

Report to the hearings commissioner Mr Giles Bramwell on an application by Glenbervie Estate Limited

Glenbervie Park Estate Limited have applied to subdivide an existing 29.8543 hectare site, being Lot 3 DP 176598 and Lot 2 DP 334667, into 7 lots of between 2.5126 and 8.3250 ha (net), also to exceed the number of users permitted to use a right of way without providing a public road, in the Countryside Environment.

This application was lodged by Reyburn & Bryant Ltd on behalf of Glenbervie Park Estate Limited and was reported on by Council's Consultant Environmental Planner (Consents), Mr Ian McAlley

This report was written and peer-reviewed by the following signatories:

Consultant Environment
Planner (Consents)



Date 6 January 2012

Principal Planner (Consents)



Date 9 January 2012

Group Manager District Living

Date

Resource Management Act 1991

Hearing by Whangarei District Council Hearings Commissioner of an application by Glenbervie Park Estate Limited to subdivide an existing 29.8543 hectare site, being Lot 3 DP 176598 and Lot 2 DP 334667 into 7 lots of between 2.5126 and 8.3250 ha (net), also to exceed the number of users permitted to use a right of way without providing a public road in the Countryside Environment.

Evidence by Ian McAlley
BPlan (Honours)
Consultant Environmental Planner (Consents)
Whangarei District Council

File ref(s) SD1100082
TRIM 11/102442

Dated 6 January 2012

1 The proposal

1.1 The proposal is to subdivide an existing single allotment (Lot 3 DP 176598 and Lot 2 DP 334667), being 29.8543ha in area, into seven allotments in the Countryside Environment. The proposed net site areas are (referring to the revised plan of subdivision (Attachment 1) reference S 11918, Revision J, dated August 2011):

Lot 1 - 9.2582ha (gross)/8.3250ha (net)

Lot 2 - 4.3416ha (gross)/4.1687ha (net)

Lot 3 - 2.5126ha

Lot 4 - 2.8657ha (gross)/2.7725ha (net)

Lot 5 - 2.6643ha

Lot 6 - 3.7479ha (gross)/3.7419ha (net)

Lot 7 - 4.4640ha (gross)/3.4557ha (net)

The average net site area of the proposed lots is 3.948 ha.

1.2 Lots 2 and 6 contain stands of native bush proposed to be covenanted as part of the proposal. In addition, other single, significant trees on the site will be spot covenanted. Lots 3, 4, 6 and 7 also contain defined building areas, designed to limit the landscape and visual amenity effects of future dwellings/buildings and also avoid building on the volcanic knolls that exist on part of the property.

1.3 Access to the proposed lots will be via an existing vehicle entrance crossing and right-of-way (Totara Park Lane) accessed from Ngunguru Road.

1.4 Proposed Lot 1 currently contains an existing residential dwelling and other ancillary buildings. All proposed lots are anticipated to be utilised for rural residential living and serviced via on-site stormwater treatment, waste water disposal and water provision.

1.5 An application with the same subdivision layout was previously considered in 2009/10 (Council ref: SD0900115). This application was publicly notified, but withdrawn prior to hearing. The current application is effectively a reconsideration of the earlier application; however this application includes a professional landscape and visual amenity assessment, as well as proposed controls on building location and built form.

1.6 A copy of the application (SD 1100082) is included as Attachment 1.

2 The site and the surroundings

- 2.1 The subject site is legally described as Lot 3 DP 176598 and Lot 2 DP 334667, has a total site area of 29.8543 ha and is held in one certificate of title (Identifier 141899).
- 2.2 The site is located on the northern side of Ngunguru Road, approximately 1.5km from the eastern extent of the residential area of Tikipunga, down a 560m long right of way, that is currently unsealed. The site is generally flat, with a slight fall toward the western boundary, which in part abuts the Mangakino Stream. An existing 10 m wide esplanade strip runs along the Mangakino Stream where the subject site boundary adjoins this waterway. A small area of the site adjacent to the stream is noted as flood susceptible area on the District Plan Resource Area maps (refer Attachment 1).
- 2.3 Proposed Lot 1 currently contains an existing residential dwelling and other ancillary buildings. The remainder of the site is open pasture and trees, with two reasonably large stands of trees being located in the northern and western portions of the site and a number of single trees dotted across the site. The right of way (Totara Park Lane) is owned by the subject site and currently has 10 other users. The site is not serviced by any Council reticulated services and the surrounding area is effectively all lifestyle blocks.
- 2.4 The majority of the site is in pasture and is currently used as a horse stud farm. There are a number of volcanic knolls in the western portion of the property along with stone walls which line the right of way and define some of the paddock boundaries.
- 2.5 While the subject site and the surrounding properties are located within the Countryside Environment (refer map 34E of the District Plan), the surrounding area is characterised by different lot sizes and densities of built development (refer density map in Attachment 4).
- 2.6 There is significant variance in the lot size of existing properties within the surrounding area (lots wholly contained within a 1 km radius circle of the subject site). The largest lot is the subject site at 29.8 ha, with the second largest being 20.5 ha and the smallest being 749 m².
- 2.7 Prior to 2001, the Whangarei District Plan included a controlled activity standard in regard to allotment area of 1 ha (minimum) in the Countryside Environment. The requirement was subsequently amended to require a minimum allotment area of 4ha in 2001 and amended again to require a minimum allotment area of 20ha in February 2006.
- 2.8 The subject site is considered to be within a 'lifestyle' area (by virtue of the development pattern that has occurred), however it is not within the area proposed to be rezoned as Urban Transition Environment by way of Plan Change 93. Additionally it is not shown within the Tikipunga, Glenbervie, Vinegar Hill Structure Plan as being proposed for any form of future rezoning (enabling a greater level of development).

3 Consultation, public notification and submissions

- 3.1 The application was lodged with Council on 25 August 2011 and the applicant requested that the application be publicly notified.
- 3.2 The application was publicly notified in the Leader on 20 September 2011 with the submission period closing on 18 October 2011. During this period, the application attracted nine submissions:
 - i **M & A Broughton – Oppose – Do not state if they wish to be heard**
 - Concerns regarding the potential effects on amenity values
 - Concerns regarding effects of increased traffic and resultant effects in terms of dust and noise if the access is not improved
 - ii **K & C Martin – Oppose – Wish to be heard**
 - Concerns regarding the potential effects on amenity values and landscape effects resulting from the addition of a greater level of built development in the area, particularly effects related to the proximity of new dwellings
 - Concerns regarding effects of increased traffic on Totara Park Lane and the intersection with Ngunguru Road.

- iii **D Martin & H Politano – Oppose – Wish to be heard**
- Proposal contrary to Part II of the Resource Management Act and contrary to the objectives and policies of the District Plan
 - Concerns that granting of the application would be contrary to sound resource management principles and that granting of the application would create a precedent for other similar applications
 - Particular concerns regarding the potential effects on amenity values and landscape effects resulting from the addition of a greater level of built development in the area
 - Concerns regarding effects of increased traffic
- iv **W Scott Davidson – Oppose – Do not wish to be heard**
- Oppose whole application
 - Seek that access (Totara Park Lane) is sealed at least to the ‘dog leg’
 - Concerns that the access may not be able to accommodate logging and stock trucks
- v **B Hawkins – Oppose – Wish to be heard**
- Oppose whole application
 - Concerns regarding adequacy of access
 - Concerns regarding stormwater
 - Issues raised regarding maintenance of access
 - Adverse effects on existing landowners
 - Contrary to District Plan and will set a precedent
- vi **R & D Dickie – Oppose – Wish to be heard**
- Oppose whole application
 - Proposal considered to be contrary to the objectives and policies of the District Plan and Part II of the RMA
 - Granting the proposal would be contrary to good resource management principles
 - Concern about future access to water bore
 - Particular concerns regarding effects on landscape and amenity values
 - Consider that Totara Park Lane should be sealed to the point where the subject site adjoins the access
- vii **New Zealand Historic Places Trust – Neutral – Do not wish to be heard**
- The NZHPT notes that the archaeological report provided did not find evidence of archaeology on this site or in the surrounding area
 - The NZHPT have taken a neutral stance on the proposal and recommend a standard advice note referring to the Accidental Discovery Protocol be attached to the consent if it is granted.
- 3.3 Following the close of submissions, a landscape assessment (Attachment 7, dated 4 November 2011) of the proposal was undertaken by Council landscape consultant, Mrs Kylie McLaughlin-Brown of Dream Planning. This landscape assessment was supplementary to an earlier report, dated 17 May 2010, undertaken for the previous application (SD0900115 - included in Attachment 7).
- 3.4 In terms of the traffic assessment commissioned by Council, from Mr Steve Gibson of Northern Civil, for the previous application (SD0900115), Council’s Roading Division is satisfied that as the number of lots proposed is the same as the previous application and the traffic environment on Ngunguru Road is similar to that which existed at the time of the earlier application, then the report recommendations from Mr Gibson are applicable to this application.

4 District Plan requirements

- 4.1 The site is located in the Countryside Environment and is subject to the rules of this Environment. Subdivision Rule 73.3.1 Allotment Area specifies that subdivision in the Countryside Environment is a Controlled Activity where every proposed allotment has a minimum net site area of 20ha and a Discretionary Activity where the minimum average net site area is 4ha (plus some other provisions regarding lot sizes). Where these standards are not met, subdivision is a Non-Complying Activity.
- 4.2 The proposal is for subdivision to create seven allotments with site areas of:
- Lot 1 9.2582ha (gross)/8.3250ha (net)
 - Lot 2 4.3416ha (gross)/4.1687ha (net)
 - Lot 3 2.5126ha
 - Lot 4 2.8657ha (gross)/2.7725ha (net)
 - Lot 5 2.6643ha
 - Lot 6 3.7479ha (gross)/3.7419ha (net)
 - Lot 7 4.4640ha (gross)/3.4557ha (net)
- 4.3 The proposal does not meet the minimum net site area standard for a Controlled Activity (20ha) as the average net site area of the proposed lots is 3.948 ha. Therefore the proposal does not meet the standard for a Discretionary Activity (average lot size 4ha) and is a Non-Complying Activity under Rule 73.3.1 of the District Plan.
- 4.4 Also the proposal does not comply with Rule 73.3.7 Property Access as the property access already serves 10 users and the proposed subdivision will see at least 6 extra users added without the right of way being upgraded to become a public road (required once there is more than 8 right of way users). It is noted that there is not enough width available in the current legal width of the right of way to construct a road in accordance with WDC Standards. Non-compliance with Rule 73.3.7 is assessed to be a Restricted Discretionary activity.
- 4.5 The proposal complies with all other relevant rules of the Countryside Environment as a Controlled Activity, including rules related to existing buildings, property access, extension of services, water supply, stormwater, electricity and telecommunications.
- 4.6 Overall, the application is considered to be a **Non-Complying Activity**.

5 Statutory Requirements

- 5.1 As a non-complying activity the application is subject to the provisions of Section 104, 104B and 104D of the Act and when considering such an application and any submissions received the consent authority must, subject to Part II, have regard to:

Section 104 of the Act which states:

When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part II, have regard to

- a *any actual and potential effects on the environment of allowing the activity; and*
 - b *any relevant provisions of:*
 - i *a national policy statement*
 - ii *a New Zealand coastal policy statement*
 - iii *a regional policy statement or proposed regional policy statement:*
 - iv *a plan or proposed plan; and*
 - c *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
- 5.2 When forming an opinion a consent authority may disregard any adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. Furthermore, when considering a non-complying application a consent authority must not have regard to trade competition or the effects of trade competition, or any effect on a person who has given

written approval to the application (so long as they have not withdrawn that approval).

5.3 Section 104B of the Act states:

Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- a may grant or refuse the application; and*
- b if it grants the application, may impose conditions under section 108.*

5.4 With particular regard to the assessment of non-complying activities (pursuant to Section 104D), despite any decision made for the purpose of section 95A(2)(a) of the RMA, in relation to adverse effects, a consent authority may only grant a resource consent for a non-complying activity if it is satisfied that either:

- a The adverse effects of the activity on the environment (other than any effect to which Section 104(3)(b) applies) will be minor; or*
- b The application is for an activity that will not be contrary to the objectives and policies of:*
 - i the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - ii the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - iii both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

5.5 For a non-complying application a consent authority may decline an application on the grounds that it has inadequate information to determine the application. In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being provided. In this instance, it is considered that there is sufficient information on which to make a decision and there are no outstanding further information requests.

5.6 In accordance with section 104D(b) when assessing an application for a non-complying activity the application **must** be assessed with regard to the objectives and policies of the plan (or proposed plan), notwithstanding that there is a responsibility to 'have regard to the relevant provisions of a plan or proposed plan' under Section 104(1)(b)(vi).

5.7 As a result, consent for non-complying activities may only be granted if at least one of the two 'gateway' tests are satisfied: either that the adverse effects of the activity on the environment will be minor; or that the application is for an activity that will not be contrary to the objectives or policies of the relevant plan. It follows that the application must fail both 'tests' before the consent authority is obliged to refuse consent.

6 Assessment of environmental effects

6.1 The first 'test' in Section 104D of the Act relates to the actual and potential effects of the proposal on the environment. In order for consent to be granted it must be assessed that the effects on the environment are no more than minor.

6.2 Section 3 of the Act defines the term 'effect' as including –

Any positive or adverse effect; and

- a Any temporary or permanent effect; and*
- b Any past, present or future effect; and*
- c Any cumulative effect which arises over time or in conjunction with other effects – regardless of scale, intensity, duration or frequency of the effect, and also includes –*
- d Any potential effect of high probability; and*
- e Any potential effect of low probability which has a high potential impact.*

- 6.3 The actual and potential effects arising from the proposed development relate primarily to: effects on rural character and amenity values; landscape and visual effects; servicing and access effects; and cumulative effects.

6.4 The Permitted Baseline

- 6.4.1 When determining whether the adverse effects of the proposal are minor or more than minor, section 104(2) of the Act provides that the Council may have regard to permitted baseline comparisons, i.e. a comparison between the environment as it would exist if the land were used in a manner permitted as of right.
- 6.4.2 The permitted baseline approach to effects assessment enables the Council to disregard any adverse effects on the environment if those effects are related to an activity/activities permitted by the Plan. Existing activities and any activity which could be carried out as a permitted activity may be discounted as giving rise to any adverse effects.
- 6.4.3 Pursuant to section 104(2) of the Act, a permitted baseline assessment is discretionary, i.e. it is not mandatory for Council to adopt the permitted baseline approach. In this case, as no subdivision is permitted by the District Plan, the only relevant consideration would be in relation to built density.
- 6.4.4 The subject site is within the Countryside Environment of the District Plan. In this Environment, the construction of a residential unit could be considered as a permitted activity if:
- The residential unit, after completion, will be the only residential unit on the site; or
 - The residential unit will be an additional residential unit on the site; and there is at least 20ha of net site area associated with each residential unit; and
 - It is not within a Mineral Extraction Area as shown on the Planning Maps.
 - It is not within 500m of a Mineral Extraction Area.

In addition minor residential units are permitted where the lot size is greater than 8000m² net site area, as well as non-residential farm buildings, so long as the total building coverage on the site does not exceed 500 m² or 5% of the net site area, whichever is the greater (approximately 14,000 m² in this instance).

- 6.4.5 Given the site has only one existing allotment of 29 ha, 1 residential unit and 1 minor residential unit could theoretically be permitted as-of-right on the subject site, without a resource consent, provided that all other bulk and location requirements of the Plan were complied with (but recognising that the access (Totara Park Lane) is not of sufficient width to accommodate another residential (albeit minor) unit).
- 6.4.6 Approval of the proposed subdivision would create further development rights and allow a total of 7 residential units and 7 minor residential units to be constructed on the subdivided site.
- 6.4.7 The degree of effects generated by a dwelling and a minor household unit are different, particularly because a minor residential unit, as defined in Chapter 4 of the District Plan, means a residential unit located no more than 15m from another residential unit on the same site/lot with a gross floor area of no more than 70m², excluding the gross floor area used exclusively for the storage of motor vehicles in association with the minor residential dwelling.
- 6.4.8 However the level of permitted development (in terms of dwelling numbers) after the proposed subdivision is significantly greater than the development allowed as-of-right now, therefore the permitted baseline assessment does not, in my opinion, influence the effects assessment of this proposal.

6.5 Rural Character and Amenity Effects

- 6.5.1 The Resource Management Act defines amenity values (section 2) as “those natural or physical qualities and characteristics of an area that contribute to ones appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”.

- 6.5.2 While amenity attributes represent tangible and measurable matters such as physical noise measurements, amenity values represent the less tangible matters such as people's perceptions of noise, culture, expectations, desires and tolerance. According to the Ministry for the Environment's publication "Managing Rural Amenity Conflicts" (February 2000), *'it is the differences in people's perceptions and expectations that lie at the root of most amenity conflicts and these vary significantly within rural communities and between different communities.'* Typically a person would view amenity to be matters such as "privacy", "pleasantness", "clean air" or "peace and quiet", with matters such as noise, odour, density of development and shading attributing to amenity. Furthermore perceptions and expectations that people hold influence amenity also.
- 6.5.3 The rural character and amenity values of the Countryside Environment are primarily associated with features such as open spaces and pasture land, productive farming/cropping and horticultural activities, dwellings and structures used for farming purposes and low-density residential development (as described in Chapter 5 of the District Plan). It is recognised that intensification of subdivision and development, even in an incremental manner, can erode an area's rural character amenity values.
- 6.5.4 In relation to this proposal the pattern of existing development in the area surrounding the subject site has a mixture of lot sizes, with the subject site being the largest in the surrounding area (29ha), down to small lots of 1000m² or less. The average lot size of the 39 lots wholly contained within a circle with a radius of 1 km, centred on the subject site (excluding the subject site and those sites zoned Living and Open Space Environment and the Glenberrie School site) is 3.965 ha. The average size of the lots proposed in the subdivision is 3.948 ha (net site area), therefore the proposed subdivision is replicating the existing pattern of development within the immediately surrounding area.
- 6.5.5 The proposal can be considered to represent consolidated development of rural lifestyle type development within an area that already contains this type of development. The density map contained as Attachment 4 shows that the surrounding lot sizes are predominantly either between 4 - 10 ha in size or between 2 to 4 ha in size. Therefore, the size of the lots proposed is not out of character with the existing pattern of development.
- 6.5.6 It is considered that this area has developed into a lifestyle area, rather than a rural residential area, with some form of rural activity appearing to occur on the majority of the surrounding (lifestyle) lots, rather than them being large residential lots within a rural environment. The subdivision of the subject site in the manner proposed, whilst not incongruent with the established pattern of development in the area will however result in the site and the surrounding area, effectively completing the change from rural to lifestyle, but not to large lot residential.
- 6.5.7 The subject site is certainly rural in its appearance and its current use has relatively high aesthetic coherence based on the reasonably intact landscape features which contribute to the overall landscape and amenity values of the subject site.
- 6.5.8 The application proposes a density of development which is assessed as a non-complying activity under the District Plan, however the density proposed is only slightly below the discretionary activity (4 ha) threshold. Approval of the proposed subdivision to allow more intensive development on the subject site is considered capable of negatively impacting upon the amenity of the area. Subsequent built development (particularly additional dwellings) has the capacity to impact upon the perceptions and expectations that people hold toward the Countryside Environment i.e. open landscapes and views and a low intensity of development. However, in this instance, it is recognised that due to the limited viewing audience of the proposed lots, there is the ability for future built development to be absorbed into the site and the surrounding area if appropriate protection and mitigation measures are applied.
- 6.5.9 Overall the effects of the proposed subdivision without appropriate controls, in regard to amenity and rural character, are considered to have the potential to be more than minor. There is potential for this proposed subdivision to negatively impact on the rural character and amenity of the area through the location of built development on the proposed lots. However the mitigation measures proposed (discussed in detail below) will ensure that the rural character and amenity values of this particular site and surrounding area are maintained.

6.6 Landscape and Visual Effects

- 6.6.1 The assessment of environmental effects prepared in support of the proposal includes a professional assessment in relation to potential landscape and visual amenity effects by DJ Scott Landscape Architects dated 29 June 2011 (Attachment 1).
- 6.6.2 As part of the assessment process of the previous subdivision application (Council ref: SD0900115), Dream Planning (Council's consultant landscape architect) was requested by Whangarei District Council to provide a professional opinion in regard to landscape matters for the proposed subdivision. The report of Mrs Kylie McLaughlin-Brown, planner and landscape architect with Dream Planning is included at Attachment 7. The response to the Dream Planning assessment formed the basis of the DJ Scott report, included with the current application.
- 6.6.3 The subject site is located within the Glenbervie catchment which is characterised by the steep undulating topography of the Glenbervie Forest (predominantly pine forest), which descends to a lower catchment characterised by relatively flat topography, with a series of undulating volcanic cones. A series of streams and natural drainage patterns flow from Glenbervie forest down to the lower catchment and include Mangakino Stream, Waitaua Stream, Waitangi Stream and Putanui Stream. The subject site is not subject to any landscape notation under the resource areas of the District Plan.
- 6.6.4 The lower Glenbervie catchment is characterised by volcanic landforms, remnant patches of indigenous vegetation, iconic stone walls, hedgerows and areas of horticulture and rural lifestyle living.
- 6.6.5 Mrs McLaughlin-Brown has assessed that the surrounding landscape context has a rich cultural heritage with landscape characteristics ranging from volcanic landforms, remnant stands of indigenous vegetation and patches of Totara. Historic heritage is also evident with historic Maori pa sites and extensive dry stone walls and hedgerows remnant of European settlement and occupation occurring in the surrounding environment.
- 6.6.6 The subject site has relatively high aesthetic coherence based on the reasonably intact landscape features and historic heritage features, with the remnant patches of native vegetation, iconic volcanic knolls, dry stone walls and scattered mature Puriri and pockets of Totara interspersed with pasture contributing to the overall landscape and amenity values of the subject site and surrounding landscape context. It is considered that the stream has moderate natural character values with the presence of remnant native vegetation which line the stream contributing to the natural character values of this portion of the subject site.
- 6.6.7 The visual catchment and the context in which the proposed development may be seen is physically defined by the Vinegar Hill Road catchment area toward the west, Glenbervie Forest in the north, toward Puketotara Road in the east and the subject sites boundary to the south. Mrs McLaughlin-Brown has assessed that the viewing catchment of the subject site is limited (and this is agreed by Mr Scott) to those surrounding properties that can view the subject site, users of a small portion of Vinegar Hill Road toward the west and users of the subject site.
- 6.6.8 Whilst the subject site has a limited viewing catchment its landscape characteristics contribute to the wider landscape, heritage and visual amenity values of the surrounding environment. Therefore, Mrs McLaughlin-Brown considers that the subject site potentially has a low visual absorption capability. Conversely, Mr Scott is of the opinion that the context landscape of the site and the surrounding area is complex, with vegetation patterns dominating, creating spatially discrete open space containment of land use activity areas. Mr Scott considers that "complex landscapes of this nature have a high capacity to accommodate more intense built development without compromising the dominant uniformity and visual cohesion created by the established vegetation patterns" (page 5 of the DJ Scott report).
- 6.6.9 Whilst the iconic volcanic knolls and remnant patches of vegetation potentially "break up" any future development, no mechanisms were proposed with the earlier application for the protection of these features to ensure their on-going ability to potentially mitigate the effects of development. Specific concerns related to the need for bush protection and protection of single significant trees, the lack of a planting plan, the need for controls on built form and building location, the lack of protection for the volcanic knolls and stone walls, which combined to result in potential effects on neighbouring landowners in terms of visual amenity and also effects on the wider landscape values and rural character/amenity.
- 6.6.10 However, the DJ Scott report provided with this application now recommends that the stands of native bush on the site be covenanted and that, other single, significant trees are spot covenanted. Defined building areas, designed to limit the landscape and visual amenity effects of future dwellings/buildings

will be applied to certain lots, with the defined building envelopes avoiding the location of buildings on the volcanic knolls that exist on part of the property. The recommendations also include controls (i.e. height limits) on buildings in some areas, coupled with amenity/screen planting so as to maintain the amenity experienced by proximate landowners.

6.6.11 Mrs McLaughlin-Brown has reviewed the mitigation measures proposed and is of the opinion that "due to the relatively small viewing catchment and level of mitigation measures proposed, I agree that any potential effects will be no more than minor". Detail of proposed conditions are provided in the letter from Mrs McLaughlin-Brown (dated 4 November 2011) and the applicant has agreed to these conditions. Therefore, overall it is considered that the potential effects of the proposal in terms of landscape and visual effects will be no more than minor.

6.7 Engineering

6.7.1 The existing dwelling on the site is currently serviced via onsite stormwater treatment and waste water disposal. All proposed lots will require on-site stormwater treatment and waste water disposal as no public system is currently available for connection in the area.

6.7.2 An engineering report from Hawthorn Geddes dated 9 August 2011 (refer Attachment 1) was provided with the application addressing matters related to site stability, flooding, stormwater management, on-site effluent disposal and recommendations regarding building foundations. This report and its conclusions have been reviewed by Mr Vladimir Rosov, Council's Senior Environmental Engineering Officer who is satisfied (his report is Attachment 8) that development undertaken in accordance with the recommendations of his report will adequately address any engineering matters.

6.7.3 It is noted that the majority of the subject site is located on an "at-risk" aquifer, identified in the Northland Regional Council Water and Soil Plan for Northland. It is considered that development of the site resulting in the diversion of stormwater and the use of impervious surfaces can reduce the aquifer recharge and potentially contaminate groundwater. These potentially adverse effects associated with development activity need to be assessed and mitigation measures implemented as necessary to protect the aquifer. To this end an advice note is proposed to be placed on the consent (if granted) recognising that an "at-risk" aquifer is located beneath the proposed development and to ensure that development will not result in contamination of the surrounding aquifer or a reduction in groundwater recharge.

6.7.4 In conclusion it is considered possible through appropriate conditions of consent to ensure the proposed subdivision is adequately serviced and any related effects will be no more than minor.

6.8 Archaeology, Cultural and Heritage Values

6.8.1 An archaeological assessment of the subject site undertaken by DC Nevin, dated February 2002, was provided with the original application (refer Attachment 1). The report concludes that there is "little likelihood of earthworks for driveways and houses uncovering evidence of settlement such as ovens, or midden". The New Zealand Historic Places Trust in their submission, have not questioned the findings of the Nevin report, recommending a standard advice note referring to their Accidental Discovery Protocol be attached to the consent if granted.

6.8.2 In terms of potential effects on cultural values, a cultural impact assessment undertaken by Ngati Wai Trust Board as part of a previous 2002 subdivision application (refer Attachment 9) for the site is to be adhered to, with the agreement of the Ngati Wai Trust Board. As such it is considered that any potential effects of the proposal on cultural values will be no more than minor.

6.8.3 Concerns have been raised regarding the potential impact of the proposal on the stone walls, particularly the potential for effects as a result of the construction of the new right-of-way. Totara Park Lane has an existing legal width of 8.0m and surveys of the right-of-way have shown that the construction of a 5.5m wide (minimum) right-of-way will be possible without removing the stone walls.

6.8.4 The District Plan contains rules regarding stone walls and limits the removal only for the provision of property access, where only a 6 m length of wall may be removed as a permitted activity. It is recognised in the report of Council's Senior Environmental Engineering Officer that a section of the dry stone wall will need to be removed to enable the removal of the nib wall on the S-bend ('dog leg') in the right-of-way. It is proposed that any removal of stone wall be restricted to the minimum safe width. Any other removal of stone walls will be within the permitted activity standards of the District Plan (i.e. the removal of no more than a 6.0m length for the provision of access).

6.8.5 In conclusion it is assessed that the possible effects of the proposed subdivision with respect to archaeological, cultural and heritage values will be no more than minor.

6.9 Traffic and Access

- 6.9.1 The access to the subject site already provides access to more lots than what is allowed for under the District Plan and the Council's Environmental Engineering Standards. The property access already serves 10 users and the proposed subdivision will see at least 6 extra users added without the right of way being upgraded to become a public road (required once there are more than 8 right of way users). It is noted that there is not enough width available in the current legal width of the right of way to construct a public road in accordance with WDC Standards.
- 6.9.2 Provided with the application is a traffic effects assessment, prepared by Engineering Outcomes Ltd, dated 22 July 2009 (refer Attachment 1)
- 6.9.3 The report from Engineering Outcomes Ltd assesses the potential traffic effects of the proposal and the requirement to upgrade the right-of-way. The report concludes that potential effects related to traffic can be avoided through the upgrade of the right away, in particular the inclusion of passing bays and signage warning right of way users of the 'dog-leg' (S-bend) on the right-of-way. In general terms the conclusion of the Engineering Outcomes report is that the majority of the right-of-way should not be sealed as it is considered that keeping the right-of-way as an unsealed surface will reduce traffic speeds and therefore improve safety.
- 6.9.4 As part of the assessment process of this application WDC commissioned an assessment of traffic effects from Northern Civil Consulting Engineers Ltd (Northern Civil) (refer Attachment 6). The report provides an assessment of the proposal in terms of the matters over which discretion is reserved and the related matters over which control is reserved as detailed in Rule 73.3.7 of the District Plan.
- 6.9.5 The Northern Civil report concludes that the access to the site is suitable for the proposed subdivision, provided that recommended improvements are made to Totara Park Lane. The Northern Civil report does not concur with the recommendations of the Engineering Outcomes report with regard to not sealing the right-of-way and recommends that the first 230m of Totara Park Lane from Ngunguru Road be sealed to a 5.5m width. The report goes on to recommend that the remaining accesses should be constructed to comply with the WDC Environmental Engineering Standards. It is noted that both traffic reports consider that safe access from Totara Park Lane onto Ngunguru Road can be provided.
- 6.9.6 Council's Environmental Engineering Officer, having reviewed both reports has prepared conditions of consent (should consent be granted) incorporating the recommendations of both reports i.e. the sealing of the first 230m of Totara Park Lane, as well as the sealing and sightline improvements proposed through the S-bend. This results in conditions requiring the right-of-way to be sealed to where the property gains access and will result in potential effects related to dust and noise generation from the increased right-of-way use being mitigated. In addition, other conditions with regard to the upgrade of other rights-of-way proposed to provide internal access to the subdivision are also made and overall it is considered that the improved access arrangements will adequately accommodate the increased traffic, taking into account the various different types of vehicles that regularly use the right-of-way.
- 6.9.7 In conclusion it is assessed that the possible effects of the proposed subdivision (so long as the proposed upgrading is undertaken to Totara Park Lane) with regard to traffic and access effects will be no more than minor.

6.10 Cumulative Effects

- 6.10.1 A cumulative effect is not appropriate to describe the nature of a precedent concern, with a cumulative effect limited to the consequences of granting a particular application. For a cumulative effect to be significant, it must have breached a threshold, or 'tipped the balance'.
- 6.10.2 As discussed in the previous sections of this report, there is a mixed pattern of development in the area surrounding the subject site. The majority of the properties in the wider area surrounding the subject site are between 4 and 10 ha in area, with a number also being between 2 and 4 ha in area and some being less than 2 ha. The density of development proposed by this subdivision is assessed to be in keeping with the average density/existing lot size that exists in the surrounding area.
- 6.10.3 Only the subject site, a neighbouring property and one other in close proximity to the north (but not wholly contained within a 1 km radius circle centred on the subject site) are in excess of the 20ha

controlled activity standard for subdivision in the Countryside Environment. Despite the density of subdivision/development that has occurred, the current pattern of development maintains a high degree of rural amenity in the area and therefore the area is considered potentially sensitive to change in terms of further subdivision.

- 6.10.4 I am of the opinion that the surrounding rural area is already compromised with regard to the establishment of lots less than the controlled activity standard. Further subdivision, without appropriate controls, has the potential to erode the natural character and amenity values that exist on the site and in the surrounding area.
- 6.10.5 However the approval of the proposed subdivision to allow more intensive development on the subject site can maintain the existing level of natural character and amenity values, particularly those related to landscape and visual amenity because of the mitigation measures proposed that will assist in retaining elements on the site that would contribute in maintaining the rural character and landscape values of the site.
- 6.10.6 Overall it is considered that the cumulative effects of this proposal will no more than minor when considering the current pattern and density of development in the area. However, this assessment relies on the implementation of mitigation measures proposed, to assist in future development on the proposed lots being absorbed into the surrounding environment.

6.11 Summary

- 6.11.1 Overall, it is considered that the proposal has the potential to generate more than minor effects on the environment. In particular the proposed density of development, creating potential effects on landscape values, which impact on the rural character and amenity of the site and the surrounding area could be more than minor, even when considering the current pattern and density of development in the area.
- 6.11.2 The critical element with respect to ensuring that the potential effects of the proposal are no more than minor is the ability of the surrounding environment to absorb the additional allotments and subsequent built development proposed in this location. To this end, mitigation measures have been proposed to protect the important landscape features on the site and also to control the location and built form of future development. These mitigation measures have been assessed by Council's consultant landscape architect who considers that such measures will adequately mitigate effects to a level that is no more than minor.
- 6.11.3 Specifically in terms of traffic effects, an independent assessment undertaken by Council's consultant traffic engineer has concluded that subject to the imposition of specific conditions, the potential effects of the proposal on traffic will be no more than minor.
- 6.11.4 Overall, even though the level of density proposed by this subdivision is greater than that which is allowed for as a controlled or discretionary activity within the Countryside Environment, it is considered that the potential effects of the proposal will be no more than minor, that the existing character and amenity of the site and the surrounding area will be maintained and that the proposal will not generate negative cumulative effects.

7 Assessment of objectives and policies

- 7.1 As detailed above, being a non-complying activity the proposal must be tested against the objectives and policies of the Plan. In undertaking this test it must be concluded that the activity will not be **contrary** to the objectives and policies of the Plan for it to be approved.
- 7.2 When assessing whether a proposal is "contrary" to the objectives and policies of the District Plan, it is considered that for a proposal to fail this 'test' it would need to be 'repugnant' or 'opposed to' the objectives and policies when considered as a whole. Notwithstanding this, a proposal should also find favour with, or directly implement/promote at least some policies of the Plan.
- 7.3 The following objectives and policies are considered to be relevant in the assessment of this application:

7.4 Chapter 5 Amenity Values

Objective 5.3.1 - *The characteristic amenity values of each Environment are maintained and where appropriate enhanced.*

Objective 5.3.5 - Subdivision, use and development is appropriately controlled, located and designed, to be compatible with existing and identified future patterns of development, and levels of amenity in the surrounding environment.

Policy 5.4.1 - Effects on the Local Environment

To ensure that activities do not produce, beyond the boundaries of the site, adverse effects that are not compatible with the amenity values characteristic of the surrounding and/or adjacent environment unless such effects are authorised by a district plan, a designation, a resource consent, or otherwise. The following effects should be given particular consideration in this respect:

- Noise and effects
- Shading
- Glare
- Light spill
- Dust
- Smoke
- Odour
- Vibration
- Spray drift
- Visual amenity

Policy 5.4.5 - Countryside Environments

To ensure rural amenity values in the Countryside Environments are protected from subdivision, use or development that is sporadic or otherwise inappropriate in character, intensity, scale or location.

Policy 5.4.7 - Intensity and Design of Subdivision and Development

To encourage that subdivision and development do not unduly compromise the outlook and privacy of adjoining properties, and to be appropriate to the Environment in which it is located. Particular regard should be had to:

- The layout and intensity of subdivision;
- The location, design and siting of buildings and structures except where such buildings and structures provide a specific service for the surrounding environment. In the latter case any building or structure shall be designed, laid out and located, so as to avoid, remedy or mitigate any adverse effects on the environment.

7.5 Comments on Amenity Values Objectives and Policies

7.5.1 Within the overview (section 5.2) Chapter 5, Amenity Values of the District Plan the following statement is provided to describe in general terms the characteristics of the Countryside Environment:

The Countryside Environment tends to be used predominantly for primary production, but is also used for low-density residential purposes. When choosing to live in a rural area, people must expect and accept a certain level of odour, noise and other effects which are characteristic of primary production, recognising the scale and intensity of these activities which contribute to rural character. Rural areas do, however, tend to have high amenity values, due primarily to the following characteristics:

- *The intermittent nature of most agricultural activities;*
- *Open landscapes and views;*
- *A low intensity of development;*
- *Feelings of remoteness and community;*
- *Low noise levels, particularly at night;*
- *A high degree of privacy;*
- *Daylight and sunlight access;*
- *Low levels of vehicular traffic;*
- *Green 'unspoiled' landscape with indigenous vegetation.*

The Countryside Environment is sensitive to activities which have continuous or ongoing effects, or that are located in close proximity to other land uses such as residential units.

- 7.5.2 “The subject site has relatively high aesthetic coherence based on the reasonably intact landscape features and historic heritage features with the remnant patches of native vegetation, iconic volcanic knolls, dry stone walls and scattered mature Puriri and pockets of Totara interspersed with pasture which contribute to the overall landscape and amenity values of the subject site and surrounding landscape context” (page 3, Dream Planning Landscape Assessment, dated 17 May 2010, Attachment 7). However, the subject site is not visible from any public vantage points, aside from a small portion of Vinegar Hill Road and a handful of neighbouring properties and the proposed subdivision is consistent with the existing density and surrounding development pattern.
- 7.5.3 The objectives and policies aim to maintain and enhance the characteristic amenity values of the Countryside Environment by ensuring development in the environment is appropriately controlled, located and designed. The characteristics of the Countryside Environment detailed in the District Plan are considered in-part to be typical of the environment surrounding the subject site.
- 7.5.4 However, the subdivision does not promote “a low intensity of development” and even though the subdivision has a very limited viewing audience, the addition of built development (particularly dwellings) without adequate mitigation, could have the potential to impact upon perceptions and the enjoyment of open landscapes and views. The subdivision of the site into seven allotments and the addition of built development on six of those allotments is considered capable of altering the amenity of the area through an increased level of development, beyond that which is envisaged for the area, particularly as a controlled and/or discretionary activity.
- 7.5.5 The rules of the Plan and in particular the discretionary activity subdivision 4ha average lot size requirement, have been formulated to ensure that subdivisions within the Countryside Environment can satisfy these objectives and policies. Whilst it is recognised that the proposed subdivision is only marginally below the 4ha average, it is still recognised that even as a discretionary activity the effects of the proposal must be adequately avoided, remedied and/or mitigated.
- 7.5.6 The mitigation measures proposed, by means of: controlling the location of buildings; covenanting two significant stands of native bush and ‘spot covenanting’ single significant trees on the site; protecting the volcanic knolls by way of ‘no building covenants’; the provision of amenity/screen planting; and the imposition of controls on building design, are considered to ensure that the amenity values of the site and surrounding areas will be maintained.
- 7.5.7 Therefore, even though the proposal will result in a level of development more intensive than proposed (by means of controlled activity subdivision) in the Countryside Environment, because of the mitigation measures proposed, the proposal is considered to achieve objectives 5.3.1, 5.3.5, policies 5.4.1 and 5.4.7. In addition, the proposal will not be contrary to policy 5.4.5 because the proposal is considered to be maintaining the rural amenity values of the Countryside Environment.

7.6 Chapter 8 – Subdivision and Development

Objective 8.3.1 - Subdivision and development that allows for the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.

Objective 8.3.2 - Subdivision and development that is complementary to the character of the locality and avoids conflicts between incompatible land use activities.

Objective 8.3.3 - Subdivision and development that ensures consolidated development in appropriate locations and prevents sporadic subdivision and ribbon development.

Objective 8.3.4 - Subdivision and development that provides for comprehensive development of land with a range of allotment sizes but does not compromise either the overall average density of subdivision considered appropriate for each Environment or sense of place of the area.

Objective 8.3.5 - Subdivision and development that allows for the efficient and orderly provision of services and infrastructure, including the roading hierarchy and airport.

Objective 8.3.7 - Subdivision and development that provides for comprehensive development of land with a range of allotment sizes and is appropriate to the character of the Environment in which it is located.

Policy 8.4.2 - Consolidated Development

To consolidate development in existing built up areas, or specifically identified areas, so as to avoid sporadic subdivision and ribbon development, particularly in rural areas and along the coast.

Policy 8.4.3 - Density of Development

To ensure that subdivision and development results in a density of land use which is consistent with the surrounding area and which reflects flexibility in allotment size without compromising the overall form and density of development appropriate to the Environment in which it is located.

Policy 8.4.4 – Cumulative Effects

To ensure that the cumulative effects and precedent effects of ongoing subdivision and development do not compromise the objectives and policies of this Plan, in particular those objectives and policies relating to reducing conflicts between incompatible landuse activities, the consolidated and orderly development of land, the density of development and the protection of natural values. The cumulative effects of ongoing subdivision and development should not compromise the overall average density appropriate to the Environment in which it is located.

Policy 8.4.12 - Services and Infrastructure

To ensure that all subdivision and development is capable of being provided, by the subdivider or developer, with adequate services and infrastructure having regard to Whangarei District Council's Environmental Engineering Standards 2010 (except where the subdivision or development is for specific protection purposes), including:

- Vehicle access, including emergency service vehicle access;
- Water supply, (including for fire fighting purposes), storm water and sewage disposal;
- Energy and telecommunication connections;
- Useable open space in urban areas;
- During the design and construction of the subdivision, measures to reduce storm water run off

Policy 8.4.17 – Consolidated Residential Development

To focus residential development on those areas with demand, where the landscape and natural character values have already been compromised.

Policy 8.4.18 – Consolidated Rural-Residential Development

To direct rural lifestyle and rural-residential development to appropriate locations adjacent to existing settlements, rather than allowing sporadic development throughout rural and coastal areas.

7.7 Comments on Subdivision and Development Objectives and Policies

- 7.7.1 Consideration of the relevant objectives and policies relating to subdivision in the Countryside Environment highlights an aim to balance the demand for residential development, with the need to preserve rural amenity as a unique and valued character of the Countryside Environment. The objectives and policies also detail the need to provide adequate services and infrastructure to any subdivision and/or development.
- 7.7.2 The objectives and policies outlined above aim to ensure the maintenance and possible enhancement of amenity values and the sustainable management of natural and physical resources in the District's rural areas while avoiding, remedying or mitigating adverse effects on the environment, in-line with the principles of the Resource Management Act 1991.
- 7.7.3 Objectives 8.3.2, 8.3.7 and policy 8.4.3 have particular regard to allotment size and density of development. The surrounding area is characterised by different allotment sizes and densities of development, that are similar (on average) to the lot size and density of development proposed through the subdivision.
- 7.7.4 The intensity of development in the Countryside Environment after the Environment Court Decision A024/2006 is a minimum of 20ha per allotment as a Controlled Activity, with scope for consideration as a Discretionary Activity where the average allotment size is a minimum of 4ha. These lot sizes have been set at a level considered to maintain the existing amenity values of rural areas as they have come to be accepted in the rural parts of the District.
- 7.7.5 It is noted that the site is not indicated in the Glenbervie, Tikipunga, Vinegar Hill structure plan nor in the Urban Transition Environment Plan Change (Plan Change 93) as being proposed by Council for rezoning. Therefore the proposal is not considered to achieve effective consolidation of residential development as this area is not currently zoned for, nor set aside for more intensive development.
- 7.7.6 However, whilst the average lot size proposed is only slightly less than 4ha and the site is surrounded by lot sizes similar to those proposed (where the average lot size of the proposed subdivision is effectively the same as the average lot size of the surrounding properties);

notwithstanding the density assessment that has been undertaken, it is recognised that on-going and subsequent subdivision and development of land can potentially result in cumulative adverse effects as the volume and nature of development potentially exceeds the carrying capacity of the environment to absorb those effects.

- 7.7.7 However, in this instance and as discussed in the effects assessment of this report, it is considered that the proposal will not compromise the character and amenity of the surrounding environment, due to the mitigation measures proposed and therefore achieves policy 8.4.4 Cumulative Effects.
- 7.7.8 Whilst the subject site and surrounding area are considered to have "high landscape and amenity values", the site is also considered to have "high visual absorption capacity" (pages 3 and 5 respectively, DJ Scott landscape report, dated 29 June 2011). As a result, the mitigation measures proposed will ensure that objective 8.3.3, policies 8.4.2, 8.4.17 and 8.4.18 are not compromised.
- 7.7.9 In terms of the provision of infrastructure, particularly vehicle access, the proposal is considered to provide adequate access, even though it does not meet the permitted/controlled activity standards of the Plan. The proposal enables the adequate and efficient provision of necessary infrastructure and therefore is in keeping with objective 8.3.5 and policy 8.4.12.
- 7.7.10 Based on the above considerations, it is concluded that the proposal is not contrary to the relevant subdivision and development objectives and policies of the District Plan.

7.8 Summary

- 7.8.1 In summary the proposal is considered to be consistent with and not contrary to the relevant objectives and policies of the District Plan relating to Amenity Values and Subdivision and Development.

8 Other matters - Section 104 (1) (c)

- 8.1 Section 104 of the Act requires that a consent authority must have regard to a number of different matters when considering an application for resource consent. These matters include actual or potential adverse effects and relevant provisions of policy statements, regional and district plans and any other matters considered relevant.
- 8.2 An assessment of the effects of the proposal and the District Plan provisions has been considered in the previous sections of this report. Specific to this application, in terms of 'other matters', precedent effect is considered to be relevant.

8.3 Precedent Effect

- 8.3.1 Strictly speaking, the granting of a consent does not constitute a legal precedent and each application is to be treated on its merits. However, the matter of precedent in a general sense can be relevant, particularly where applications seek to infringe minimums or maximums (i.e. height limits, controls on the density for subdivision) detailed within a district plan.
- 8.3.2 In such situations it is legitimate for the consent authority to consider the precedent effect of granting an application, especially where it is likely that other similar applications will be made, with the expectation that consent will be granted as a matter of uniformity and fairness, with precedent effect described as a concern about plan integrity and the need for consistent administration of the Plan.
- 8.3.3 The precedent effect of granting a resource consent is not an effect on the environment that can be considered under section 104(1)(a), because the effect is not related to a direct impact on the environment. Precedent effect is considered to relate to the outcome of possible future applications, so the precedent effect is a relevant issue for a consent authority to take into account when considering an application for a consent under section 104(1)(c) "any other matter the consent authority considers relevant and reasonably necessary to determine the application".
- 8.3.4 In an instance where, even though the adverse effects of the particular application may not be significant and could be assessed to be minor, if there is a potential to set a precedent that would undermine the objectives and policies of the relevant plan, which may specify rules related to defined matters and there is the potential that other similar applications could be made, then precedent effect should be considered. For a subdivision to be granted under such circumstances, there should be an 'evident unique characteristic' that sets the proposal aside from the generality of cases.

- 8.3.5 The approval of the proposed subdivision, where the lot sizes proposed are below the controlled and discretionary activity standards of the District Plan, could lead to lot sizes which are generally inconsistent with the character of existing development in the Countryside Environment (as a whole) and if the effects are not adequately mitigated, may lead to the creation of sites which have the potential to compromise the existing character of the area.
- 8.3.6 Reduced lot sizes, such as those proposed, are readily capable of replication in the surrounding environment, with economic incentive for landowners to do so. It is considered that the proposed subdivision if allowed could set a precedent and be in direct conflict with Policy 7.4.4 Cumulative Effects. By allowing a subdivision that infringes the rules in the way it does, particularly without robust mitigation measures, would enable this area to be developed into a pattern of more intense development than has been provided for by the Plan, notwithstanding that existing subdivision and associated development in the area has occurred, creating lot sizes that are substantially less than the controlled activity standard.
- 8.3.7 While smaller rural allotments with net size areas of less than 20ha and less than 4ha do exist in the area, they were either approved under a more permissive regime or approved as a result of discretionary and/or non-complying activity applications and as such are not considered to create a precedent for this application.
- 8.3.8 Considering the potential precedent effect of granting this application, it is considered that the proposal demonstrates a number of elements that can be considered to set it aside from the generality of subdivision applications in the Countryside Environment and therefore enhance its status for approval, namely:
- i. the subdivision (in terms of average lot size) will be replicating the existing development pattern of the surrounding area
 - ii. the subdivision will result in areas of native bush and volcanic knolls being protected
 - iii. the subdivision has been designed in such a way as to minimise the potential effects on the historic stone walls that exist on the subject site
 - iv. the site is one of the very few remaining in the area where the site size is greater than the controlled activity subdivision limit
- 8.3.9 However, it is the existing pattern of development in the surrounding area, which primarily results in my opinion that granting approval to this application will not result in, or create, a precedent concern. As assessed, the existing average lot size in the surrounding area is well below the controlled and slightly below the discretionary activity site size criteria of the District Plan. The proposed subdivision will be replicating the existing pattern of development, not establishing a new pattern, therefore not setting a precedent. In essence, this proposal is completing a pattern of development that has already been established. The proposed subdivision will not 'tip the balance' and the potential effects of the proposal have been assessed to be no more than minor. In particular the proposed subdivision is considered to be in accordance with objectives 8.3.1; 8.3.2; 8.3.4; 8.3.7 and policies 8.4.3; 8.4.4 and 8.4.18.
- 8.3.10 It is therefore considered that approving the proposal would not have the potential to create a precedent effect to a level which is more than minor and due to the specific characteristics that relate to the site and surroundings and the mitigation measures proposed, will not lead to a proliferation of small lot subdivision across the Countryside Environment of the District.

9 Part II - Resource Management Act 1991

- 9.1 Part II of the Resource Management Act 1991 details the purpose and principles of the Act and as such forms the backbone for all the documents and processes that are prepared under the Act.
- 9.2 The single/principle purpose of the Resource Management Act (RMA) is to promote the sustainable management of natural and physical resources (Part II, Section 5). The purpose of the Act accords pre-eminence to promoting sustainable management of natural and physical resources, not just their "management".
- 9.3 After Section 5, Sections 6 – 8 of the RMA provide guidance to decision makers on a hierarchy of considerations, being:
- Matters of national importance
 - Other matters that must be given particular regard

- Principles of the Treaty of Waitangi that must be taken into account

9.4 The matters set out in Sections 6 – 8 while important, are all subordinate to the overall purpose of the RMA, set out in Section 5.

9.5 Section 5 – Purpose

9.5.1 Section 5 of the Act states:

- 1 *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- 2 *In this Act sustainable management means managing the use, development and protection of natural and physical resources, in a way or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*
 - a *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - b *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
 - c *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

9.5.2 It is considered that this proposal is promoting development of land, however, the proposal is only considered to provide for economic wellbeing of individuals, rather than the wellbeing of the wider community.

9.5.3 The proposal does however protect features of landscape and historic value and it is assessed that the proposal adequately avoids, remedies and/or mitigates all potential adverse effects on the surrounding environment associated with creating the 7 proposed allotments (along with attendant future development). Therefore, the proposal is considered to be consistent with the principal of sustainable management of natural and physical resources.

9.6 Section 6 – Matters of National Importance

9.6.1 Section 6 of the RMA lists matters of national importance that must be recognised and provided for in the assessment of a consent application. In this particular instance no matters of national importance, as outlined in Section 6 of the Act, are considered relevant to this application.

9.7 Section 7 - Other matters

9.7.1 Section 7 of the Act details those matters that a consent authority shall have particular regard to in the assessment of a consent application. With regard to this application the following matters as outlined below are considered to be relevant to this application:

- b *The efficient use and development of natural and physical resources;*
- c *The maintenance and enhancement of amenity values;*
- d *Maintenance and enhancement of the quality of the environment.*

9.7.2 In respect to this application, it is assessed that the subdivision of the site and the resultant addition of further built development within the environment to the level proposed, subject to the mitigation measures proposed to protect landscape values and visual amenity, will maintain the existing amenity values and will not reduce the quality of the existing environment. On this basis the application as presented is considered to satisfy the requirements of Section 7 of the RMA.

9.8 Section 8 – Treaty of Waitangi

9.8.1 Section 8 of the Act requires Council to take into account the principles of the Treaty of Waitangi. Local Iwi, including the Ngatiwai Trust Board and the Pehiaweri Marae, were served a copy of the application as part of the public notification process.

9.8.2 No submissions raising issues related to cultural effects or similar were received. Also, the applicant has agreed, in consultation with the Ngatiwai Trust Board, to be bound by the conditions of the Cultural Impact Assessment (dated 5 March 2002) (refer Attachment 9) related to a previous application on the site (WDC reference SD01/551). Overall it is considered that by notifying the

aforementioned parties of this application and through the agreement to undertake the proposal in accordance with the conditions of the cultural impact assessment, that regard has been given to the Treaty of Waitangi.

10 Section 37

- 10.1 In accordance with section 101(2)(c) of the Resource Management Act a hearing on a publicly notified application is to be held no later than 25 working days from the closing date of submissions. In this instance, the hearing date will be held 58 working days after the close of submissions. This extension of time was at the applicant's request, whereby they requested the opportunity to receive and review the landscape report undertaken in response to the application.
- 10.2 Pursuant to Section 37 of the Resource Management Act 1991 the timeframes related to the processing of a resource consent can be extended and where it is proposed that the timeframes be extended to more than twice the limit as detailed under the Resource Management Act such an extension must be in agreement with the applicant.
- 10.3 As stated, the applicant has agreed to the extension of time and therefore pursuant to Section 37 of the Resource Management Act the timeframe for commencing a hearing following the close of submissions on a publicly notified application will be extended from 25 working days to 58 working days.

11 Conclusion

- 11.1 Pursuant to section 104B of the Resource Management Act 1991, after considering an application for a resource consent for a Non-Complying Activity, a consent authority:
- a may grant or refuse the application; and*
 - b if it grants the application, may impose conditions under section 108*
- 11.2 In considering the potential effects of the proposal on the environment as discussed in Section 6 of this report, it is concluded that the adverse effects of the proposal on rural character, landscape values, amenity, traffic effects and cumulative effects will be no more than minor. In particular, this conclusion is reached because of the mitigation measures proposed to adequately avoid, remedy and/or mitigate the effects of the proposal on landscape and visual amenity values.
- 11.3 In terms of the assessment of the proposal against the relevant objectives and policies of the District Plan (section 7 of this report), it is concluded that the proposal is not contrary to the objectives and policies, primarily those that relate to sustainable management of natural and physical resources, amenity, appropriateness of location and density of development and cumulative effects.
- 11.4 With regard to the potential for the granting of the proposal to create a precedent concern, this matter has been assessed in section 8 of this report. It is concluded that the proposal demonstrates a number of qualities that distinguish it from the generality of subdivision applications in the wider Countryside Environment and therefore enhance its status for approval, namely:
- i. the subdivision (in terms of average lot size) will be replicating the existing development pattern of the surrounding area, therefore not setting a precedent in its own right
 - ii. the subdivision will result in areas of native bush and volcanic knolls being protected
 - iii. the subdivision has been designed in such a way as to minimise the potential effects on the historic stone walls that exist on the subject site
 - iv. the site is one of the very few remaining in the area with a site size greater than the controlled activity subdivision limit
 - v. all potential effects will be adequately avoided, remedied and/or mitigated
- and therefore the proposal will not create a precedent concern if consent is granted.
- 11.5 In considering the matters discussed in Section 9 of this report, it is assessed that the proposal is consistent with Part II of the Act in that it represents sustainable management of natural and physical resources and has sufficient regard to maintaining the existing amenity values of the site and the surrounding area (Section 7, RMA).

11.6 Given the applications non-complying activity status, in order for Council to consider granting consent the application must pass one of the thresholds under section 104(D). As the potential effects of the proposal are assessed to be no more than minor and the proposal is considered to be consistent with and not contrary to the relevant objectives and policies of the District Plan, the proposal is considered to satisfy both threshold tests and therefore it is recommended that consent be granted.

Recommendation 1:

That pursuant to Section 37 of the Resource Management Act the timeframe for commencing a hearing following the close of submissions on a publicly notified application be extended from 25 working days to 58 working days. This extension of time was at the applicant's request, whereby they requested the opportunity to receive and review the landscape report undertaken in response to the application.

Recommendation 2:

That pursuant to Sections 104, 104B, 104D, 108 and 220 of the Resource Management Act 1991, Council **GRANTS** consent to the application by Glenbervie Park Estate Limited to subdivide an existing 29.8543 hectare site, being Lot 3 DP 176598 and Lot 2 DP 334667, into 7 lots of between 2.5126 and 8.3250 ha (net site area), also to exceed the number of users permitted to use a right of way without providing a public road in the Countryside Environment, located at Totara Park Lane, Glenbervie, Whangarei.

The consent is granted subject to the following conditions:

1 That before the survey plan is sealed the following requirements are to have been satisfied

- a) That the survey plan submitted for approval shall conform with the subdivision consent obtained and the plan of subdivision prepared by Reyburn & Bryant Limited: reference S 11918, Revision J, dated August 2011; and
 - i That areas P and Q shall be shown on the plan of subdivision as being subject to a Conservation Covenant under the Reserves Act 1977 (or a Queen Elizabeth II National Trust Covenant), in perpetuity
 - ii That the three identified volcanic knolls (identified on the site analysis plan as an appendix to the Landscape Assessment prepared by DJ Scott Landscape Architect dated 29 June 2011) be covenanted to be protected from any built development or earthworks, in perpetuity
 - iii That the stands of/and individual trees identified on the site analysis plan (as an appendix to the Landscape Assessment prepared by DJ Scott Landscape Architect dated 29 June 2011) be covenanted through spot covenants to protect these trees, in perpetuity
 - iv That the building areas BA3 (Lot 3); BA4 (Lot 4); BA6a and BA6b (Lot 6); and BA7a and BA7b (Lot 7) as shown on the Reyburn & Bryant Limited plan (reference S 11918, Revision J, dated August 2011) and the site analysis plan included as an appendix to the Landscape Assessment prepared by DJ Scott Landscape Architect (dated 29 June 2011), be defined as the only areas on these lots that are to accommodate future built development, in perpetuity
- b) The consent holder must submit a detailed set of engineering plans prepared in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition. The engineering plans are to be submitted to the Senior Environmental Engineering Officer for approval.

It is to be noted that certain designs may only be carried out by an Independently Qualified Person (IQP) or Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies. IQPs must have been assessed by Whangarei District Council and hold current registration to submit engineering design work.

All work needing design/certification by a Whangarei District Council approved IQP/CPEng will require the submission of a producer statement (design) on form EES-PS1 (or similar approved) to the satisfaction of the Senior Environmental Engineering Officer.

Plans are to include but are not limited to:

- i. Design details of the upgrading of right of way "A", "B" and "J" in accordance with the 'Traffic

Effects Assessment' compiled by Engineering Outcomes Ltd dated 22 July 2009 and amended 9 April 2009, plus additional upgrading as recommended in 'Assessment of Traffic Effects' compiled by Northern Civil Consulting Engineers Ltd dated 10 May 2010 (and any subsequent amendments), including a typical cross section, long section, culverts, drainage flow paths and overland flow.

- ii. Construction of rights of way "A", "B" and "J" from the northern boundary of Lot 1 DP 205778 should be with a carriageway not less than 5.5 metres wide.
 - iii. Design details of the upgrading of right of way "K" in accordance with the Table 3.7 Category G requirements as practicable, including a typical cross section, long section, culverts, drainage flow paths and overland flow.
 - iv. Design details of the upgrading of right of way "L", "M" and "N" in accordance with the Table 3.7 Category F requirements with passing bays at agreed locations not exceeding 100 metres intervals, including a typical cross section, long section, culverts, drainage flow paths and overland flow.
- c) The consent holder shall provide written confirmation from power and telecommunications utility service operators of their consent conditions in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Senior Environmental Engineering Officer.
- d) The consent holder must create easements over services, rights of way etc. in accordance with the Land Transfer Act 1952 and the Land Transfer Regulations 2002 to the approval of the Senior Environmental Engineering Officer.
- e) The consent holder must create easements in gross over any overland stormwater flow paths that fall into areas proposed for development (i.e. house site, effluent disposal site, accessway from road to house site etc) and/or as directed by the Senior Environmental Engineering Officer. The easements are to cover the extent of the 1% Annual Exceedance Probability flows (+20% allowance for climate change) and are to be to the approval of the Senior Environmental Engineering Officer.
- Note: Overland flow paths are to be assessed in accordance with Section 4.9 of Whangarei District Council's Environmental Engineering Standards 2010 Edition and are to be certified by an IQP/CPEng.
- f) That a Landscape Mitigation Plan (LMP) be prepared by a suitably qualified landscape architect and submitted to the satisfaction of the Resource Consents Manager. The LMP is required in order to provide mitigation/restoration planting and reduce the visual impact of any future built development on the proposed lots as identified below. The LMP shall contain detail of the mitigation measures/restoration planting that is to occur prior to the issue of the 224 certificate and also those matters that are to be detailed on any building consent application (notwithstanding that some matters will have ongoing application and will be the subject of a consent notice). Specifically the LMP shall:
- i. Identify areas of proposed landscaping, vegetation and building controls consistent with the Landscape Assessment prepared by DJ Scott Landscape Architect dated 29 June 2011, including the site analysis plan included as an appendix to the Landscape Assessment; and the assessment by Dream Planning (letter) dated 4 November 2011; and shall specifically:
 - a) Detail that a Landscape and Management Plan be prepared at the time of building consent for building platform BA6a, BA7a and BA7b to screen any future dwelling(s) on these proposed building platforms from Lots 1 and 2 DP 162099 and Lots 1 and 2 DP 176598. The plan shall include species selection, eco-sourcing appropriate to the locality, plant spacings and numbers, plant size, planting methodology, monitoring and a maintenance regime for a period of no less than 3 years. Hedgerow planting is considered inappropriate and planting shall be eco-sourced natives, planted in randomly mixed groups.
 - b) Detail that a height restriction of 6 metres above ground level shall be imposed on any building located on building platforms identified as BA6a, BA6b, BA7a and BA7b;
 - c) Include a pest and weed management plan for the future management of covenanted areas P and Q to the satisfaction of the Resource Consents Manager. The plan will detail existing weed species within covenanted areas P and Q and proposed methods of weed control.

2 Prior to issue of a section 224 (c) certificate;

- a) All work on the approved engineering plans in **condition 1(b)** is to be carried out to the approval of the Senior Environmental Engineering Officer or their delegated representative.

All work needing design/certification by a Whangarei District Council approved IQP/CPEng will require completion of a producer statement (construction) on form EES-PS4 (or similar approved), to the satisfaction of the Senior Environmental Engineering Officer.

The applicant, following completion of construction, shall provide producer statement/s (e.g. Form B, form EES-PS4, Schedule 1B NZS4404:2010) from the suitably qualified contractors who constructed the individual works certifying that the works have been completed in accordance with the approved engineering plans, the Whangarei District Council Environmental Engineering Standards 2010 Edition and best trade practice to the satisfaction of the Senior Environmental Engineering Officer or their delegated representative. The Applicant shall also provide an overall completion certificate (e.g. Form C, EES-PS4, Schedule 1C NZS4404:2010) certifying that ALL works forming part of the resource consent conditions, have been completed.

In the case of works to remain in private ownership, these may be inspected and approved by a Whangarei District Council approved IQP who has been certified to design/construct such works. A producer statement (construction) on form EES-PS4 is to be provided by the Whangarei District Council approved IQP, along with copies of all test results/photographs etc. The Senior Environmental Engineering Officer is to be advised of any necessary inspections/testing of private works a minimum of 24 hours before they take place in order that the Senior Environmental Engineering Officer may observe the inspection/testing if so desired.

Failure to comply with these requirements may result in the work not being accepted as complying with the Resource Consent conditions/Environmental Engineering Standards 2010 Edition.

No construction works are to commence onsite until the engineering plans required in **condition 1(b)** have been approved and all associated plan inspection fees have been paid.

Note: All works within Public Reserve will require written certification from the controlling authority.

- b) The consent holder is to submit a site specific Traffic Management Plan or Corridor Access Request compiled by a qualified Site Traffic Management Supervisor for all works to be carried out within the Whangarei District Council Road Reserve to the approval of the Senior Environmental Engineering Officer (refer advisory clauses below).
- c) The consent holder shall notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Senior Environmental Engineering Officer and include the following details:
- i Name and telephone number of the project manager/ IQP.
 - ii Site address to which the consent relates.
 - iii Activities to which the consent relates.
 - iv Expected duration of works.

A copy of the approved engineering plans and a copy of the resource consent conditions and the above letter are to be held onsite at all times during construction. All personnel working on the site shall be made aware of, and have access to the resource consent and accompanying documentation.

- d) The consent holder shall submit written confirmation from power and telecommunications utility services operators that their conditions for this development have been satisfied in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition to the approval of the Senior Environmental Engineering Officer.
- e) The consent holder shall provide evidence confirming that access rights over right of way "C" have been revoked.
- f) The consent holder shall remove the concrete 'block' on the dry stone wall adjoining the northern boundary of Lot 1 DP 205778 and rebuild the wall to the approval of the Senior Environmental Engineering Officer. Such work shall be agreed on site prior to work commencing.

- g) The consent holder shall repair any damage to the existing dry stone walls bounding the access easements as the result of works completed within the road reserve and/or right of way.
- h) Spoil from the site must be controlled by the applicant and not be tracked out onto the Whangarei District Council or State Highway Road formations.
- i) Dust nuisance must be controlled onsite (by use of a watercart or similar) by the applicant so as not to cause 'offensive or objectionable' dust at or beyond the boundary of the development.
- j) The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that the existing effluent disposal field for Lot 1 is contained within the allotment boundaries and comply with Section 15.1 - Permitted Activities for Sewage Discharges of the Northland Regional Council Regional Water and Soil Plan for Northland noting the required separation distances to boundaries, water bores, groundwater table & surface water.
- k) The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries.
- l) That all damage to the Ngunguru Road carriageway formation and road berm by the works associated with the subdivision and land use activities shall be reinstated at the expense of the consent holder.
- m) The consent holder must submit a certified and dated 'as built' plan of completed works and services, and RAMM data at the intersection of Ngunguru Road prepared by a suitably qualified person in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition to the approval of the Senior Environmental Engineering Officer.
- n) Areas P and Q are to be fenced to a standard equivalent to one of the specimen types of rural fence (excluding electric fences) as provided for in the Second Schedule of Fencing Act 1978 in order to prohibit stock from entering the covenanted areas.
- o) A Conservation Covenant pursuant to Section 77 of the Reserves Act in respect of the areas shown on the survey plan as being subject to a Conservation Covenant, is to be prepared and registered by the council at the applicant's expense. The Conservation Covenant is to allow for:
 - i. Pest and weed control measures to be undertaken in accordance with the approved Pest and Weed Management Plan required by **condition 1(f)(i)(c)**

A formal request should be made to council to have the covenant prepared at the appropriate time
- p) Pursuant to **Section 221** of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of **all Lots, excluding Lot 1**, at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
 - i The areas of landscaping detailed in the Landscape Mitigation Plan required by **condition 1(f)(i)(a)** are to be completed in the first planting season following the issuing of the relevant building consent and shall be maintained in perpetuity, with allowance made within the landscaping areas for weed control, maintenance, trimming and replacement planting of plants/trees as required.
 - ii Any future built development on **Lots 2 - 7** shall be subject to the restrictions as contained within the approved Landscape Mitigation Plan required by **condition 1(f)(i)**
- q) Pursuant to **Section 221** of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of **all Lots**, at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
 - i The conditions as contained in the Cultural Impact Assessment, prepared by the Ngatiwai Trust Board; dated 5 March 2002.
- r) Pursuant to **Section 221** of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of **Lots 3, 4, 5, 6 and 7**, at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
 - i That the three identified volcanic knolls (identified on the site analysis plan as an appendix to the

Landscape Assessment prepared by DJ Scott Landscape Architect dated 29 June 2011) be subject to a covenant prohibiting any building and/or earthworks on the identified volcanic knolls, in perpetuity

- ii That the building areas BA3 (Lot 3); BA4 (Lot 4); BA6a and BA6b (Lot 6); and BA7a and BA7b (Lot 7) as shown on the Reyburn & Bryant Limited plan reference S 11918, Revision J, dated August 2011 and the site analysis plan included as an appendix to the Landscape Assessment prepared by DJ Scott Landscape Architect dated 29 June 2011, be subject to a covenant defining these identified areas as the only areas on these lots that are to accommodate future built development, in perpetuity
- s) Pursuant to **Section 221** of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of **all Lots, excluding Lot 1**, at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
- i At the time of building consent provide suitable evidence/design to illustrate that, stormwater attenuation will be provided for all impervious surfaces to ensure compliance with Chapter 4, and more specifically Section 4.11 of Whangarei District Council's Environmental Engineering Standards 2010, to the satisfaction of the Senior Environmental Engineering Officer.
 - ii The development is to be carried out in accordance with the restrictions and recommendations identified in the Hawthorne Geddes Engineers & Architects Ltd engineering report ref: 7578 Rev. 2 dated 9/08/2011 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Whangarei District Council.
 - iii The existing/new overland flow path/s is/are to be maintained to cater for the 1% (plus 20% allowance for climate change) Annual Exceedance Probability rainfall event flows. No modification of the existing ground profile, plantings, fencing or structures of any kind will be permitted within the overland flowpath unless a specific design has been undertaken by a Chartered Professional Engineer which mitigates the effects of the obstruction and is approved in writing by the Senior Environmental Engineering Officer.
 - iv On Lots 2 - 7 a maintenance contract for the on-site wastewater system shall be in place at all times which includes inspections and maintenance of both the wastewater treatment and disposal systems.
 - v Upon construction of any habitable dwelling, sufficient water supply for fire fighting purposes is to be provided by way of tank storage or other approved means, and that this water supply be accessible by fire fighting appliances in accordance with the Whangarei District Council's Environmental Engineering Standards 2010 and more particularly with the 'NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008'.
 - vi At the time of building consent, provide suitable evidence to illustrate that stormwater disposal across any boundaries will not exceed that which existed pre-development for storm events up to and including the 1% annual exceedance probability (+20% to accommodate for climate change).
 - vii The owner shall be responsible to ensure that any overland stormwater flow paths that fall into areas proposed for development (i.e. house site, effluent disposal site, accessway from road to house site etc) and/or as directed by the Senior Environmental Engineering Officer the easements are to cover the extent of the 1% Annual Exceedance Probability flows (+20% allowance for climate change) and are to be to the approval of the Senior Environmental Engineering Officer.
- Note:** Overland flow paths are to be assessed in accordance with Section 4.9 of Whangarei District Council's Environmental Engineering Standards 2010 Edition and are to be certified by an IQP/CPEng.
- t) The consent holder/applicant shall pay all charges set by the Council under section 36 of the Resource Management Act 1991. The applicant will be advised of the charges as they fall.

Advisory clauses

- 1 This resource consent will expire five years after the date of commencement of consent unless:
 - It is given effect to before the end of that period; or
 - An application is made to the consent authority to extend the period after which the consent lapses. The statutory considerations which apply to extensions are set out in Section 125 of the Resource Management Act 1991.
- 2 All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect(s) cannot be practised.
- 3 Should an archaeological site be uncovered during any works on the site, then the Accidental Discovery Protocol of the New Zealand Historic Places Trust must be followed.
- 4 A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.
- 5 Pursuant to Section 102 of the Local Government Act 2002, Whangarei District Council has prepared and adopted a Development Contributions Policy. Under this policy, the activity to which this consent related is subject to Development Contributions. You will be advised of the assessment of the Development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate. Further information regarding Council's Development Contributions Policy may be obtained from the Long Term Community Consultation Plan (LTCCP) or Council's web page at www.wdc.govt.nz.
- 6 The Consent Holder shall pay all charges set by Whangarei District Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
- 7 A Corridor Access Request (CAR) is defined in the new "National Code of Practice (CoP) for Utilities access to the Transport Corridors". This CoP has been adopted by the Whangarei District Council and will be phased in. It provides a single application for Traffic Management Plans/ Road Opening Notice applications. Enquiries as to its use may be directed to Council's Traffic Management Co-ordinator on 430-4230 ext 8258.
- 8 Building Consents may be required for retaining structures.
- 9 All earthworks are required to comply with Section 32.2 (Environmental Standards for Earthworks) of the Northland Regional Council Regional Water and Soil Plan for Northland noting erosion & sediment control and dust suppression requirements.
- 10 Permits are required for drilling any bores in Northland. Therefore, resource consent will need to be gained from the Northland Regional Council if water is obtained in this way. If a bore is to be constructed, all areas used for sewage effluent disposal and reserve effluent disposal areas must be at least 20 metres away from any groundwater bore.
- 11 The consent holder should recognise that the proposed development is located on an aquifer 'with high actual and/or potential demand' and ensure that the development does not result in contamination of the aquifer or a reduction in groundwater recharge. Mitigation measures may include the return of the collected or diverted treated stormwater to aquifer recharge, the use of low impact stormwater design and the use of pervious surfaces for roading and drainage.
- 12 Upon construction of a habitable dwelling, sufficient water volume, pressure and flows be provided in accordance with "NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008" and that this water supply be accessible by emergency vehicles for fire fighting purposes; and

- 13 If a fire fighting water supply is to be provided by way of tank storage, this tank must be located a safe distance away from any habitable dwelling in accordance with "NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008".
- 14 Section 120 of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties.

Reasons for the Recommendation:

- 1 The adverse effects of the proposal on the environment in terms of character, maintenance of landscape values, amenity and cumulative effects will be no more than minor.
- 2 The proposal is considered to be in keeping with and not contrary to the objectives and policies of the District Plan, primarily those that relate to sustainable management of natural and physical resources, amenity values, appropriate location and density of development and cumulative effects.
- 3 The proposal is considered to be in keeping with the matters detailed in Part II of the Act, in particular Section 7. The form and intensity of the development proposed can be adequately mitigated and would not result in cumulative adverse effects on the environment.
- 4 The proposal is not considered to give rise to a potential precedent effect. There are special or unique reasons for granting this application on the subject site and granting consent to this proposal does not have the potential to lead to other similar applications on similar sites within the Countryside Environment.
- 5 The proposal satisfies both of the tests for approval of a Non-Complying activity in terms of Section 104D of the Resource Management Act 1991.

Attachments

- 1 Copy of the Application including:
 - i. Traffic Report – Engineering Outcomes – dated 22 July 2009
 - ii. Engineering Report – Hawthorn Geddes – dated 9 August 2011
 - iii. Archaeology Report – DC Nevin – dated February 2002
 - iv. Landscape Report – DJ Scott – dated 29 June 2011
- 2 Aerial photo and Locality of the Site
- 3 District Plan Planning Maps
- 4 Density Map
- 5 Submissions Received
- 6 WDC Assessment of Traffic Effects – Northern Civil Engineering Ltd – dated 10 May 2010
- 7 WDC Landscaping Report – Dream Planning Ltd – dated 17 May 2010 and letter dated 4 November 2011
- 8 WDC Engineering report – dated 13 May 2010
- 9 Cultural Impact Assessment – Ngatiwai Trust Board – dated 5 March 2002