

<b>R E P O R T</b>	<b>TO</b>	Hearings Committee
	<b>FROM</b>	Joe Gray Consultant Planner
	<b>FILE REF</b>	RC-15521 / 427422
	<b>DATE</b>	13 August 2008
	<b>SUBJECT</b>	<b>Application to subdivide Lot 1 DPS 24715 into two residential lots. D &amp; L Fairgray – 5 Moray Place, Whiritoa</b>

### DETAILS OF APPLICATION

<b>Date Received:</b>	<b>25 June 2008</b>
<b>Submitted By:</b>	<b>Waihi Beach Surveyors</b>
<b>Applicant:</b>	D & L Fairgray
<b>Property:</b>	<b>Lot 1 DPS 24715</b>
<b>Address:</b>	5 Moray Place, Whiritoa
<b>Extent:</b>	997m <sup>2</sup>
<b>Certificate of Title:</b>	CT 25C/981
<b>Zoning:</b>	Residential (Planning Map E)
<b>Rule:</b>	10.1.5.4.B (h) General Lots in the Residential Zone
<b>Application:</b>	Section 88 of the Resource Management Act 1991:- <b>Discretionary</b>
<b>Recommendation:</b>	Approval, with conditions.

### THE PROPOSAL

The applicant proposes to subdivide Lot 1 DPS 24715, located at 5 Moray Place, Whiritoa into two residential allotments as follows:

- Lot 1 would comprise a total area of 543m<sup>2</sup> (370m<sup>2</sup> net) and will be a vacant lot located within the northern portion of the subject property.
- Lot 2 would comprise a total area of 453m<sup>2</sup> and would contain an existing dwelling.

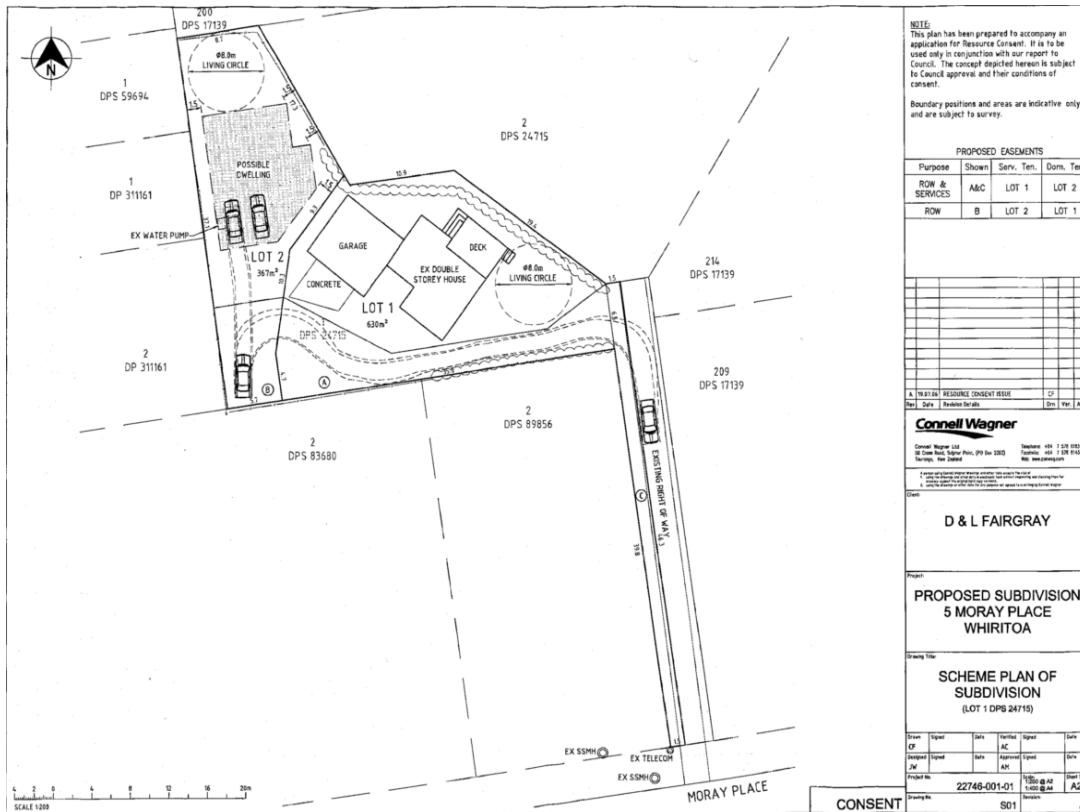
Both of the lots will be accessed via an existing Right of Way (that currently serves the subject property and two other lots to the east). The proposed subdivision will result in a total of four lots obtaining access to the existing Right of Way.

There is an existing garage that is located on the proposed internal boundary that will be removed from the subject property. Part of the deck on the existing dwelling will also be removed to comply with the District Plan residential separation distances.

The eaves of the existing dwelling are situated above the proposed access leg. The applicant proposes that an eaves easement be granted over lot 1 for the benefit of lot 2.

## **BACKGROUND**

A previous subdivision consent application relating to the subject property was lodged with Council in August 2006. The original subdivision application also proposed to create two lots; however the new scheme plan submitted by Waihi Beach Surveyors has amended the layout. The original scheme plan submitted by Connell Wagner Consultants is illustrated below:



The Council planner's recommendation to the hearings committee for the original subdivision application was to refuse consent. This recommendation was made on the following grounds:

- The proposal was not in accordance with some of the objectives and policies and assessment criteria of the District Plan.
- The adverse effects of the proposal on traffic safety with regards to the Right of Way could be more than minor.
- There were no special circumstances or characteristics of the proposal that should warrant approving a small irregular shaped lot, and therefore granting consent could adversely affect the integrity of the District Plan.

The hearing date for the original application had been set down in January 2007, however prior to this, the applicant requested the application be put on hold.

## **THE SITE AND LOCALITY**

Moray Place is a no-exit street that is accessed via Kon Tiki Road. The subject site is zoned residential as are all of the adjoining properties.

The site is flat and contains an existing two storey dwelling with an attached deck and an associated garage.

There are two existing sewer man-holes located near the north western corner of the subject property.

**STATUS OF THE APPLICATION**

Standard		Complies	Does not comply	N/A	Comment
<b>Residential Subdivision (District Plan Rule 10.1.5.4.B(h))</b>					
Min. area (infill)	350m <sup>2</sup>	X			The activity complies
Min. shape factor	10x15m excluding yards		X		Lot 1 can provide the complying minimum shape factor. Lot 2 cannot but has an existing dwelling.
Min. frontage	3.5m	X			
Variety of allotments for subdivisions of 4 lots or more	Half the lots to be greater than 700m <sup>2</sup>			X	Only a 2 lot subdivision.
<b>Performance Standards (District Plan Section 9)</b>					
<b>Bulk and Location of Buildings</b>			X		The existing dwelling, deck and garage on Lot 2 will be located within 1.5m of the internal boundary.

<b>Infrastructure and Services</b>	<b>Rights of Way serving 4-5 lots:</b> Access width (min) 6m, Carriageway width (min) 4.8m, Access length (max) 40m. <b>Rights of Way serving 1-3 lots:</b> Access width (min) 3.5m.	X		-The existing Right of Way serving the subject property and 3 other lots and the extension to the subject property will exceed the maximum permitted Right of Way length. -The existing Right of Way is approximately 4.56m wide, in lieu of the required 6m. -The eaves of the existing dwelling will encroach into the 3.5m min permitted width for the access leg serving Lot 1.
<b>Performance Matters</b>			X	

The proposed subdivision is unable to comply with all of the standards listed above.

Under Rule 10.1.5.4.B of the District Plan, subdivision proposals that are unable to comply with all of the above requirements are provided for as a discretionary activity.

This application is to be considered as a **discretionary activity**.

**Resource Management Act 1991 (RMA)**

Section 93 states that a discretionary activity subdivision consent need not be notified if the consent authority is satisfied that the adverse effects of the activity on the environment will be minor. Section 94 further states that Council is not required to serve notice of the application on any persons, if all persons who may be adversely affected by the proposal have given their written approval. At the time of initial assessment no parties were considered to be adversely affected by the proposal.

A decision was therefore made under delegated authority to process the application without notification.

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

**Hauraki Gulf Marine Park Act 2000**

Section 9(4) requires a consent authority, when considering an application for 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 recognize the national significance of the Gulf, its islands and catchments.

## Comments

### **Council's Resource Consents Engineer**

A summary of Council's Consents Engineers findings is provided below:

- The existing hedge adjoining the north eastern boundary of the access leg is located within the subject property. It is recommended that this hedge be removed and a thin fence be erected on the boundary. This will provide sufficient manoeuvring space and is considered to be more appropriate than allowing an eaves easement. It is considered that the access leg can be locally reduced to 3m at the northern most point of the access leg so that the eaves are contained entirely within proposed Lot 1.
- The following works are recommended for the upgrading of the existing Right of Way:
  - Widening of the Right of Way using gobi blocks.
  - Stormwater can continue to be directed to the kerb and channel within Moray Place.
  - Install speed hump as the wider widths will increase traffic speeds.
- It is considered that stormwater can be disposed of on-site, however the soakage tests from Connell Wagner Consultants have not been carried out in accordance with the New Zealand Building Code EI. A condition should be imposed requiring that stormwater be disposed of via an on-site system as designed by a suitably qualified person, to the satisfaction of the District Engineer, HDC.

## ASSESSMENT OF THE PROPOSAL

### District Plan

#### **Subdivision**

The following assessment criteria for a discretionary activity contained within Rule 10.1.5.4C(a) is considered to be relevant to the proposal:

#### *3. The General Assessment Criteria contained in Section 10.1.5.4 B.(p).*

The following general assessment criteria for subdivision in section 10.1.5.4.B (p) of the District Plan are relevant:

- *“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.*

Although the location of the existing dwelling in terms of the scheme plan is not overly desirable, the shape and size of the lots are still considered to be appropriate for their intended use as residential lots. Both lots can connect to the Council sewer main located near the northern boundary of the subject property.

### Services

Connell Wagner has carried out soakage tests on the property as part of the previous subdivision application submitted in August 2006. Council's Consents Engineer has reviewed the Connell Wagner report and has stated that the soakage tests have not been carried out in accordance with the New Zealand Building Code E1. It is however considered that on-site disposal can be achieved. It is recommended that a condition be placed on the consent (if consent is granted) requiring that stormwater be disposed of via an on-site system as designed by a suitably qualified person, to the satisfaction of the District Engineer, HDC.

### Right of Way

As noted the existing Right of Way is unable to comply with the District plan standards relating to easement width, carriageway width and length.

The proposed subdivision will result in four lots obtaining access to the existing Right of Way which is currently approximately 4.56m wide and 56.75m long. Rule 9.3.19 of the District plan stipulates that any Right of Way serving 4-6 lots shall have a minimum width of 6m, minimum carriageway of 4.8m and a maximum length of 40m.

The existing Right of Way is 56.75m and the proposed shared Right of Way (marked as 'A' on the scheme plan) will be 13.64m. The proposed subdivision will therefore result in a total Right of Way length of 70.14m.

Although the departure from the Right of Way standards is significant, any adverse effects are not considered to be any more than minor. This has been determined primarily on the grounds that a second dwelling could be erected on the subject property as a permitted activity.

Further to this, any actual or potential effects of the subdivision can be mitigated by the addition of speed humps to reduce the speed of vehicles using the Right of Way. It is also noted that the bend into the subject property will slow traffic.

To allow vehicles to pass unimpeded, Council's Consents Engineer has recommended that the carriageway is formed with gobi blocks along the entire width of the Right of Way. The gobi blocks would allow services to be laid underneath and thus maximising all available space.

### Access leg Serving Lot 1

As noted, the applicant wishes to establish an eaves easement over Lot 1 in favour of Lot 2 in order to provide a complying accessleg width. However, Council's Consents Engineer has noted that the existing hedge adjoining the access leg is located entirely within the subject property and can be removed. It is therefore recommended that a condition be imposed (if consent is granted) requiring that the hedge be removed. Council's Consents Engineer has recommended that the width of the access leg should be locally reduced to 3m at the northern most section of the access leg so that the eaves are contained entirely within proposed Lot 2.

### Lot 2 Shape Factor

Proposed Lot 2 is unable to provide a complying 10m x 15m rectangle for site development purposes. Any effects associated with this are not considered to be any more than minor as there is an existing dwelling on the property. Lot 2 can still provide a complying living and service court and a possible garage toward the southern boundary of the subject property.

- *Whether each new boundary is practically located taking into account the following factors:*
  - *Topography*
  - *Practical management of existing and potential activities on the site...*
  - *The location of existing buildings, roads, fence lines, drains, shelter belts/hedges, streams and rivers, internal roading and other physical feature*

The boundaries are considered to be located in the most practical locations given the awkward shape of the subject property. The proposed scheme plan submitted in this instance is also considered to provide a more practical layout in terms of the internal vehicle maneuvering area than that submitted previously in August 2006.

**Performance Standards**

The following assessment criteria are considered to be relevant when assessing subdivision activities that are unable to comply with the District Plan standards for internal access:

1. *Whether the internal access will still allow for access by larger vehicles such as furniture trucks and for emergency vehicles.*

The Right of Way can be constructed and formed to suitable width to enable large vehicles to access the site. Given that it is likely to be relatively infrequent that large vehicles will be using the Right of Way, any congestion effects are not considered to be any more than minor.

2. *Other techniques proposed, such as passing bays, that would allow for reduced access widths and/or increased access length.*

The formation of passing bays in this instance is not possible due to the fact the Right of Way is bounded by two properties to the east and west. To mitigate this, Council's Consents Engineer has recommended that the carriageway be widened with gobi blocks to enable the vehicles to traverse over any services within the Right of Way. This will increase the carriageway width to the full extent of the easement width (4.56m), enabling vehicles to pass unimpeded while ensuring that services can still be accessed for maintenance purposes.

4. *The safety and convenience of the internal access.*

It is considered that the Right of Way can be formed and constructed to ensure that vehicles can access dwellings in a safe and effective manner. Traffic speed can be reduced by a condition requiring that a speed hump be installed within the Right of Way and as noted, gobi blocks can be used in the construction to enable vehicles to pass unimpeded.

7. *Traffic speed control by techniques such as speed humps or corners that would allow increased access length and/or reduced access widths.*

As noted above, Council's Consents Engineer has recommended that a speed hump be included in the design of the Right of Way to reduce speeds within the Right of Way. This will be included as a condition if consent is granted.

9. *The physical nature of the site would make providing the accessway inappropriate or impractical.*

As noted, the existing Right of Way is bounded by the two properties to the east and west. This means that any widening of the actual Right of Way width is not possible.

**Objectives and Policies**

<b>Objectives and Policies</b>	<b>Comment</b>
<p><i>Objective 1</i></p> <p><i>To manage the existing and future residential land, infrastructure, services and other natural and physical resources in a sustainable manner.</i></p>	<p>The subject property can connect to Council sewage reticulation and it is considered that any stormwater from existing or potential dwellings can be disposed of on-site.</p>

<p><i>Policies</i></p> <ol style="list-style-type: none"> <li><i>1. Providing for a higher density of residential development where servicing constraints do not exist.</i></li> </ol>	
<p><i>Objective 3</i></p> <p><i>To provide for residential development which maintains and enhances neighbourhood amenities and qualities, particularly the open character and the set back of buildings from street boundaries.</i></p> <p><i>Policies</i></p> <ol style="list-style-type: none"> <li><i>2. Prescribing performance standards 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 qualities.</i></li> <li><i>3. Allowing increased density in areas where that form of development is appropriate.</i></li> </ol>	<p>The proposed subdivision shows a high degree of compliance with the relevant residential subdivision rules contained within Rule 10.1.5.4.B(h) of the District Plan. As such, it is considered that this type of activity has been anticipated by the Plan.</p> <p>Any potential effects associated with non-compliances with the performance standards can be effectively mitigated by appropriate conditions.</p> <p>It is also noted that one further dwelling can be erected on the subject property and gain access via the existing Right of Way as a permitted activity.</p>
<p><i>Objective 4</i></p> <p><i>To avoid, remedy or mitigate any adverse effect of residential and none residential accommodation in that area, and servicing capabilities.</i></p> <p><i>Policies</i></p> <ol style="list-style-type: none"> <li><i>1. Requiring the disposal of sewage, wastewater solid wastes and stormwater in a manner that does not have a detrimental effect on the environment.</i></li> <li><i>2. Requiring subdivision to be carried out in accordance with Council's current practice.</i></li> </ol>	<p>As noted, the site can be adequately serviced.</p>

### **Actual and Potential Effects**

Section 104(1) (a) of the RMA requires that consideration be given to the actual and potential effects on the environment of allowing the subdivision. It is considered that the proposed subdivision has no adverse effects that will be more than minor as the development is consistent with other development in the area.

### **Part II**

The matters in section 104 are subject to Part II of the RMA. The application complies with the majority of subdivision standards of the District Plan and is deemed to be appropriate development of the lot. The subdivision is in accordance with the development anticipated for the zone.

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 not compromise the provisions of Part II of the Act.

### **Section 106**

There are no matters under section 106 of the RMA meaning that consent should not be granted.

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

The proposed subdivision will have no adverse effects on the significance of the Hauraki Gulf, or on the relationship of tangata whenua with the Hauraki Gulf.

### **CONCLUSION**

The effects of the proposed subdivision are considered to be no more than minor and can be effectively mitigated by appropriate conditions. It is considered that the proposed development is generally consistent with the residential subdivision requirements of the District Plan, as well as with the surrounding environment.

It is important to note the distinction between the previous recommendation made by Council's planner for the original subdivision application received in August 2006 that recommended refusal of the application. The key factors that warranted decline of the previous application are listed below:

- The original application submitted could not provide for an outdoor service court on the proposed vacant lot.
- The car maneuvering and access layout was impractical and could not provide for a suitable maneuvering area. Council's Technical Services Manager was not convinced that the tracking curves would work.
- The length of the Right of Way exceeded that proposed in this instance by approximately 10m.
- No solution was provided to mitigate any adverse effects associated with the existing Right of Way width.

It is considered that the new subdivision application will result in more practical boundary locations and any adverse effects can be appropriately mitigated. It is therefore considered that consent should be granted.

### **RECOMMENDATION**

That pursuant to Section 104B of the Resource Management Act 1991 the Hauraki District Council grant consent to this discretionary activity application to subdivide Lot 1 DPS 24715, located at 5 Moray Place, Whiritoa, into two residential allotments, on the grounds that:

- The proposed subdivision has no adverse effects on the environment that cannot be adequately mitigated by appropriate conditions;
- An additional dwelling could be erected on the subject property as a permitted (land use) activity; and

- The proposal is consistent with the intensity, form and character of the surrounding residential activities in the area.

Subject to the following conditions:

1. The subdivision shall be carried out generally in accordance with amended Waihi Beach Surveyors scheme plan reference 1944E dated 24 June 2008 received 25 June 2008, except as amended by the conditions below.

**Contributions**

2. That a Community Recreation Facilities Contribution of \$1,842.94 plus GST (\$2073.30) be paid to Council for the creation of one additional lot (Waihi Ward).

**Legal**

3. That the following easements be created:

**Memorandum of Easements**

Easement	Servient Tenement	Dominant Tenement
Right of Way 'A'	Lot 1	Lot 2

**Stormwater Drainage**

4. That a consent notice pursuant to section 221 of the Resource Management Act 1991 be registered against the Certificate of Title of Lot 1 advising that stormwater from the said lot (including roof water from all future roofed structures) shall be disposed of via an on site system as designed by a suitably qualified person (approved by Council) in accordance with the requirements of the New Zealand Building Code EI.
5. That the existing stormwater system reticulating the existing hard surface run off from Lot 2 be upgraded and disposed of via an on site system as designed by a suitably qualified person (approved by Council) in accordance with the requirements of the New Zealand Building Code EI.
6. That Right of Way 'A' shall be designed to contain and dispose of stormwater within the proposed boundaries of Right of Way 'A'. This shall be designed to the satisfaction of the HDC District Engineer.

*NOTE: Any new stormwater system is to be installed under building consent.*

**Power and Telephone**

7. That the subdivider shall provide power and telephone connections to Lot 1, **or** written confirmation from the respective supply authorities that these connections are available at the standard connection fee.

**Sewer**

8. That Lots 1 and 2 be reticulated for sewage disposal in accordance with the requirements of NZS 4404: 2004 and performance standard 9.3.7 of the District Plan. The connection stub for Lot 1 shall be end capped and marked.
9. That the existing sewer connection to Lot 2 shall be reused for Lot 1 and a new sewer connection shall be provided to Lot 2. The new connection to Lot 2 shall be located adjacent to the north eastern boundary of Lot 1, clear of the Lot 1 building platform.

10. That the length of the any private sewer passing through Lot 1, which serves Lot 2, shall become public sewer. This will require an inspection chamber (or as approved) installed within Lot 2 adjacent to Lot 1. All works shall be constructed/upgraded in accordance with the requirements of NZS4404:2004 and the performance standard 9.3.7 of the District Plan.

*NOTE: A building consent will be required for any internal drainage work*

### **Access**

11. That the existing hedge located on the northern boundary of this development shall be removed over the extent of the proposed ROW (A) and the proposed access leg for Lot 1.
12. That the existing garage and deck within Lot 2 shall be cut back or removed to ensure that no part of the deck is located within the Lot 1 access leg and that the garage is clear of the 1.5m yard requirement.
13. That the proposed access leg width for Lot 1 be locally reduced from 3.5m to 3.0m at the northern most section of the access leg.
14. That Right of Way 'A' shall be constructed in accordance with the standard for a Right of Way serving 1-3 lots in the Residential Zone, as outlined in Rule 9.3.19.3 of the District Plan.
15. That the following design measures shall be implemented for the upgrading of the existing Right of Way:
  - a) That the existing Right of Way paved/ hard surface area width be widened to the full existing legal width of 4.56m using gobi blocks.
  - b) The stormwater runoff from the upgraded Right of Way shall continue to be directed in to the existing kerb and channel located on Moray Place.
  - c) That the existing entrance to the Right of Way be upgraded to a Class E (Standard Residential Vehicle Entrance) as specified in Rule 9.3.3.3.E of the District Plan by the developer at the time of sub division.
  - d) That a speed-hump be installed within the existing Right of Way in an appropriate location to be approved by the District Engineer, HDC.

### **Engineering General**

16. Engineering plans and specifications (including back up calculations) for ALL engineering works (sewer, water, vehicle crossing) shall be submitted to Council for approval prior to any construction/installation taking place.
17. That three copies of as-built plans be submitted to Council upon completion of construction (sewer, water, vehicle crossing). As-Built drawings are to comply with NZS 4404: 2004, Schedule 1D, and all normal requirements as per Section 1.5.2. Attention is drawn to the requirement for co-ordination of all utility surface features. All co-ordinates are to be presented in New Zealand Transverse Mercator Projection, levels are to be in terms of Tararu Datum.
18. That pursuant to Section 36(1)(b) of the Resource Management Act 1991, the Applicant shall pay Council charges for receiving, processing and granting the Resource Consent.
19. That pursuant to Section 36(1) (c) of the Resource Management Act 1991 the applicant shall pay an administration fee of \$95.00 for administration of the consent.

20. That pursuant to Section 36(1) (c) of the Resource Management Act 1991 the applicant shall pay all Council's costs for monitoring this consent including all costs associated with the consideration and certification of plans and details associated with the consent as appropriate.

**Advice Notes:**

- Any work undertaken in the road reserve will require a street opening permit and traffic management plan be submitted for approval before work commences. Any enquiries regarding this procedure may be directed to Janet Tee at the Paeroa offices, Tel 07-862 8609.
- The construction of the vehicle entrance will require a vehicle crossing permit. Please contact Janet Tee at the Paeroa office on ph 07 862 8609 to proceed with the application of the permit before commencement of any work on the entrance.
- No work may be undertaken on the sewer mains by private contractors without prior approval from the District Engineer, HDC.
- Please note that your street address may change as a result of the subdivision of your property. You will be advised at a later date if this is to be the case. Hauraki District Council follows the Standard New Zealand regulation governing the numbering of all rural and urban properties. This is to ensure the effective and efficient delivery of services and amongst them, emergency services such as fire, ambulance and police etc. Should you have any further queries regarding this matter, please contact the Hauraki District Council.

Joe Gray  
Consultant Planner