



R E P O R T	<b>TO</b>	HEARINGS COMMITTEE
	<b>FROM</b>	Grant Eccles – Consultant Planner
	<b>FILE REF</b>	82.774.378 – RE269424.rtf
	<b>DATE</b>	05 FEBRUARY 2007
	<b>SUBJECT</b>	<b>SUBDIVISION CONSENT APPLICATION TO CREATE TWO INFILL RESIDENTIAL LOTS IN THE RESIDENTIAL ZONE D and P Page, 39 Whiritoa Beach Road, Whiritoa</b>

### DETAILS OF APPLICATION

**Date Received:** 07 June 2006  
**Applicant:** D and P Page  
**Property:** Lot 9 DPS 13577  
**Address:** 39 Whiritoa Beach Road  
**Extent:** 817m<sup>2</sup>  
**Certificate of Title:** CT SA 11B/1492  
**Zoning:** Residential (District Plan – Map E)  
**Rule:** 10.1.5.4.B(h) General Lots in the Residential Zone  
**Application:** Section 88 of the Resource Management Act 1991:  
**Discretionary Activity**  
**Recommendation:** Decline consent.

### THE PROPOSAL

The applicant proposes to subdivide the site to create one additional infill residential lot from the site at 39 Whiritoa Beach Road, Whiritoa (see Appendix One for location Plan). The site is zoned Residential. A scheme plan illustrating the proposed subdivision of the site can be found in Appendix Two to this report.

Proposed Lot 1 is the rearmost half of the existing site and contains a dwelling and associated terraced area. It gains frontage to the road by way of a 3.5 metre wide access leg. Lot 1 has a net site area (ie excluding access leg) of 364m<sup>2</sup>.

Proposed Lot 2 is a vacant lot and is located at the front of the site, with 11.74 metres of frontage to Whiritoa Beach Road. The lot contains several mature trees and is elevated above the road by about 3.0 metres. It has an area 350m<sup>2</sup> which is the minimum lot size for infill residential development.

### THE SITE AND LOCALITY

The subject site has an area of 817m<sup>2</sup>. It is rectangular in shape and is reasonably narrow with a width of 15.25 metres at both the rear and front boundaries. The side (western and eastern) boundaries are 53 metres long.

The site rises steeply from the road, there being approximately an 8 metre difference in level between the rear of the site where the existing dwelling is located and the front of the site adjoining Whiritoa Beach Road.

Adjoining properties to the west and east are zoned Residential and developed with dwellings and accessory buildings. The adjoining property to the rear of the site is zoned Rural-Residential.

### **ACTIVITY STATUS OF THE APPLICATION**

<b>Residential Subdivision (Rule 10.1.5.4.B(h))</b>					
		<b>Complies</b>	<b>Does not comply</b>	<b>N/A</b>	
Minimum net lot area	450m <sup>2</sup> greenfield 350m <sup>2</sup> infill	X			Both lots comply.
Minimum shape factor	10 x 15m excluding yards		X		Lot 2 cannot contain a 10m x 15m rectangle exclusive of yard requirements. An 8 x 23 metre rectangle can be achieved.
Minimum frontage	3.5m	X			Both lots comply.
Variety	Where subdivision for 4+ allotments ½ lots >700m <sup>2</sup>			X	Only two lots are being created.
<b>Performance Standards (District Plan Section 9)</b>					
<b>Bulk and Location of Buildings</b>			X		Lot 1 does not contain a complying outdoor living court associated with the existing dwelling.
<b>Infrastructure and Services</b>			X		The access to the sites does not comply with the standards for Vehicle Access and Crossings in Rule 9.3.3 of the District Plan.
<b>Performance Matters</b>				X	

Rule 10.1.5.4.C states that all subdivision applications in any zone, which do not meet the minimum area, dimension, location or other standards specified for a subdivision to be a permitted or controlled activity in Rule 10.1.5.4A & B are to be a **Discretionary Activity**.

The proposed subdivision cannot meet the following standards, as follows:

- Minimum Shape Factor (Lot 2)
- Outdoor Living Court (Lot 1)
- Access Breakover and Gradient Angles (both lots)

On the basis of the above the proposal can clearly be assessed as a discretionary activity.

## **STATUTORY REQUIREMENTS**

### **Resource Management Act 1991 (RMA)**

Section 93 of the Act states that a discretionary activity application need not be notified if the consent authority is satisfied that the adverse effects of the activity on the environment will be minor. In this case the adverse effects of the proposal on other parties were deemed to be minor at the time of the initial assessment of the application, and the application has thus been processed in a non-notified manner. The effects of the proposal on the urban amenity of the lots to be created by the subdivision is however of a level not anticipated by the District Plan, and of more than a minor level.

The matters to be considered in assessing the application are set out in Part II and Section 104.

Section 104B states that consent may be granted or refused to a discretionary activity, and conditions may be imposed pursuant to section 108 of the RMA.

### **Hauraki Gulf Marine Park Act 2000**

Section 9(4) requires a consent authority, when considering an application for a resource consent for the catchments of the Hauraki Gulf, to have regard to sections 7 and 8 of the Act.

- **Recognition of national significance of Hauraki Gulf**
- **Management of Hauraki Gulf** – objectives to recognise the national significance of the Gulf, its islands and catchments.

Given the local scale and nature of the proposal it does not conflict with any of the matters in the above Act.

### **Engineering Comments**

Full engineering comments can be found in Appendix Three to this report. Following is a summary of the comment for each relevant aspect of the subdivision:

#### **Vehicle Crossings – Sight Distance Rule 9.3.3**

The District Plan requires 65m of sight distance in each direction. The access to Lot 1 can comply but earthworks will be required to permit complying sight distances to the east from the access to Lot 2.

#### **Vehicle Crossings – Dimensions/Construction/Gradient Rule 9.3.3**

A Class E crossing is required to serve both lots should consent be granted.

As the proposal indicates that the existing vehicle crossing and access is to be removed, the comments below discuss the vehicle crossings for both lots and the access leg for the proposed Lot 1.

1. The current grade of the natural ground level for the proposed Lot 2 is 1:2.1 (48%). While this may be overcome with the aid of (relatively) extensive earth works it would then entail the battering back of the road reserve bank. The maximum allowable grade is 1:8 (12.5%).
2. The grade of the existing access (to be removed) is approximately 1:5 which exceeds District Plan (max allowable: 1:8). The grade of the access leg will also be approximately 1:5 or 20%. The maximum allowable by NZS 4404:2004 T3.1 is 16% and thus would not be acceptable. As both a new vehicle crossing and access leg are required for Lot 1, the claim that they are existing cannot be made.
3. Provision for a retaining wall may have to be made for the proposed access leg. This may infringe upon the minimum formation width (2.8m). If this is the case then the access leg will have to be increased from 3.5m. This would then reduce the area of Lot 2 to below the minimum 350m<sup>2</sup> required for subdivision.

### **Sewer Rule 9.3.7**

Separate sewer connections can be provided to each lot in accordance with the District Plan.

### **Stormwater Drainage 9.3.10**

The application proposes that detention tanks will be utilised on each lot. This is an acceptable solution and a consent notice should be imposed to ensure compliance with the specific design from the applicants surveyors.

### **Roading Contributions 10.2.7**

Should the subdivision be approved, a roading contribution of \$344.31 will be required.

### **Other:**

Building Foundation Requirements – based on the results indicated in the application (CBR 4 & 5, approximately 65 & 79 MPa respectively) engineering designed foundations will be required for any new buildings.

### **Conclusion:**

Overall engineering recommendation is to reject this application as it would require marginal or deficient standards in order to comply with the requirements of the District Plan and NZS 4404: 2004.

## **ASSESSMENT OF THE PROPOSAL**

### **General Criteria**

Section 104(1)(a) of the RMA requires that consideration be given to the actual and potential effects on the environment of allowing an activity, (b)(iv) any relevant provisions of the District Plan and (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application. All these matters need to be taken into account in making a broad discretionary judgement on the application.

An assessment of the environmental effects of the proposed activity is provided in the following sections of this report.

## **Part II Resource Management Act 1991**

The matters in section 104 are subject to Part II of the RMA.

Section 5	-	Purpose
Section 6	-	Matters of National Importance (which shall be recognised and provided for in achieving the purpose)
Section 7	-	Other matters (that shall be had regard to)
Section 8	-	Treaty of Waitangi (its principles are to be taken into account)

The proposal will compromise Section 5(1) whereby the purpose of the Act is to promote the sustainable management of natural and physical resources.

- (2) *In the 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.*

The proposal is inconsistent with the purpose of the Act. While it will not directly inhibit the ability for any persons to provide for their social, economic and cultural wellbeing, it has not been demonstrated that the access to the sites can be formed to adequate grades to maintain the health and safety of people using the accesses and the footpath on Whiritoa Beach Road. The proposal will also create adverse effects on the urban amenity of the environment of a level not anticipated or allowed for by the District Plan. It will also not be consistent with the requirements of Section 7 of the Act to have regard to the maintenance and enhancement of amenity values and the quality of the environment.

It is not considered that there are any matters of national importance (Section 6) or Treaty of Waitangi matters (Section 8) to be considered with regard to the application.

### **Actual and Potential Adverse Effects**

In assessing the actual and potential effects of the proposal, it is important to take account of Section 104(2) of the Act. This section states that when forming an opinion on the actual and potential effects of a proposal under Section 104(1)(a) "...a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect".

Section 104(1)(a) formalises and gives statutory weight to the consideration of the baseline of effects from permitted activities on a site. In this case, the applicant has argued that two dwellings could be constructed on the site as of right at a density of 350m<sup>2</sup>. This assumes that there is sufficient space on site for each dwelling to have an exclusive residential area associated with it that complies with outdoor living requirements, service requirements, parking requirements and other development standards. This is unlikely to be the case given the existing development on the site and the fact that the current proposal cannot meet shape factor requirements.

The effects of each of the infringements inherent in the proposed subdivision are assessed as follows:

### Shape Factor

The size of Lot 2 is the absolute minimum for an infill lot and can only be achieved through infringement of the shape factor requirement. The need to comply with District Plan requirements for infill subdivision is more critical than for greenfields subdivision in recognition of the fact that the creation of infill lots inevitably reduces levels of urban amenity. The District Plan sets the tolerable levels of urban amenity reduction that infill subdivision can create through the imposition of the lot size and shape standards and the performance standards for building in the Residential Zone. This approach is encapsulated in reason 2 for Objective 4 of the Residential Zone as follows:

*“Community expectations for environmental quality are continually changing (usually to reflect greater residential amenity), and the performance standards reflect that community expectation”.*

It follows that any proposals such as that proposed that infringe size or dimension standards will reduce residential amenity to levels not anticipated or allowed for by the District Plan, and as a result the wider community.

The application states as a reason for dispensing with the shape factor requirement that the likely ownership of the site by absentee landowners means that lesser requirements are appropriate. As has been stated in previous assessments for the developments at Whiritoa, the District Plan is required to control the adverse effects of land use and cannot take account of the nature of property ownership nor the frequency of occupation of a site. The fact that the site may or may not be permanently occupied is not a reason to permit a reduction in amenity values.

### Access

In addressing the effects of the access grade infringement, the following comments from Councils Consents Engineer are relevant:

*“What Class of crossing is required? CLASS E*

*Is the proposed design/construction/gradient acceptable? NO*

*Comments/ Reasons:*

*As the proposal indicates that the existing vehicle crossing and access is to be done away with, the comments below discuss the vehicle crossings for both lots and the access leg for the proposed Lot 1.*

- 1. The current grade of the natural ground level for the proposed Lot 2 is 1:2.1 (48%). While this may be overcome with the aid of (relatively) extensive earth works it would then entail the battering back of the road reserve bank. The maximum allowable grade is 1:8 (12.5%).*
- 1. The grade of the existing access (to be removed) is approximately 1:5 which exceeds DP (max allowable: 1:8). The grade of the access leg will also be approximately 1:5 or 20%. The maximum allowable by NZS 4404:2004 T3.1 is 16% and thus would not be acceptable. As both a new vehicle crossing and access leg are required for Lot 1, the claim that they are existing cannot be made.*
- 2. Provision for a retaining wall may have to be made for the proposed access leg. This may infringe upon the minimum formation width (2.8m). If this is the case then the access leg will have to be increased from 3.5m. This would then reduce the area of Lot 2 to below the minimum 350m<sup>2</sup> required for subdivision”.*

On the basis of the above it is apparent that the construction of the access leg to an acceptable grade will require works that may impinge upon the area of Lot 2. Given that Lot 2 is already at the minimum lot size for infill subdivision, and can only achieve that minimum lot size through having a deficient shape factor, any further reduction would exacerbate the non-compliance of Lot 2. The applicant has not produced any evidence to date that indicates that the access leg formation works can be carried out without requiring a reduction in the area of Lot 2. It should also be noted that there will need to be significant earthworks carried out to provide complying access grade, breakover and sight distances to Lot 2. These will serve to further reduce the useable area of Lot 2.

### Outdoor Living Court

The effect of the outdoor living court infringement with regard to the existing dwelling on Lot 1 will be no more than minor. The District Plan requires an outdoor living court for the existing dwelling of 60m<sup>2</sup> able to contain an 8m diameter circle. Decks can be included if they have a minimum dimension of 3 metres. Terraces can be included if they are flat, have a minimum dimension of 3m and a maximum difference in level of 3m.

The area adjoining the front of the existing dwelling has been retained to provide a terraced area. The area between the two retaining walls is 52m<sup>2</sup> in area with a dimension of 4m x 13m. There is also a 19m<sup>2</sup> deck at first floor dwelling level that is 2.7m wide and 7.1m long.

The purpose of outdoor living courts is to provide an area on-site for passive and active recreation. The District Plan standards allow for such areas to be provided in different ways. It is considered that while the outdoor living areas associated with the dwelling on Lot 1 do not individually comply with the relevant District Plan standards, they still cumulatively provide useable outdoor living space to meet the purpose of a fully complying area.

## Objectives and Policies

### Section 5.4.4 Urban Zones of the District

#### **Objective 8 - Whiritoa**

*To enable the people and community of Whiritoa to provide for residential development in a manner which encourages residential amenity, protects important natural features (eg coast, lagoon), recognises natural hazards (coastal erosion) and does not adversely affect the safe and efficient operation of State Highway No. 25.*

#### **Policies**

*5. Recognise that different parts of Whiritoa have their own residential character and amenity values that may require restriction on the intensity of residential development and management of subdivision layout to protect those values and character.*

### Comment

The layout of the proposed subdivision is not considered to promote residential amenity as sought by the above objective and policy. The District Plan lot size and shape factor requirements are set to give effect to the above policy provisions. Granting consent to the infringement of the shape factor requirement for Lot 2 will lead to a dwelling and associated site development being established in a manner that will not encourage residential amenity. The proposal is thus contrary to the Objective and policy above.

## **Section 5.5.4 Residential Zone**

### **Objective 3**

*To provide for residential development which maintains and enhances neighbourhood amenities and qualities, particularly the open character and the setback of buildings from street boundaries.*

#### **Policies**

- Prescribing performance standards (height, yards, coverage, etc) and assessment criteria, that have been developed over a number of years and have been accepted by the community as an effective way to maintain residential amenity values.*

#### **Comment**

The District Plan states as a reason for the above provisions that “*there are negative effects associated with living in higher densities. These effects can be reduced and/or avoided by building within the limits of specified performance standards*”. The creation of Lot 2 with an underdimension shape factor will make it more difficult to establish a dwelling on the lot that complies in all respects with the relevant performance standards. Approval of the subdivision will also not maintain and enhance the amenity of the neighbourhood as required by Objective 3 above.

### **Objective 4**

*To avoid, remedy and mitigate any adverse effect of residential and non-residential developments.*

#### **Policies**

- Requiring subdivision to be carried out in accordance with Council’s current practice.*

#### **Comment**

The subdivision will create adverse effects on the urban amenity of the site and vicinity that are not able to be avoided, remedied or mitigated. The subdivision is not in accordance with Council’s current practice as set out by the performance standards for urban infill subdivision in the District Plan.

### **Assessment Criteria**

The relevant assessment criteria for the proposal are considered in Tables One and Two below:

**Table One – Relevant General Assessment Criteria for Discretionary Activity subdivisions in the Residential Zone**

<b>Section 10.1.5.4B(p)</b>	
<b>Criteria</b>	<b>Comment</b>
<i>Whether the area and shape of all lots is appropriate to their specified purposes and intended use(s), taking into account any relevant performance and/or formation standards specified in the plan.</i>	Lot 2 is not considered to be of a shape that is appropriate to its intended purpose as a residential lot given that it cannot contain a shape factor of the required dimensions. The purpose of the shape factor requirement is to provide for lots on which dwellings can be constructed with adequate areas for outdoor living, service courts, vehicular maneuvering

	and the like whilst still retaining an acceptable level of on-site amenity. This is unlikely to be achievable given the dimensions of the lot.
<p><i>Whether each new boundary is practically located taking into account the following factors:</i></p> <ul style="list-style-type: none"> <li><i>topography</i></li> </ul>	Extensive earthworks will be necessary to form an adequate grade for the access leg to Lot 1 and to provide complying access Lot 2. Given the steep topography of the site there is no way of locating the new lot boundaries to practically take account of the topography of the site.
<ul style="list-style-type: none"> <li><i>practical management of existing and potential activities on the site</i></li> </ul>	The boundaries of the lots do not take account of the practical management of potential residential activities on Lot 2. Extensive earthworks will be required to form access to the lots, and these earthworks will further impinge on the useable area of Lot 2 that is already an under dimension lot.
<ul style="list-style-type: none"> <li><i>Protection of the land from flooding, erosion and instability</i></li> </ul>	Not applicable in this situation.
<ul style="list-style-type: none"> <li><i>the location of existing buildings, roads, fencelines, drains, shelter belts/hedges, streams and rivers, internal roading and other physical features</i></li> </ul>	The boundary between the lots is appropriately located taking into account the location of the existing dwelling.
<ul style="list-style-type: none"> <li><i>Surface and ground water conditions, including the quality and quantity of the water, the direction of the water flow and the effects that the subdivision may have on them.</i></li> </ul>	The subdivision will affect runoff from the site, however this can be managed to avoid adverse effects.
<ul style="list-style-type: none"> <li><i>Local climatic conditions, especially the orientation of the lots in a manner that will allow buildings to be positioned to take advantage of solar energy, heating and lighting and for buildings to act as a windbreak from prevailing winds.</i></li> </ul>	Proposal is generally consistent.
<ul style="list-style-type: none"> <li><i>Environmental features that have been identified as requiring protection from development</i></li> </ul>	There are no environmental features on this site that are formally protected by the District Plan. The location of Lot 2 will lead to the removal of several mature pohutukawa trees that contribute significantly to the amenity of the immediate area. It is acknowledged that given the lack of formal District Plan protection the trees could however be removed at any time by the landowner.
<ul style="list-style-type: none"> <li><i>Where on site disposal of stormwater and septic tank effluent is required from existing and potential developments is there sufficient area of the type of land required for servicing purposes within each lot.</i></li> </ul>	Sewage will be disposed of via a reticulated system. Stormwater will need on-site detention prior to discharge to the reticulated system.
<ul style="list-style-type: none"> <li><i>Any existing resource consents and the conditions attached to them that need to be accommodated within any lot.</i></li> </ul>	No existing resource consents held for the site.

The District Plan also provides specific assessment criteria for infringements of shape factor, access and outdoor living court standards. These criteria are set out in Table Two below:

**Table Two – Specific Assessment Criteria for relevant Development Standard Infringements**

<b>Rule (9.2.5.4) – Outdoor Living Court Assessment Criteria</b>	<b>Comments</b>
<p>1. <i>Whether there is communal outdoor space provided, which is accessible to the household unit and provides a similar level of amenity.</i></p>	<p>The subdivision does not propose communal outdoor living space.</p>
<p>2. <i>Whether there is adjoining open space (eg park, reserve) that is useable by the unit, thereby reducing the need to provide the court on-site..</i></p>	<p>No such open space adjoining.</p>
<p>3. <i>The extent to which the court can be provided in a manner that may not meet the standards, but still provides a useable area to meet the purpose of the court and a similar level of amenity.</i></p>	<p>The District Plan requires an outdoor living court for the existing dwelling of 60m<sup>2</sup> able to contain an 8m diameter circle. Decks can be included if they have a minimum dimension of 3 metres. Terraces can be included if they are flat, have a minimum dimension of 3m and a maximum difference in level of 3m.</p> <p>The area adjoining the front of the existing dwelling has been retained to provide a terraced area. The area between the two retaining walls is 52m<sup>2</sup> in area with a dimension of 4m x 13m. There is also a 19m<sup>2</sup> deck at first floor dwelling level that is 2.7m wide and 7.1m long.</p> <p>The purpose of outdoor living courts is to provide an area on-site for passive and active recreation. The District Plan standards allow for such areas to be provided in different ways. It is considered that while the outdoor living areas associated with the dwelling on Lot 1 do not individually comply with the relevant District Plan standards, they still cumulatively provide useable outdoor living space to meet the purpose of a fully complying area.</p>
<b>Rule (9.3.3.4) – Access Assessment Criteria</b>	<b>Comments</b>
<p>In determining the location, number, configuration and gradient of vehicular accesses onto any road or street, regard shall be had to whether they:</p> <p>Unnecessarily disrupt the provision of on-street parking.</p> <p>Detract from the amenities of the locality, particularly residential properties.</p> <p>Give rise to traffic hazards through factors such as</p>	<p>Extensive works will be required to form the accesses to both lots to a grade that complies with the District Plan. The extent of the earthworks will contribute to the effect on urban amenity of the overall subdivision. No evidence has yet been provided that the works can be carried out and still maintain a workable access to Lot 1 whilst avoiding a reduction in the area of Lot 2. The proposal is considered to be inconsistent with the relevant assessment criteria opposite.</p>

inadequate visibility and unsafe stopping distances.

Conflict significantly with the normal flow of traffic.

Unreasonably obstruct access to services.

Unreasonably inhibit the utilisation of the site having regard to the scale of the activity and its operational needs.

Restrict ready access to the site particularly where large vehicles and/or significant volumes of traffic are involved such as at service stations having regard to the relevant Ministry of Transport Guidelines.

Readily enable vehicles (that are likely to use the access) to cope with the gradient and other design matters.

- Are impractical to provide due to the physical restrictions on the ground.

Keep the number of access points to a minimum having regard to the availability of alternative access, the opportunities for shared access, the volume and nature of the traffic generated and the operational requirements of the activity

Are sited and designed in such a way that the operation of any intersection is not compromised to a level which significantly diminishes the traffic capacity or safety and that traffic conflicts and hazardous traffic situations are minimised

Are preferable in traffic management terms to be sited on a "greater" street

rather than a lesser street in the case of corner sites.	
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## **CONCLUSION**

The proposal fails to comply with standards pertaining to the minimum shape factor for residential lots, maximum access gradient and breakover angles, and outdoor living courts.

It has been found that the adverse effects of the outdoor living court infringement will not be more than minor. Cumulatively, the effect of granting consent to the subdivision with an under dimension lot and overly steep access angles will be to undermine the relevant policy provisions of the District Plan. The proposed subdivision is considered to represent over intensive development of the site which will not produce the environmental outcomes sought for the residential zone of the District. The size of Lot 2 is the bare minimum for an infill lot and can only be achieved through infringement of the shape factor requirement, with associated adverse effects on the urban amenity of the site.

The need to comply with District Plan requirements for infill subdivision is more critical than for greenfields subdivision in recognition of the fact that the creation of infill lots invariably reduces levels of urban amenity. In essence, the District Plan sets the tolerable levels of urban amenity reduction that infill subdivision can create through the imposition of the lot size and shape standards. It follows that any proposals that infringe these standards will reduce residential amenity to levels not anticipated or allowed for by the District Plan.

In this case there are no circumstances that warrant an exception to the shape factor requirement. The site in plain terms is too narrow and steep to be subdivided in an infill manner whilst still retaining acceptable levels of residential amenity as defined by the District Plan. As a result the proposal conflicts with the relevant objectives and policies of the District Plan, and should therefore be declined consent. A grant of consent to the application would undermine the relevant provisions of the District Plan as they relate to urban infill subdivision.

## **RECOMMENDATION**

**THAT** pursuant to Section 104B of the Resource Management Act 1991 the Hauraki District Council decline consent to this non-notified discretionary activity application to create two infill residential lots on Lot 9 DPS 13577, 39 Whiritoa Beach Road, Whiritoa, for the following reasons:

- The proposed subdivision will create a reduction in residential amenity that is not anticipated and allowed for by the District Plan and as a result is inconsistent with the relevant objectives and policies of the Residential Zone that promote the recognition and enhancement of residential amenity in both Whiritoa and the residential zones of the wider district. Approval of the subdivision will thus undermine the relevant policy provisions of the District Plan as they relate to urban infill subdivision.
- Formation of the access leg to Lot 1 to an adequate grade to comply with NZS 4404 will require earthworks and retaining to be undertaken within the 3.5m wide access leg. The applicant has not demonstrated that the required works can be carried out within the 3.5 metres available and still maintain an adequate access to Lot 1 without further reducing the area of Lot 2. The area of Lot 2 is already at the absolute minimum for infill subdivision. Likewise there will need to be significant earthworks undertaken to allow access to Lot 2 to be formed with complying breakover angles, access gradient and site distances to the east. This will serve to further reduce the usable area of the already underdimension lot. The works that will be necessary to form the acceses to the lots to complying standards will contribute cumulatively to an unacceptable reduction in urban amenity created by the subdivision.

- The District Plan is required to control the adverse effects of land use and cannot take account of the nature of property ownership nor the frequency of occupation of a site. The fact that the sites to be created by the subdivision may or may not be permanently occupied is not a reason to permit a reduction in amenity values as will be produced by the subdivision.

Grant Eccles  
Consultant Planner

**APPENDIX ONE : LOCATION PLAN**

**APPENDIX TWO : SCHEME PLAN OF SUBDIVISION**

## APPENDIX THREE : ENGINEERING COMMENTS

### Vehicle Crossings – Sight Distance 9.3.3

The District Plan requires 65m of sight distance in each direction. The access to Lot 1 can comply but earthworks will be required to permit complying sight distances to the east from the access to Lot 2.

District Plan requires: 65m

Application proposes: >65m?

Is there more than one location on the frontage of the proposed lot/s where the required sight distance can be achieved? LOT 1 – NO; LOT 2 YES

Are any works required to achieve acceptable sight distance? YES (see comments below)

Comments/ Reasons (eg. Local speed environment, etc):  
See comments below.

Recommendation:

Approve	Decline
Approve subject to conditions ✓	

Conditions:

1. That the minimum sight distances be met.

ASSESSMENT CRITERIA: See section 9.3.3.4 of DP

### Vehicle Crossings – Dimensions/Construction/Gradient 9.3.3

What Class of crossing is required? CLASS E

Is the proposed design/construction/gradient acceptable? NO

Comments/ Reasons:

As the proposal indicates that the existing vehicle crossing and access is to be done away with, the comments below discuss the vehicle crossings for both lots and the access leg for the proposed Lot 1.

4. The current grade of the natural ground level for the proposed Lot 2 is 1:2.1 (48%). While this may be overcome with the aid of (relatively) extensive earth works it would then entail the battering back of the road reserve bank. The maximum allowable grade is 1:8 (12.5%).
5. The grade of the existing access (to be removed) is approximately 1:5 which exceeds District Plan (max allowable: 1:8). The grade of the access leg will also be approximately 1:5 or 20%. The maximum allowable by NZS 4404:2004 T3.1 is 16% and thus would not be acceptable. As both a new vehicle crossing and access leg are required for Lot 1, the claim that they are existing cannot be made.
6. Provision for a retaining wall may have to be made for the proposed access leg. This may infringe upon the minimum formation width (2.8m). If this is the case then the access leg will have to be increased from 3.5m. This would then reduce the area of Lot 2 to below the minimum 350m<sup>2</sup> required for subdivision.

**Recommendation:**

Approve	Decline ✓
Approve subject to conditions	

Conditions:

ASSESSMENT CRITERIA: See section 9.3.3.4 of DP

**Sewer 9.3.7**

District Plan requires: Separate connections

Application proposes: Separate connections

Can the proposed lots be provided with sewer connections (eg can fall be achieved, can the public sewer be extended to serve the lot, is the lot outside the sewerage scheme area)? YES

Comments:

**Recommendation:**

Approve	Decline
Approve subject to conditions ✓	

Conditions:

- 1) That the subdivider shall provide each lot with a separate sewer connection in accordance with the requirements of NZS 4404: 2004 and performance standard 9.3.7 of the District Plan.

ASSESSMENT CRITERIA: See section 9.3.7.4 of DP

**Stormwater Drainage 9.3.10**

District Plan requires: Disposal in accordance with NZS 4404

Application proposes: Detention tank with overflow to kerb.

Does the stormwater discharge from existing development (buildings/hard stand areas) on the lots discharge over the boundary with any proposed new lot/s? NO

What method of stormwater disposal applies to the undeveloped lot/s? (if applicable refer to stormwater report submitted with application). DETENTION TANKS

Comments:

**Recommendation:**

Approve	Decline
Approve subject to conditions ✓	

Conditions:

1. That a consent notice pursuant to section 221 of the Resource Management Act 1991 be registered against the title of Lot 1 and 2 advising that stormwater from the lot shall be disposed of in accordance with the report by Waihi Beach Surveyors dated 24 July

2006, or an alternative system as designed by a suitably qualified person in accordance with the requirements of the New Zealand Building Code EI.

ASSESSMENT CRITERIA: See section 9.3.10.4 of DP

### Roading Contributions 10.2.7

District Plan requires (see rule 10.2.7.3.B)

Application proposes:

Are there any plans by Council to upgrade/seal the road (10 year plan)?

What is the amount of contribution based on the formula in rule 10.2.7.3? \$ 344.31

Comments:

As there is an existing kerb & channel, the roading contribution only takes a pathway into account.

Conditions:

- 1) That the subdivider shall pay \$344.31 as a capital contribution toward the cost of improving Whiritoa Road, in accordance with Rule 10.2.7.3.B(b) of the District Plan.

<b>A<sub>p</sub></b>	7		\$81.20		
<b>LOCATION</b>	<b>VPD (P<sub>v</sub>)</b>	<b>L</b>	<b>P/WAY</b>	<b>Combined (I<sub>c</sub>)</b>	<b>Contribution</b>
SH25-Tav Lane	480	295	\$23,954.00	\$23,954.00	\$344.31
				<b>TOTAL</b>	<b>\$344.31</b>

$$\text{Urbanisation Contribution}(\$) = I_c \times \frac{A_p}{P_v + A_p}$$

**Other:**

Access leg – formation required?  
See comments above

Bearing capacity – Engineer designed foundations required? Based on the results indicated (CBR 4 & 5 (approximately 65 & 79 MPa respectively)) Engineering designed foundations required.

Conditions

3. That a consent notice shall be registered against the title of Lot 2 pursuant to Section 221 of the Resource Management Act 1991, advising prospective purchasers that foundations for any buildings shall be designed by a suitably qualified person.