and would be 3.06m, less than the 4.2 metres required by the District Plan. The shared driveway would not include the provision of the required 1.3m wide service strip or passing bays; although with a small change to the proposed right-of-way easement this could be achieved. However this would further reduce net site areas for Lots 2 and 3.

### 3.5 Stormwater and Other Services

The applicant proposes to make a connection to the Council stormwater reticulation system via 7 Bickliegh Grove to the north (the property owner has provided consent). Connections would be made to the existing wastewater pipe that runs through the site. Telephone and power connections would be to existing services along Titirangi Road. It is proposed to create a series of easements over the shared driveway to provide for these services.

## 4.0 REASONS FOR THE APPLICATION

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

Note: for the purpose of this assessment that portion of Lot 1 covered by the road widening easement has been excluded.

### Living Environment

Discretionary Activity for dwellings with net unit areas of less than 450m<sup>2</sup> in the Living 2 Environment. Lot 1: 309.2m<sup>2</sup>; Lot 2: 223m<sup>2</sup>; Lot 3: 248m<sup>2</sup> (Rule 2.3 Residential Activities/Density).

Discretionary Activity for Height in Relation to Boundary infringements to the south, east and western boundaries (internal and external) (Rule 5.3 Height in Relation to Boundaries/ Separation of Buildings).

#### **Lot 2**

Discretionary Activity consent for the infringement of the height in relation to boundary recession plane of 2.5m + 45<sup>0</sup> on the eastern boundary of Lot 2 by a height of up to 0.3m reducing to 0.0m over a distance of 10.8m (Rule 5.3, Living Environment).

Discretionary Activity consent for the infringement of the height in relation to boundary recession plane of 2.5m + 35<sup>0</sup> on the internal southern boundary of Lot 2 by a height of up to 1.44m over a distance of 6.5m (Rule 5.3, Living Environment).

### Lot 3

Discretionary Activity consent for the infringement of the height in relation to boundary recession plane of 2.5m + 45° on the western boundary of Lot 3 by a height of up to 0.9m reducing to 0.0m over a distance of 12.8m (Rule 5.3, Living Environment).

Discretionary Activity consent for the infringement of the height in relation to boundary recession plane of 2.5m + 45° on the eastern boundary of Lot 3 by a height of up to 0.9m reducing to 0.0m over a distance of 9.2m (Rule 5.3, Living Environment).

Discretionary Activity consent for the infringement of the height in relation to boundary recession plane of 2.5m + 35° on the internal southern boundary of Lot 3 by a height of up to 2.07m over a distance of 7.0m (Rule 5.3, Living Environment).

Discretionary Activity for building coverage exceeding 35% of the net site area (Rule 7.2 Building Coverage). Building coverage over the total net site area would be 50% (excluding road-widening designation). Lot 1: 66.19%; Lot 2: 43.3%; Lot 3: 37.5%.

Limited Discretionary Activity consent for a reduction in the required outdoor space of 100m<sup>2</sup> by approximately 27.3m<sup>2</sup> (within Lot 3); and approximately 3.0m<sup>2</sup> (within Lot 2); both lots will not provide the required 6.0 metre diameter circle pursuant to Rule 9.2, Living Environment.

Limited Discretionary Activity for not providing two on-site car parks for each dwelling and insufficient dimensions of a shared driveway (Rule 12.3 Car parking and Driveways). Proposed Lot 1 would only provide one on-site car park for the residential dwelling. The proposed shared driveway would not include a 1.3 metre wide service strip, the clearance height of 3.06 is below the required minimum of 4.5 metres, and no passing bays are proposed along the length of the driveway.

### **General Natural Area**

Limited Discretionary Activity for earthworks outside the building platform that exceed 100m<sup>2</sup> and occur within 1.0 metre of a site boundary. The construction of the proposed shared driveway would require earthworks over an area of approximately 250.0m<sup>2</sup> and within 1.0 metre of the western boundary.

Limited Discretionary Activity for impermeable surface area of a site connected to a stormwater reticulation system exceeding 60% of the site area. The proposed development would increase impermeable surface area over the entire site to 68.3%.

### **Infill Subdivision**

Non-Complying Activity for a subdivision of a site not more than 1 ha in area creating no more than 9 new sites however, the proposed subdivision does not fulfil the criteria in Rule 3.1 and Rule 3.2. The net sites area would be less than 450m<sup>2</sup> and would not comply with service / access requirements specified in Rule 3.1(b) – (f). In this instance the proposed lots would not provide a minimum 15m x 15m shape factor; nor a driveway measuring 2.7m in width with passing bays and a 1.3m service strip.

### **Proposed Plan Changes 26**

The Living Environment rules of the District Plan are currently subject to Proposed Plan Change 26. The Plan Change was been publicly notified on the 12 June 2008 and submissions closed on 10 July 2008 with the request for further submissions closing on 22 August 2008.

This application was received by Council on the 13 March 2008 however as no decision has been issued the assessment of this application is required to take into account the provisions of the proposed plan change.

There has been no material change to the infringements described above (section 3.1) in regard to the Proposed Plan Change 26

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

4.2 No other resource consents are required in respect of this application

## 5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site (1012m<sup>2</sup>) is located on the northern side of Titirangi Road, a regional arterial route, between Skilgate Avenue and Gardner Avenue and is located within the Medium Density Housing Circle as shown on the District Plan Maps (See grid F10). The site contains an existing building adjacent to the road boundary where there is a Waitakere City Council Road Widening Designation running along the road boundary of Titirangi Road. The designation is for a width of 5.0 metres from the existing road boundary. It appears from Council Plans that this designation has been obtained from a number of neighbouring properties along Titirangi Road. Transport Assets has not requested that this area of land be taken as part of this application. They have also given no indication that it is likely to be required in the near future.

The single storey building serves as a mixed use building with a dairy fronting onto Titirangi Road with a residential unit in the rear. Vehicle access to the rear of the site is along the western boundary where an existing concrete driveway runs directly alongside the building. The driveway opens up at the rear of the building to form a parking and vehicle turning area. There is a single carport attached to the rear of the building.

The rear of the site slopes gently down to the north and is grassed with no significant vegetation growing. The north and west boundaries are currently screened by 1.8 metre high wooden fences. The eastern boundary is not fenced but has a number of small trees and shrubs growing along the boundary line.

The site along with those either side are full sized sites that have not been subdivided although number 45 Titirangi Road contains three units with a cross lease. The immediate surrounding area is residential and has undergone a significant amount of infill development, including units with cross-leases, second dwellings, and formal subdivision. A number of the surrounding sites are less than the 450m<sup>2</sup> permitted by the District Plan for the Living 2 Environment. The residential development to the north of Titirangi Road, accessed via Skilgate Avenue contains lots of 300m<sup>2</sup>.



Figure 2



Figure 3



Figure 4



Figure 5



Figure 6



Figure 7

Figure 2 – Road boundary, vehicle crossing and Dairy looking down Titirangi Road towards New Lynn.

Figure 3 – View down existing and proposed shared driveway towards the rear.

Figure 4 – Existing vehicle turning and parking area at rear of building.

Figure 5 – Rear of existing building with attached carport.

Figure 6 – Rear of 47 Titirangi Road looking north.

Figure 7 – Rear of 47 Titirangi Road looking towards the rear of existing dwelling.

## 6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

The application was publicly notified on 17 January 2009. Notice of this application was served on all identified affected persons on 17 January 2009. The period for submissions closed on 17 February 2009.

A83-A109

Ten submissions were received. Nine submissions were received in support of the application, and 1 opposed the application. Please refer to Appendix Three attached at pages A83 to A109 for copies of the submissions that were received. A map showing the location of the submitters is also attached in Appendix Three.

## 6.1 Submissions

A summary of the submissions is as follows:

- Kevin Rowe, 7 Bickleigh Grove - Position: Oppose  
The submitters stated they believe that due to the height in relation to boundary infringements direct sunlight to the rear outdoor living area of their property would be adversely affected. They wish to see the development constructed in a way that complies with the rules.
- Julie Anne Booth, 46A Titirangi Road - Position: Support
- Eve Mannion, 1/44 Titirangi Road - Position: Support
- Muriel Ewing Wells-Green 46 Titirangi Road- Position: Support
- Ashok Kumar, 1/45 Titirangi Road - Position: Support  
Very carefully designed. No effect on neighbours or others.
- Gregory Molloy, 2/45 Titirangi Road - Position: Support  
Very carefully done. No worries to me.
- R and B Dhankee, 3/45 Titirangi Road - Position: Support  
It looks well planned and good designed.  
It would have limited effect on my side.
- Venu V. P. Nair, 2/48 Titirangi Road - Position: Support
- D and G Patel, 43A Titirangi Road - Position: Support
- Moana Te Puea Reihana-Ruka, 49 Titirangi Road - Position: Support

## 7.0 STATUTORY REQUIREMENTS

### 7.1 Non-complying Activities

The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail in Section 8.2.1 of this report. This should be referred to as the legal framework within which the application should be addressed.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the District Plan. All considerations are subject of the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

The District Plan has been prepared with an “effects based” emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

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

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

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

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

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

### **8.1.1 Water Quality and Quantity**

There would be no more than minor adverse effects in relation to water quality/ quantity arising from the proposed activity as it would be located within the urban area of the City.

The proposed development would result in impermeable surfaces of 68.3% over the gross site area. This is 8.3% greater than that permitted by the District Plan. The impermeable surface area of the individual unit areas also exceeds the permitted level of 60% of proposed gross site area.

The applicant has proposed mitigation measures such as tree planting along the north-west boundary and the installation of rain tanks to mitigate the rate and volume of storm water run-off to the existing system.

Ecowater's Drainage Engineer Sri Pulla has assessed the application and agreed with the applicant that the proposed impermeable surface infringements could be sufficiently mitigated through the installation of rain tanks in order to reduce the level of run-off to the existing system. A number of conditions of resource consent have been recommended in order to ensure that these measures are implemented to meet Ecowater's requirements, should consent be granted.

In conclusion it is considered that there would be no more than minor adverse effects with regards to water quality and quantity at the site. The connection to the reticulated stormwater system and proposed mitigation measures will have sufficient capacity to drain any additional stormwater collected at the site as a result of the additional impermeable surface area.

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

The site plan shows the driplines of individual trees on the site. These trees are both less than 6.0 metres in height and measure less than 600mm in girth (as measured 1.4 metres above the ground) Rule 2.1 of the General Natural Area permits the alteration or removal of these trees provided that any clearance does not exceed a total cleared area of 500m<sup>2</sup>.

The site is within an urban area and is already highly modified. The vegetation on site is limited to several individual small trees and their removal would not amount to 500m<sup>2</sup>. The applicant is proposing to plant a stand of Totara trees along the northern boundary to provide screening between the neighbouring residential properties.

It is therefore considered that there would be no adverse effects in relation to vegetation and fauna habitat as a result of the proposed residential development.

### 8.1.3 Land / Soil

There would no more than minor adverse effects on soil/ existing landform as a result of the proposed activity as the site is within the urban area, is not known to Council to be affected by hazards and is already modified.

The construction of the building platforms and proposed shared driveway will require earthworks outside of the building platform of 250m<sup>2</sup> and within 1 metre of the western boundary. These works are considered to be within the scale of the proposed development and will be temporary as the affected areas are proposed to be concreted or landscaped.

The implementation of Council's erosion and sediment controls would ensure that the earthworks and any potential adverse effects are minimised and contained on site.

### 8.1.4 Outstanding Natural Features; Landforms, Geological Sites

The subject site is not identified in the District Plan as being within an area identified as containing "outstanding natural features" within the City (refer Maps 3.5D & E). The site is within the urban area of the city and the environment is already extensively modified and therefore the proposed activity would not adversely affect any identified outstanding natural features.

### 8.1.5 Outstanding Landscapes

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

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

#### 8.1.6.1 Existing neighbourhood character

The Living Environment of New Lynn has traditionally been characterised by larger lots between 800m<sup>2</sup> and 1000m<sup>2</sup>. The development characteristics of sites in the New Lynn area, as identified in "Part 3: The City's Environment" of the District Plan – Policy, include 1-2 storey detached housing with similar bulk and form. The properties were also characterised by low site coverage, front and side yard set backs along with high levels of landscaping. As the City has grown intensification has occurred particularly around town centres and transport hubs. The New Lynn area has undergone significant intensification including along and around Titirangi Road.

The District Plan allows for differing levels of intensification within the urban Living Environment so as to provide for a variety of living conditions and neighbourhood characters. The subject site (1012m<sup>2</sup>) is located in the Living 2 Human Environment which permits a lower density with net unit areas of 450m<sup>2</sup>.

This area of Titirangi Road has however been subject to a significant level of residential infill and subdivision. There are several original properties (dating between 1940 and 1984) that contain three or four terraced, single-storey units with communal outdoor space. These sites retain their original cross lease.

This stretch of Titirangi Road is a regional arterial road and is located within the Medium Density Housing Radius as shown on the District Plan Maps. The residential subdivision directly to the north, accessed via Skilgate Avenue was undertaken as part of a 53 unit medium density housing development (LUC 1997-70157). The average lot size within the development is 343m<sup>2</sup>, with a minimum of 285m<sup>2</sup> and a maximum of 462m<sup>2</sup>. The lots within this development located along Bickleigh Grove, directly to the north of 47 Titirangi Road, are 300m<sup>2</sup>.

There are two other examples in the immediate area of residential subdivisions creating unit areas less than 450m<sup>2</sup> at 39 and 66 Titirangi Road which provide site areas as low as 304m<sup>2</sup> (see table 1.0 below).

It should also be noted at this point that while increased density has been accepted in the surrounding area, the original site at only 1,012m<sup>2</sup> is not large enough to qualify for a medium density housing development and such this type of development is not applied for. Therefore the baseline for measuring any effects of increased development would be the lesser density of 450m<sup>2</sup> set out in the District Plan.

The applicant has provided a number of neighbouring properties as examples of increased density. These are presented below:

<b>Subdivision</b>	
53 Unit medium density housing development located to the immediate north of the subject site.	LUC 1997-70157 Overall average lot size is 343m <sup>2</sup> (min 285m <sup>2</sup> ; max 462m <sup>2</sup> )  Immediate north along Bickleigh Grove <ul style="list-style-type: none"> <li>- semi-detached</li> <li>- two-storey</li> <li>- three-bedroom</li> <li>- 300m<sup>2</sup></li> </ul>
39 Titirangi Road	LUC 1997-70154 <ul style="list-style-type: none"> <li>- 307.85m<sup>2</sup></li> <li>- 308.95m<sup>2</sup></li> <li>- 524.00M<sup>2</sup></li> <li>- Single-storey</li> <li>- Three-bedroom</li> <li>- Permitted building coverage and outdoor space</li> </ul>
56 Titirangi Road	SUB 2005-1280 <ul style="list-style-type: none"> <li>- complies with 450m<sup>2</sup> rule</li> <li>- COM 2007-0255</li> <li>- three-bedroom</li> <li>- single-storey</li> <li>- internal double garage</li> </ul>
66 Titirangi Road	LUC 1995-0499 & ABA 1994-5953 <ul style="list-style-type: none"> <li>- 304m<sup>2</sup></li> <li>- 365m<sup>2</sup></li> <li>- 451m<sup>2</sup></li> </ul>

Cross-lease	
44 Titirangi Road	<ul style="list-style-type: none"> <li>- 1047m<sup>2</sup></li> <li>1 detached (1940)                             <ul style="list-style-type: none"> <li>- two-bedroom</li> <li>- two-storey</li> </ul> </li> <li>3 Flats (1966)                             <ul style="list-style-type: none"> <li>- two-bedroom</li> <li>- two-storey</li> </ul> </li> </ul>
50 Titirangi Road	<ul style="list-style-type: none"> <li>- 1012m<sup>2</sup></li> <li>ABA 1984-67668                             <ul style="list-style-type: none"> <li>- 3 Flats</li> <li>- Single-storey</li> </ul> </li> </ul>
54 Titirangi Road	<ul style="list-style-type: none"> <li>- 1090m<sup>2</sup></li> <li>4 Flats (pre 1971)                             <ul style="list-style-type: none"> <li>- single-storey</li> </ul> </li> </ul>

**Table 1.0** Neighbouring properties that the applicant highlighted as examples of increased density in the area.

#### **8.1.6.2 Potential effects arising from development**

The proposed residential development could result in a number of adverse effects. The main affect that would extend beyond the boundaries of the subject site is that of increased density and its impact on neighbourhood character particularly in terms of visual amenity and whether the sites can accommodate parking and outdoor living onsite and therefore provide a sufficient level of amenity on site for future occupants. If the proposed residential development can be shown to be compatible with the site then the extent of the actual affect to neighbourhood character and amenity would be reduced.

Potential adverse effects to the immediate surrounding properties relate to the proposed bulk and location of the new dwellings and their affects on domination, overshadowing, loss of privacy, lack of on-site parking, and reduced levels of landscaping. These infringements when taken in combination would increase the effects of density on the neighbourhood character and potentially alter the character of the surrounding area.

#### **8.1.6.3 Actual effects**

##### **Neighbourhood Character**

The paragraphs above describe the existing characteristics of the immediate surrounding area and in some cases the increase in density beyond that permitted within the Living 2 Environment.

The proposal to create three residential lots (309.2m<sup>2</sup>, 223m<sup>2</sup>, 248m<sup>2</sup> net unit areas) from the existing site area while retaining the existing building on site, would significantly increase the density of the existing residential site. The District Plan requires that an application for subdivision of sites less than 450m<sup>2</sup> be accompanied by a land use application under Rule 2.1 (Density) of the Living Environment. The assessment of increased density revolves around the ability of the site to provide residential development that is compatible with the size of the site, including existing development on the site; and whether the development complements amenity values and the neighbourhood character.

The application includes the erection of two new dwellings on each of the vacant lots. These buildings are both two-storey, four bedroom dwellings with internal double garages. All three proposed sites would exceed the permitted building coverage and the new dwellings would cut through the daylight recession planes both to internal boundaries and external boundaries to the east and west. Proposed lots 2 and 3 would have a shortfall in outdoor space and the existing dwelling and dairy would have reduced on site parking.

The number and extent of proposed infringements to the bulk and location rules of the Living Environment indicate that the proposed lot size and residential development is not compatible with the size of the site or surrounding area.

As previously stated there are examples of subdivision within the surrounding area creating sites less than 450m<sup>2</sup>. The comparison of these residential developments provides a measure of the type of development that has been shown to be accommodated on smaller lot sizes. It should be noted that while consented unit site areas are as low as 300m<sup>2</sup> few are as small as the 223m<sup>2</sup> and 248m<sup>2</sup> proposed, or have the extent of additional bulk and location infringements also proposed as part of this application. Table 2.0 below shows the recent infill subdivision within the immediate area.

Recent Subdivision	
53 Unit medium density housing development located to the immediate north of the subject site.	LUC 1997-70157 Overall average lot size is 343m <sup>2</sup> (min 285m <sup>2</sup> ; max 462m <sup>2</sup> ) Immediate north along Bickleigh Grove <ul style="list-style-type: none"> <li>- semi-detached</li> <li>- two-storey</li> <li>- three-bedroom</li> <li>- 300m<sup>2</sup></li> </ul>
39 Titirangi Road	LUC 1997-70154 <ul style="list-style-type: none"> <li>- 307.85m<sup>2</sup></li> <li>- 308.95m<sup>2</sup></li> <li>- 524.00M<sup>2</sup></li> <li>- Single-storey</li> <li>- Three-bedroom</li> <li>- Permitted building coverage and outdoor space</li> </ul>
56 Titirangi Road	SUB 2005-1280 <ul style="list-style-type: none"> <li>- complies with 450m<sup>2</sup> rule</li> <li>- complies with all other rules</li> </ul> COM 2007-0255 <ul style="list-style-type: none"> <li>- three-bedroom</li> <li>- single-storey</li> <li>- internal double garage</li> </ul>
66 Titirangi Road	LUC 1995-0499 & ABA 1994-5953 <ul style="list-style-type: none"> <li>- 304m<sup>2</sup></li> <li>- 365m<sup>2</sup></li> <li>- 451m<sup>2</sup></li> </ul>

**Table 2.0** Recent infill subdivision within the immediate surrounding area undertaken with Resource Consent.

The sites less than 450m<sup>2</sup> created within the surrounding area predominantly contain three bedroom, single-storey dwellings that comply with the bulk and location rules of the Living Environment. The medium density housing development to the north of the site does contain two-storey dwellings, however many of them are semi-detached buildings; including those directly adjacent to the subject site along Bickleigh Grove and contain three bedrooms. The key features of these dwellings that allow for the provision of sufficient outdoor space and separation between neighbouring pairs are the fact that they only have three bedrooms and are semi-detached buildings. These features mean that the bulk of the building across the two sites is reduced and larger rear and side yards are provided. The infringements to the District Plan rules are therefore minimised along with any adverse effects on neighbouring properties. This is in contrast to the proposed four-bedroom, detached dwellings that do not comply with the bulk and location rules of the Living Environment.

One of the major constraints of the proposed development is the large building coverage of the existing building. This significantly reduces the amount of site area available for the two new dwellings to occupy. All three dwellings would infringe the permitted level of building coverage (35% net site area). The most significant infringement would occur to Lot 1 (the original building) with 74.25% coverage. This level of building coverage has reduced the provision of on-site parking for the mixed-use building to one space. The obvious effect of this is an increase to on-street parking for both the existing dwelling and dairy. Section 8.1.7 discusses this further.

The building coverage proposed for the two rear lots is not as severe as for Lot 1 with Lot 2 having 43.3% coverage and Lot 3: 37.5%. The proposed four-bedroom dwellings are two-storey with the upper level set in from the ground floor so as to reduce the bulk of the buildings and height to boundary infringements. Thus reducing extent of potential domination and overshadowing of adjoining properties. Even though the proposed dwellings have been designed to minimise their impact on adjoining properties the proposed building coverage on Lot 3 which has the smallest level of infringement is too large to accommodate the required outdoor living area for a four bedroom dwelling with a shortfall of 27.3m<sup>2</sup>. The 72.7m<sup>2</sup> outdoor living area is instead more sufficient for a three-bedroom dwelling.

For the reasons stated above it is considered that the proposal for increased density by way of creating three residential sites below 450m<sup>2</sup> and the erection of two new two-storey, four-bedroom dwellings has not been demonstrated to be compatible with the size of the proposed site areas. Furthermore the proposed development is not compatible with the existing neighbourhood character of the immediate surrounding residential area. This is illustrated by the oversized bulk of the buildings and lack of onsite amenities; recent subdivisions with similar density infringements have provided smaller dwellings that comply with bulk and location rules of the District Plan, thus minimising the impact to onsite amenity and the neighbourhood character of the surrounding area.

### **Amenity effects internal to the site and adjoining properties**

The previous paragraphs have illustrated how the additional two dwellings would significantly increase the density of the existing site in comparison to the surrounding area.

Further to this the site layout and design of the proposed new dwellings would incur a number of additional infringements to the bulk and location rules of the Living Environment. These infringements would impact on the amenities of the internal sites as well as adjoining properties.

While the internal infringements have obviously been approved by the applicant as the owners, the size of the infringements further illustrate how the proposed buildings are not within the scale of the site and how the increased density impacts onsite amenities to living areas both inside and out.

### **OUTDOOR LIVING AREA**

The outdoor space provided for both Lots 2 and 3 contain an uncovered pergola directly outside the main internal living area. Due to the height and size of the proposed pergola it is defined as a building under the District Plan, and thus the area cannot be included in the calculation for outdoor space. Outdoor space is required to be free of any building. Both new dwellings would have four bedrooms requiring 100m<sup>2</sup> of outdoor living area.

The proposed outdoor living space for Lot 2 wraps around the northern corner of the site and would measure 97.0m<sup>2</sup>. The area proposed would have a minimum width of 3.0 metres however the 6.0 metre diameter circle indicated is interrupted by the proposed pergola. While the pergola is not included in the definition of outdoor space the area is accessed directly from the indoor living areas and would be useable and contribute to the amenity of the surrounding outdoor area.

The proposed southern height to boundary infringement of Lot 3 on Lot 2 would cast a significant shadow over the proposed outdoor area, particularly in the afternoons. While this has been effectively approved by the applicants it would still reduce the sunlight access and overall amenity of the outdoor space. Overall however, it is considered that the proposed outdoor space for Lot 2 would be of a size and orientation to provide a useable area with reasonable daylight and sunlight access to meet the needs of the four bedroom dwelling.

The size and dimensions of the outdoor space proposed for Lot 3 is also interrupted by a pergola leaving an area of 72.7m<sup>2</sup>. While the area provided falls short of that expected for a four bedroom dwelling it is within a single, north facing area accessed via the main indoor living area; therefore, providing a space that would be useable with adequate access to sunlight and daylight, and could be designed to meet the needs of the occupants.

The proposed lack of outdoor living space at Lots 2 and 3 would have minimal off-site amenity effects as the areas provided could be designed to meet the needs of the occupants, reducing pressure on off-site amenities.

### **HEIGHT IN RELATION TO BOUNDARY EFFECTS**

The external infringements have not been accompanied by complete affected parties' approvals and therefore the effects to neighbouring properties require assessment. It is noted however, that through the public submission process support was received from all adjoining neighbours, except 7 Bickleigh Grove.

The proposed new dwellings would both create internal height to boundary infringements to their southern boundaries. These infringements are by far the largest proposed extending between 1.4 - 2.07 metres in height over a distance of 6.5 - 7.0 metres horizontally. As discussed above these infringements would cast a shadow over the outdoor living areas of Lots 1 and 2 which wrap around the northern areas of the sites. It is accepted that these infringements would not significantly impact on the quality of outdoor living area provided however the infringement does highlight the reduced building separation and potential for visual domination of adjoining sites beyond that expected within the Living Environment.

The reduced building separation is an additional infringement that demonstrates how the proposed residential development is out of scale with the size of the proposed lots. The proposed southern height to boundary infringement would impact on the outdoor amenity area of Lot 1, thus adding to the adverse effects of the proposed bulk and location infringements of Lot 1 which is over building coverage and does not provide two on-site carparks.

The proposed new dwelling on Lot 3 would infringe both the east and west daylight recession planes by a height of 0.9 metres along a length between 9.2 and 12.8 metres. The proposed dwelling on Lot 2 would infringe the eastern recession plane by a height of 0.3 metres over a length of 10.8 metres.

The extent of each infringement would result in a shadow being cast over the adjoining properties at 45 and 49 Titirangi Road. The shadow while long would not be very wide. Both of the adjoining properties have the residential development located towards the road boundary with the rear half of the sites used as open outdoor living areas. Given the minimal size of the shadows cast and the existing use of the affected land it is considered that there would be de minimis adverse effects in terms of loss of access to daylight and sunlight on the adjoining properties as a result of the proposed infringements to the east and western daylight recession planes.

While the proposed infringements to external properties would have minimal impact in terms of overshadowing, again the infringement highlights the increase density through reduced building separation. Overall building coverage on the site is approximately 43% of the net site area. The reduced separation cumulates to increase the domination effects arising due to increase density on the site.

While the applicant did not collect written approvals from all affected parties associated with these two properties the submissions received from all but one of the neighbouring dwellings have been in support of the application.

The application included a height to boundary infringement at Lot 3 affecting the external boundary with 7 and 9 Bickleigh Grove. This infringement was stated as being to the southern boundary and measured at 2.5m + 35° angle. This is incorrect. This boundary is actually the northern boundary and is measured with a 55° angle. The applicant has provided new elevations confirming the height to boundary infringements. The northern daylight recession plan measured against Lot 3 complies with the 55° angle. Therefore the adjoining properties at 7 and 9 Bickleigh Grove are not considered adversely affected in regards to overshadowing effects.

### **8.1.7 Car Parking, Driveway and Traffic Considerations**

Titirangi Road is a regional arterial road with recent traffic counts recording relatively high average daily traffic flows (Waitakere City Council's Road Assessment and Maintenance Management database). Titirangi Road is on a public bus route and a bus stop is marked just northeast of the dairy. Vehicle access to the site is required to provide onsite turning and a high volume/speed vehicle crossing for all new land developments. This would allow safe and efficient vehicle access to and from the site.

Further, the road reserve directly adjacent to the road boundary along Titirangi Road has a designation for road widening up to 5.0 metres along the northern side of Titirangi Road. This designation would reduce the net site area of Lot 1 by 78.8m<sup>2</sup> to 309.2m<sup>2</sup>. Council's Transport Engineer Mr John Carroll has advised that there is no immediate proposal to make use of this designation.

The proposed driveway would service three lots and is required by the Infill Subdivision Rule 3.0 to have a 2.7 metre wide carriageway with passing bays at an appropriate position along the course of the driveway at intervals not exceeding 50 metres. A further 1.3 metres is required for a service strip. This can be reduced to 0.6 metres for power reticulation if all other services can be provided elsewhere on site.

The proposed driveway does not meet these requirements.

The proposed driveway will extend from the existing driveway running along the western boundary of the site. This driveway along its entire length would be 3.0 metres wide (as measured from the boundary line) and is constrained by the western wall of the existing building. There are no passing bays provided nor is there a service strip.

A125-A128 Mr Carroll has reviewed the application and has made a number of comments regarding the suitability of the proposed driveway to meet the needs of the three lot subdivision (see Appendix Five attached at pages A125 to A128 for a full report). Mr Carroll's comments will be discussed below.

#### Access

The existing vehicle crossing and the proposed 3.0 metre wide carriageway are considered to be suitable for the proposed three lot subdivision. Passing bays are not proposed and while the District Plan does not specify their location for Category II shared driveways, section 7.7 of the Waitakere City Council Parking and Driveway Guideline requires that single lane driveways provide "passing bays at each end and at 50 metre intervals". Due to the physical constraints of the site a passing bay at the entrance is not achievable.

The existing site contains a dairy and residential dwelling which does not provide onsite customer parking. This development would not alter this arrangement and while the proposed residential development would not result in increased on-street parking, it would add to the traffic that is accessing the site directly in front of the dairy. The garage and turning area for Lots 1 and 2 are approximately 30.0 metres from the entrance and Mr Carroll has suggested that a passing bay could be provided in front of the proposed car park for Lot 1; although this would reduce the net site areas for each of Lots 1 and 2.

The applicant has stated in their AEE that the existing median strip along Titirangi Road would allow vehicles turning into the site from the east to view the driveway and allow vehicles to exit the site before entering. This assessment is accepted however vehicles entering the site from the west would not have a clear line of sight into the driveway, particularly as there is a high hedge and close boarded fence along the boundaries of 49 Titirangi Road. As parking for the dairy is on the street there is potential for confusion and the interruption of traffic along the regional arterial route that is Titirangi Road. The suggestion of a passing bay 30.0 metres into the site would not alleviate the reduced visibility at the driveway entrance and as such is not considered to be a suitable mitigation measure.

#### Parking

Each dwelling is required to provide two onsite car parks with associated vehicle turning areas. Each lot should have the capacity to provide at least one covered car park (Building Coverage Rule 7.0 of the Living Environment). The proposed development on lots 2 and 3 will include internal double garages with extra wide garage doors to enable onsite turning. Lot 1 however will have only one car park that would be uncovered. Due to the size and layout of the proposed Lot 1 the provision of a second car park would be difficult. This would result in a reduction in on-site car parking for the existing residential unit and dairy.

Council records show that the existing dairy (retail store) has been in existence since at least 1946 and that subsequent consents have accepted all customer parking would be accommodated on-street and be of short-duration. Deliveries are also expected to be on-street and of short duration. The development would not result in the loss of on-street parking for customers as the existing vehicle crossing would be utilised. There would however be a significant reduction in on-site parking for the owners and occupiers of the dwelling and dairy. At the time of the site visit there was a second vehicle, a van, parked at the rear of the building along with a number of crates stacked on the concrete area demonstrating that some degree of additional parking is required for the dairy.

This further highlights the size constraints of the proposed Lot 1 with the requirements for outdoor storage, outdoor living area and car parking competing for space.

### Service Strip

The proposed driveway does not include the required 1.3 metre wide service strip. The applicant has demonstrated that underground services can be provided elsewhere on site thus compensating for the lack of a service strip. Easements are proposed over the proposed shared driveway to provide for telecommunications, electricity and water supply, with further easements proposed to provide connections to the existing wastewater pipe that runs through the existing site and stormwater reticulation would be made through a connection on the neighbouring property 7 Bickleigh Grove (the owner has provided permission).

A further constraint to the proposed driveway is the 0.5 metre eave of the original building that overhangs the driveway. This reduces both the height clearance, from the required 4.2 metres to 3.06 metres, and the clear width of the carriageway to 2.5 metres. The reduced clear width is unacceptable as it would restrict the size of vehicles able to access Lots 2 and 3. These vehicles would include delivery trucks during the construction of the dwellings, furniture removal trucks, and in case of emergency fire engines.

The width of the driveway could not be increased in the future due to the position of the existing building and the fact that the existing fence does not run along the actual boundary line. This fence could be legitimately moved closer to the boundary removing the existing leeway. The lack of access for large vehicles would create a significant safety concern in case of a fire. Further to this it is not considered appropriate to have large vehicles parked along Titirangi Road, which is a regional arterial road with high traffic volumes, as it would potentially interrupt the flow of traffic and reduce on-street parking for the dairy.

Overall it is considered that the proposed access and parking arrangements for the proposed three lot subdivision are inadequate and potential adverse effects to the safe traffic movement along Titirangi Road arising from the proposed development would be more than minor, with no scope for mitigation.

### **8.1.8 Extent of effects in relation to the site, neighbours approvals and submissions**

The assessment of amenity effects above has found that the actual amenity effects that would result from the proposed subdivision and residential development are:

- A change in Neighbourhood Character by way of increasing the accepted density of the surrounding area through smaller lot sizes and increased internal bulk of buildings compatible with the lot sizes;
- Reduced on-site amenity through lack of outdoor space;
- Domination and shading effects on neighbouring properties who haven't provided complete Affected Parties Approval.

These effects all impact on the properties immediately adjacent to 47 Titirangi Road, including the change to neighbourhood character.

This is because the change to neighbourhood character would essentially change what people can expect to be developed around them and the acceptable level of adverse effects on the adjacent properties. This affect would remain even though the proposed development would be a rear lot subdivision whose physical bulk would not be overly visible from the road and thus the actual appearance of the site from the road would remain essentially unaltered.

While the applicant provided an incomplete set of Affected Parties Approval forms with the application, the submissions of support received from the public were from owners and occupiers of immediately surrounding sites.

The one submission opposing the application was received from a person at 7 Bickleigh Grove. The submitters stated they believe that due to the height in relation to boundary infringements direct sunlight to the rear outdoor living area of their property would be adversely affected. They wish to see the development constructed in a way that complies with the rules.

The infringement referred to is the aforementioned error to the northern boundary of proposed Lot 3. The applicant has submitted amended plans which show clear compliance with the 55<sup>0</sup> daylight recession plane thus, 7 Birkleigh Grove is not considered to be affected by any infringement to the District Plans Height in Relation to Boundary controls.

Overall, when the actual effects of the proposed development are considered in relation to the support of directly adjacent neighbours, the effects beyond the site would be minimal.

In regards to change in the wider neighbourhood character through increased density, the development is not on a site that is wholly unsuitable, given its position within a Medium Density Housing radius, along a regional transport route for busses and nearby to the rail network. However, due to the limited size of the existing site, the development can not meet the Medium Density Housing criteria and a comprehensive development has not been proposed.

### **8.1.9 Summary**

The proposed 3-Lot subdivision and construction of two new dwellings at 47 Titirangi Road would result in a significant increase in density when taken in comparison to the surrounding area. The proposed residential development is considered to be out of scale with the lot sizes and thus creating a number of amenity effects both internally and externally. Regardless of the almost unanimous support from properties directly adjacent to the site it is considered that the adverse effects arising from the proposed development would have more than minor effects on the wider area and its neighbourhood character. Conditions of consent would be unable to ensure that the effects be no more than minor.

## **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 be consistent with the objectives and policies of the District Plan.

The relevant objectives and policies in relation to this proposal are:

#### Water Quality

##### *Objective 1*

To manage the effects of land use on the environment and, in particular, avoid, remedy or mitigate effects on the quality and quantity of the City's water resource, including maintaining:

- the life-supporting capacity of water;
- the ability to use aquatic ecosystems as a food source; and
- the availability of water as a healthy place of recreation.

*Policy 1.10*

Impermeable Surfaces and Stormwater infrastructure should be designed and managed in a way that avoids adverse impacts on water quality, including life supporting quality of water, arising from the discharge of stormwater into the cities watercourses.

*Comment:*

The applicant has demonstrated that onsite mitigation for stormwater runoff from the site can be provided for the site. This has been supported by EcoWater's Drainage Engineer Mr Sri Pulla whose conclusions and recommendations are accepted.

Vehicle Access

*Policy 10.11*

Activities should provide for:

- the on-site parking and loading of motor vehicles; and
- the location and design of access to car parking and loading areas, including areas for reverse manoeuvring to ensure that the safe and efficient functioning of adjacent roads, according to the positioning of that road in the Roding Hierarchy, is not adversely affected.

*Policy 10.16*

Driveways, carriageways and car parking areas should:

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

*Comment*

The proposed shared driveway and onsite parking arrangements have been clearly shown to not meet the requirements set out in policies 10.11 and 10.16. The development would reduce the onsite parking for proposed Lot 1, being the existing dairy and residential dwelling. Further to this the narrow width of the shared driveway would mean that no passing bay could be provided at the entrance, thus reducing the ability for vehicles entering from the west to safely and efficiently enter the site. The lack of clearance for large vehicles also has the potential to restrict access to the site and would have flow on effects to the safe and efficient functioning of the regional arterial route which is Titirangi Road.

Amenity Values

The following discussion will address the relevant objectives and policies of the District Plan as they relate to amenity values and the proposed residential development.

**Objective 10**

To maintain and enhance those natural and physical characteristics (amenity values) that contribute to the wellbeing of residents and workers, including maintaining:

- an acceptable level of quiet and freedom from nuisance created by noise, odour, dust and vibration;

- adequate levels of daylight and sunlight in dwellings;
- adequate levels of darkness for sleep;
- a safe environment;
- an 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; and
- healthy air quality.

The relevant policies are **10.4, 10.5, 10.6, 10.8, 10.9, 10.11, 10.14, 10.16, 10.17 and 10.18**. These policies require the provision of adequate outdoor space and sunlight access to both outdoor and indoor habitable space. These living areas should also be designed and located on site so as to maintain privacy for both onsite amenity and the amenity of adjacent properties. Subdivisions should ensure that adequate access and onsite car parking is provided so that it does not detract from the carrying capacity of the road. Adequate infrastructure should also be provided to cater for increased density.

#### *Comment*

Adequate outdoor space has been provided for the two-bedroom dwelling within the existing site. The outdoor space provided for both lots 2 and 3 is interrupted by the presence of the proposed pergolas however, overall the space provided is considered to be sufficient in that it provides a single usable area that is north facing and directly accessed from the indoor living rooms. The size of the area provide for lot 3 is closer to that expected for a three-bedroom dwelling, not the proposed four.

The internal layout of the proposed dwellings are oriented to the north and the placement of windows throughout the buildings is such that the potential for overlooking into neighbouring properties and their outdoor living areas is minimised, thus ensuring a level of privacy.

Policy 10.5 requires that structures shall be placed to ensure that adequate levels of daylight reach any habitable rooms on-site. This policy is not met by this development in that the fourth bedroom for each new dwelling is at the southern corner of the buildings with sunlight and daylight access limited to the extreme ends of the day. While it could be argued that future residents wouldn't utilise these rooms as bedrooms, the actual physical presence of these rooms adds to the bulk of the buildings and building coverage and height in relation to boundary infringements which restrict levels of sunlight and daylight to adjacent properties. This issue will be discussed further under Objective 11 in the paragraphs below.

The applicant has shown that adequate infrastructure can be provided to service the increased density of site, through connections to existing services and the provision of easements over the proposed new lots. However as discussed under policies 10.11 and 10.16 the development would not provide adequate vehicle access to the site, particularly for large vehicles and emergency services. In this regard the development would fail to meet the requirements of Objective 10 and its relevant policies.

#### **Objective 11**

To achieve a quality of settlement which is sympathetic to and protects and enhances the dominant natural and physical (including building) features which contribute to the amenity value and neighbourhood character of an area, including maintaining and enhancing:

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

The relevant policies are **11.1 and 11.51**. Policy 11.1 provides that settlements should be of a type and density that protects amenity values including the neighbourhood character of different parts of the City by both maintaining the low density of sites with high levels of private planting, large areas of open space around dwellings and detached housing characteristic of New Lynn local areas while; providing for more intensive settlement in other parts of the Living Environment in a way that protects the wellbeing of residents and enhances the amenity of these areas.

Policy 11.51 requires that subdivisions be designed to avoid, remedy or mitigate the actual or potential adverse effects on amenity values, landscape character and neighbourhood character. Minimum lot sizes and dimensions created through the subdivision process will be determined with regard to the likely anticipated land uses upon those lots and effects on environmental and amenity values (including the environment of the proposed subdivision).

#### *Comment*

The District Plan acknowledges the many different characteristics of the urban areas of the City. While the older New Lynn areas consist of larger sites with larger outdoor spaces and landscaping, the District Plan also recognises that intensification is an important changing characteristic especially around town centre areas and regional transport nodes. 47 Titirangi Road sits within a Medium Density Housing (MDH) radius, close to Fruitvale train station and New Lynn Town Centre. The surrounding area has been subject to intensification with the subdivision of a number of original lots to accommodate more intensive residential development.

Policies 11.1 and 11.51 require that such intensification be of a high quality that is sympathetic to, and also protects and enhances these existing features.

As discussed in section 8.6.1 (above) there are a number of design and layout deficiencies in the proposed development highlighted by the number and extent of infringements to rules of the Living Environment. Paragraph 8.6.1.3 detailed how the proposed new dwellings are considered to be out of scale with the size of the site and surrounding area. This remains the case when comparing with the MDH development to the north.

The main deficiency is that the dwellings are considered to be too large with four bedrooms each with minimal outdoor living areas and a number of additional infringements to the bulk and location rules of the Living Environment. When comparing the proposed residential development with the surrounding intensification that has occurred in the area it is considered that it is not to the standard previously approved.

It is however acknowledged that while the applicant was unable to provide complete Affected Parties Approvals from the properties immediately surrounding the site, submissions received as part of the notification process showed almost complete support for the development and the potential adverse effects that would be felt by adjoining properties with regards to the increased density, specific domination and overshadowing effects.

#### Summary

The objectives and policies of the District Plan that are relevant to the proposed development relate to the provision of infrastructure, vehicle access and amenity values. While it has been shown that the proposed lots could be adequately serviced, the development would not provide vehicle access or onsite amenity that would meet the requirements of the stated Objectives 10 and 11.

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

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

Urban Intensification is one of the key instruments of the Regional Policy Statement in selected locations that centre on selected nodes and along transport corridors. Urban intensification must be managed by local authorities in ways that minimise the adverse effects on environmental values, through appropriate provisions in district plans. Selected and planned intensification provides opportunities for the enhancement of the urban system and make a more effective use of the land resource and improving amenities in the area.

Policy 4.4.1 recognises that land use and planning need to be integrated in a way that reduces the need to travel and promotes the use of transport that have fewer adverse effects. Further to this the policy requires that proposals maintain the neighbourhood character and visual amenity of the surrounding area and provide for more intensive settlement in a way that protects the wellbeing of residents and enhances the amenity of these areas.

This policy clearly supports the intent of Objective 11 of the Waitakere City Council's District Plan which seeks *"to achieve a quality of settlement which is sympathetic to and protects and enhances the dominant natural and physical (including building) features which contribute to the amenity value and neighbourhood character of an area, including maintaining and enhancing:*

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

For the reasons highlighted in Section 8.2.1 of this report, it is considered that the proposal is not consistent with these documents.

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

**8.4.1** In accordance with the RMA there are no other relevant matters which must be considered when assessing this application.

## **9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991**

It is considered that the proposal would be inconsistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991.

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are to be maintained and enhanced.

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

Due to the nature of the proposed development along with the site layout and the size and bulk of the proposed new dwellings it is considered that imposition of conditions of consent would not adequately mitigate or minimise the extent of adverse effects to the environment arising from the proposed development. It is therefore considered that the proposed activity can not sufficiently avoid, remedy or mitigate any adverse effects on the environment.

## 10.0 CONCLUSION

The applicant seeks to subdivide the original site into three lots with net unit areas less than 450m<sup>2</sup>, including the incorporation of the existing development and the erection of two new dwellings which would exceed the level of building coverage permitted in the Living Environment. Resource consent is required for further infringements to Height in Relation to Boundary, Outdoor Space and Car parking and Driveway rules. The proposed development would also result in earthworks outside the building platform and impermeable surface areas greater than 60% of the site area.

It is considered that the proposal does not meet the criteria for granting consent as the potential adverse environmental effects are more than minor and cannot be adequately mitigated through the imposition of conditions of consent. It is considered that the proposed 3-lot subdivision and erection of two residential dwellings would lead to a substantial decline in the amenity values enjoyed both within the site and by adjoining properties. Further the development would have an adverse effect on the neighbourhood character of surrounding residential area.

The proposal is considered to be inconsistent with the relevant objectives and policies of the District Plan which seek to:

- avoid adverse effects on water quality;
- maintain or provide safe vehicle access from private properties to the roading network; and
- maintain amenity values and neighbourhood character of the Living Environment.

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

## 11.0 RECOMMENDATION

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 **refused** to the application by Kishore and Mina Patel to:

Subdivide the original site into three lots with net unit areas less than 450m<sup>2</sup>, including the incorporation of the existing development and the erection of two new dwellings which would exceed the level of building coverage permitted in the Living Environment. Resource consent is required for further infringements to Height in Relation to Boundary, Outdoor Space, Carparking and Driveways rules. The proposed development would also result in the earthworks outside the building platform and impermeable surface areas greater than 60% of the site area.

being all or part of the following title: LOT 10 DEED 520, for the following reasons:

- The number and extent of proposed infringements to the bulk and location rules of the Living Environment indicate that the proposed lot size and residential development is not compatible with the size of the site or surrounding area;

- Overall it is considered that the proposed access and parking arrangements for the proposed three lot subdivision are inadequate and potential adverse effects to the safe traffic movement along Titirangi Road arising from the proposed development would be more than minor, with no scope for mitigation; and
- In regards to change in the wider neighbourhood character through increased density, the development is not on a site that is wholly unsuitable, given its position within a Medium Density Housing radius, along a regional transport route for busses and nearby to the rail network. However, due to the limited size of the existing site, the development can not meet the Medium Density Housing criteria and a comprehensive development has not been proposed.

**Report prepared by:** Kate Morrissey, Resource Planner, Consent Services.

