



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Deborah Hewett, Consent Planner, Subdivision

REFERENCE: RM050876

SUBJECT: **R LEES - REPORT EP07/07/15 - Report prepared for 31 July 2007 Hearing**

1. PROPERTY LOCATION, ZONING AND PROPOSAL

The property is located at the end of Peninsula Road on Tata Headland North, in Golden Bay and is zoned Rural Residential according to the Proposed Tasman Resource Management Plan (TRMP).

The proposal is for the subdivision of Lot 2 DP 353793 (CT 219979) comprising 3.6267 hectares into three allotments, with proposed Lot 1 comprising 1.0088 hectares and containing an existing dwelling and outbuildings, Lot 2 comprising 1.2927 hectares and Lot 3 comprising 1.3255 hectares. Rights-of-ways for vehicle access will also be created to service the new allotments, and to retain the rights of other existing users. The existing right-of-way to Lot 2 DP 8554 is not affected by the subdivision.

The properties lies within a slope instability risk area, the coastal environment area and adjacent to an esplanade reserve (open space zone) that abuts the Tata Beach Estuary. This is identified in the TRMP (Schedule 24.1F) as an area with nationally and internationally important values.

The status of the subdivision is a Discretionary Activity.

2. OBJECTION

A decision on application RM050876 was made under delegated authority by the author on 5 June 2007. On 15 June 2007 the Council received an objection under Section 357 of the Resource Management Act 1991 to conditions of Resource Consent RM050876 from Mr Martin Potter of Golden Bay Surveyors, agent for the applicant, Mr Richard Lees.

The agent / applicant objects to the following Conditions:

- **Condition 4 'Easements to be Created'** The condition requires easements to be created over services that lie outside of the allotment in favour of that allotment or in gross to TDC as required. This is a "standard condition" for subdivision consents.

- **Condition 7 “Right-of-way – Public Access and Council Vehicle maintenance Access’** – The condition requires that a right-of-way easement be created in gross to Tasman District Council to provide for public access and vehicle access solely for the purposes of maintenance of the access and possible future development of the esplanade reserve located alongside Tata Beach Estuary which is listed in the TRMP (Schedule 25.1F) as an area with nationally and internationally important values. The terms and provisions of the easement relating to location and extent of the easement area, activities and use, have been set out which would be incorporated into an easement instrument to be registered on the title of the relevant allotments, being Lots 2 and 3.

The full wording of conditions 4 and 7 are set out in resource consent decision RM050876, Attachment 1.

3. **REASONS FOR THE OBJECTION** (Refer letter dated 15 June 2007, Attachment 2 for full text)

- **Condition 4 ‘Easements to be Created’** The wording of the condition excludes easements to be created in gross to Telecom and Network Tasman or any other utility provider. These services will not be provided unless service providers can secure easements in gross.
- **Condition 7 “Right-of-way – Public Access and Council Vehicle maintenance Access’** – The condition goes beyond what was originally discussed and agreed by the applicant. The condition is an invalid condition for Council to impose.

4. **RELEVANT PROVISIONS - STATUTORY**

Section 357 RMA 1991

Sections 357 to 357D of the Resource Management Act 1991 provide for the rights, procedures and decisions on objections. In summary, Section 357A provides for the rights of an applicant to lodge an objection to any delegated authority decision on a resource consent. Section 357C sets out the procedures for lodging objections. Section 357D provides for decisions on objections. The options available to the Committee are to dismiss the objection or uphold the objection in whole or in part. Section 358 provides for decisions made on objections to be appealed to the Environment Court.

Section 5 Purpose of the RMA 1991

Section 5 sets out the purpose of the Resource Management Act which is to promote the sustainable management of natural and physical resources. 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.

In the context of a discretionary activity (unrestricted) an overall broad judgment is required as to whether or not a proposal promotes the sustainable management of natural and physical resources. This includes consideration of the statutory duty of Section 6(d) below.

The manner of the provision of access to the coastal marine area will determine whether the proposal achieves the purpose of the Act. To not provide access in the manner proposed is at odds with the statutory duty in section 6(d) (see below).

Section 6 Matters of National Importance RMA 1991

Sections 6 (and section 7) set out certain matters that the Council must recognise and provide for. These matters form part of the consideration in the broad overall judgement of section 5 as to whether or not a proposal promotes the sustainable management of natural and physical resources.

The relevant section 6 matter in this case is 6(d) *“The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers”*.

Condition 7 of RM050876 seeks to address this Section 6 matter, by providing for public access to the coastal marine area, and in so doing promote the sustainable management of natural and physical resources (Section 5 of the RMA 1991) and achieve the purpose of the Act.

Section 108 and 220 RMA 1991

Section 108 of the Act allows consent authorities to impose conditions on resource consents. Subsection (1) confers a general power to impose any condition that “the consent authority considers appropriate”, but this is not unlimited. Subsection (2) lists the type of conditions that may be included with the resource consent.

In addition, Section 220 is specific to subdivision consents and sets out the matters over which conditions may be imposed on subdivision consents. The relevant matter in respect of this 357 objection is:

Section 220(1)(f) A condition requiring that easements be duly granted or reserved.

It is clearly within the power of the Council to set conditions relating to easements on subdivision consents, including a right-of-way easement for public access and council vehicle access maintenance in condition 7 (RM050876). In this respect the condition is lawful.

Legal opinion (Attachment 3), see Section 7.

Proposed Tasman Resource Management Plan

The subdivision is a restricted discretionary activity under TRMP Rule 18.15.4 Slope Instability Risk Area. In terms of the rural residential zone the subdivision would technically be a discretionary activity (unrestricted) because the imposition of the esplanade reserve top-up to 20 metres reduces the allotment size to below the 1 hectare threshold, with the net area of Lot 3 being 0.9247 hectares. It has been recognised that the threshold of 1 hectare could be met by revising the boundaries of the allotments but the effect was considered minor and would not materially change the subdivision proposal or its effects. As a consequence the application has been treated in all other respects as a controlled activity.

Regardless of the activity status of the application, the Council has, through its subdivision rules for the rural residential zone, identified within the controlled activity and discretionary activity status (criteria in Schedule 16.3A) the following relevant matter for assessment and consideration in setting conditions on a resource consent:

“The provision, design and routes of cycleways, walkways and bridle-paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.”

Consent condition 7 reflects due consideration of these matters in the context of the proposal, the TRMP and the Act. It is an appropriate response given the Act's requirement that decision makers shall provide for the maintenance and enhancement of public access to and along the coastal marine area as a matter of national importance (a statutory duty) under Section 6 of the Act and given the lack of access within this locality, including to the newly created reserve as part of the subdivision.

5. OTHER RELEVANT CONSIDERATIONS – PRINCIPLES

There are five principles that provide a sound basis for developing conditions of consent. These are that conditions should be:

- **Within a council's powers under the Act.** Any condition must be constructed under the general powers of section 108(1) of the Resource Management Act 1991; “the Act”.

The conditions have been constructed within the powers of section 108(1) of the Act. There is also a specific power to require an easement to be created under section 220 (1)(f).

- **For a resource management purpose.** Any condition placed on a consent must relate to either avoiding, remedying or mitigating any adverse environmental effects associated with the activity. A condition cannot be imposed for any ulterior reason. Conditions should not be used to address deficiencies in the application. Conditions that do not meet this test may be unlawful.

Additional esplanade reserve is being created as a result of the subdivision and in order to enhance and maintain this reserve and enable public access to the reserve and the coastal marine area an access easement is considered necessary. In the absence of this access easement, effective use of the reserve is unlikely to be made. The adverse effect that the condition seeks to address is the limitation on public access to a newly created esplanade reserve as a result of this subdivision. In addition, and more significantly, it seeks to give effect to Section 6(d) of the RMA 1991 by making provision for “maintaining and enhancing public access to and along the coastal marine area”, a matter of national importance under the Act. This is a specific consideration that links back to the purpose of the Act, Section 5.

The conditions are for a resource management purpose.

- **Certain.** Consent conditions should be certain so that they are workable for both the consent holder and the consent authority. This means that conditions should provide both parties with clarity and surety as to their requirements and obligations in an unambiguous way.

The conditions are certain, identifying the location and area of the easement, the terms of use and the obligations of parties and the public in utilising the easement area. These are to be set out in the easement instrument which will be registered on the relevant titles, being Lots 2 and 3.

In respect of condition 4 ‘Easements to be Created’ a relevant matter raised by the applicant’s agent, Mr Potter, is reference to easements to be created in gross to Tasman District Council. This does not preclude the creation of easements in gross for other service providers.

- **Relevant to the subject matter of the consent.** A condition should fairly and reasonably be related to the activity for which consent has been granted.

The condition is related to the consent seeking to address an effect of limited access to esplanade reserve created by the subdivision. The provision of walkways has been specifically identified as a matter of control (and discretion) under the TRMP and as set out earlier the significance in terms of this in terms of this proposal lies in providing for a specific matter of national Importance in Section 6(d) of the Act

- **Fair, reasonable and practical.** Any condition of consent should be fair and reasonable and be able to be practically imposed. There is little point imposing a condition that so severely hampers the development that it renders the decision to approve the application ineffective.

The condition is fair and reasonable. It is also practical. The nature of the condition does not hamper use of the existing underlying right-of-way for vehicle use by the adjacent landowner Lot 2 DP 8554 and the proposed new rights-of-way easements to be created for vehicle access to Lots 1-3 and Lot 2 DP 17811. Compensation offered by the Council for the creation of the pedestrian access easement is considered generous and reflects the importance of this pedestrian link.

- **Exclusively between the applicant and the council.** A condition can not require the agreement or compliance of third parties, or infringe on a third parties legal rights. Also, a consent must not be infringed upon by the condition of a subsequent resource consent, as a resource consent is a legal right.

Condition 7 does not require agreement or compliance of third parties. It does not infringe on third party legal rights. Easements for rights-of-ways created under the RMA 1991 require Council approval not third party approval. The statutory consideration for the Council would be in respect of number of users and formation standards set out in the TRMP.

In successive subdivision of existing titles where legal rights-of-way exist, say for vehicle access, future titles automatically inherit those same rights-of-way (unless there is something in the easement instrument that restricts this which is uncommon). In these situations there is no control by third party users over the increase in the number of users and the approval of the owner of the land over which the easement exists is not needed.

Sharing the legal rights with members of the public does not impinge on user's legal rights. Rights-of-way users still have the right to pass and repass to obtain access to their allotments.

6. RESPONSE TO OBJECTION POINTS

The following provides a brief response to the matters identified in the S357 objection lodged with the Council. This draws on the points raised in the previous sections. Matters in respect of Condition 7 are also addressed in detail in Ms Squire's (Community Services Planner) staff report.

- **Condition 4 'Easements to be Created'**

The wording of the condition does not preclude easements in gross being created for service providers. It specifies those to be created in gross for Tasman District Council (where necessary) because they are the easements which the Council has an interest in as part of managing the district's engineering infrastructure assets and has direct control over in setting conditions as part of a resource consent. The particular service providers will indicate to the consent holder whether easements in gross are necessary and these would be included on the section 223 plan accordingly, in a memorandum of easements. I am aware of at least one situation where the service provider (phone/telecommunications) did not seek easements in gross, with easements simply registered on the titles of the relevant allotments.

Technically the section 224 certificate would not be released if service providers have not provided confirmation that connections for power and telephone have been made (also a consent condition), and the lack of appropriate easements may be one reason confirmation may not be provided. It is the responsibility of the applicant/consultant to address easement requirements as part of the application (refer information requirements in Chapter 19) and to confirm their accuracy as part of finalising the section 223 title plan for approval by the Council and lodgement with LINZ.

It is possible to reword the condition for this consent to remove any uncertainty as to the ability to create easements in gross for service providers. The proposed wording is set out in section 8 'Recommendations' of this report.

- **Condition 7 "Right-of-way - Public Access and Council Vehicle Maintenance'**

Ms Squire's report sets out the relevant matters in terms of the PTRMP Objectives and Policies. It also sets out the framework for reserves provision and access to the coastal marine area for the Tata Beach, Estuary and Headland area within which this newly created pedestrian access easement will sit. Ms Squire has identified this as a significant and long sought after link for the provision of public access to and along the coastal marine area of the Tata Estuary.

Ms Squire has identified a number of subdivision consent conditions requiring walkway/cycleway easements to be created, some of which include shared access with rights-of-way for road users (Attachment 4). The practice is not unusual and is a legitimate tool for maintaining and enhancing public access to and along the coast, to and between reserves, through and between subdivisions.

A significant difference in this case is that the access is a Section 6 matter under the Resource Management Act 1991; that is, it is a matter of National Importance that decision makers shall recognise and provide for the maintenance and enhancement of public access to and along the coastal marine area in achieving the purpose of the Act. The bar is raised significantly as a consequence and this has been an important consideration in setting the condition.

Compensation by the Council has been volunteered for the public access right-of-way easement, being a sum of \$9,000, based on an independent valuation carried out by Telfer Young (29 May 2007); Attachment 5. The compensation sum is identified in Condition 22 (d) 'Financial Contributions'. In addition, if the applicant chooses to form the easement at the time the rights-of-way are being constructed (rather than seeking the Council form it) the cost of the formation of the easement would be credited against financial contributions (subject to an acceptable quote being provided to the Council). This is set out in the advice note under Condition 7. There is no significant or unreasonable financial cost to the applicant in the creation of the easement. The Council is also prepared to fund the cost of the preparation of the easement instrument by a Solicitor engaged by the Council.

The proposed compensation is reasonable and would ordinarily be at the cost of the consent holder. This has been confirmed verbally by the Council's Solicitor, Mr Ironside. The conditions seeking walkway/cycleway provision for other subdivision applications referred to in Ms Squire's report illustrates that the Council practice is that the cost of these, with the exception of formation costs, is borne by the consent holder. In my opinion the Council has offered a generous compensation package.

The instrument setting out the use and terms of the access has been based on that for esplanade strips and access strips. In this respect the matters covered are both reasonable and certain.

7. SOLICITOR'S RESPONSE - VALIDITY OF CONDITION 7

The Council's Solicitor, Mr Ironside (Fletcher, Vautier and Moore), has provided a legal opinion (Attachment 3) as to the validity and appropriateness of the right-of-way easement mechanism to create a walkway link to the esplanade reserve. In summary, Mr Ironside has confirmed that the condition is valid under the Resource Management Act 1991, is fair and reasonable in the overall context of the subdivision proposal, and not unduly onerous in as much as it would not hamper the exercise of the consent and any other consent authority would have considered imposing such a requirement.

8. RECOMMENDATION

THAT the Committee:

i) Uphold the objection in part for Condition 4 – 'Easements to be Created'- and reword the condition as follows:

- 4 Easements are to be created over any services located outside the boundary of the allotment that they serve. Reference to easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easements.

iii) Dismiss the objection and uphold Condition 7 'Right-of-way – Public Access and Council Vehicle Maintenance' in full



Deborah Hewett
Consent Planner, Subdivision

FROM: Planner - Community Services, Rosalind Squire
REFERENCE: RM050876
SUBJECT: **357 OBJECTION – R. LEES – PENINSULA ROAD, TATA BEACH HEADLAND NORTH**

The report by the principal planner makes a recommendation with respect to the objection. This memorandum summarises the background and reasons for Community Services pursuing the creation of a linking public walkway from Peninsula Road to the esplanade reserve encircling Tata Estuary and Headland.

Background

Community Services initially viewed the subdivision application on 26 October 2005 and indicated that the creation of a walkway linking Peninsula Road with the Tata Beach Esplanade Reserve was a high priority. This request was related to Mr Potter on behalf of the applicant. On 26 January Mr Potter requested an on site meeting to discuss the matter. The Community Services, Reserves Manager and I met Mr Potter on site on 28 February 2007 and discussed the possibility of the creation of an access strip by agreement (Section 237B RMA 1991) and how the existing reserve and a future walkway could be developed in a manner which would mitigate any concerns the applicant had. It was agreed that it may be beneficial for Community Services to approach the applicant directly to explain the reasons for wanting a walkway in this location. I had a brief discussion with the applicant who lives in Australia and sent an email to him highlighting the benefits for the local community and future generations if an access strip were to be created over the right-of-way. I emphasised that this was a link that Community Services had been hoping to make for the past ten years or so and was an opportunity that would be unlikely to come up again in the foreseeable future. The applicant responded by stating that he would rather not have the right-of-way down the driveway and would prefer that access to the be lagoon from a coastal track alongside his property rather than across it.

On the 18 March Community Services suggested that if he would not agree to an access strip over the right-of-way then there were two other options to enhance public access to and along the coastal marine area in this location, the first being to look at the area at the north eastern side of the peninsula as a destination in itself which would involve enlarging the reserve over and above the 20 metres to the edge of the access track southwards and developing the reserve accordingly or topping up the reserve to 20 metres (or greater where required) and developing an access track around the entire peninsula linking with the reserve at Tata Beach. Mr Potter on behalf of the applicant responded on the 12 April that his preferred option was the topping up of the reserve as this would be the least intrusive option for his title. I advised that I would discuss the matter with the Community Services Manager and get back to him.

Community Services then considered the options and requested that the Property Manager visit the site to consider which areas of land Council could look at purchasing over and above the 20 metre esplanade reserve, either for a larger esplanade reserve which would be a destination in itself or for the formation of a walkway around the headland. Having visited the site the Property Manager came to the conclusion that the area had limited potential for development as a destination as it dropped down from the road way quite steeply, particularly at the southern end. He also noted that the cover was a mix of dense gorse, willow and scrub and possibly is subject to periodic inundation. This

still left Community Services having to consider how it could enhance access to and along the coast in conjunction with this subdivision application as required by the Plan and the Act.

At this stage Community Services considered revisiting the option of access over the existing right-of-way. As this could not be achieved by negotiation we chose the other option provided by the Act and the Plan to impose the creation of an access easement as a condition of consent. I advised Mr Potter some two weeks prior to the consent being issued that a condition to this effect would be recommended (See Condition 7; Attachment 1). Mr Potter questioned our ability to do this, in response we sought confirmation that this was an appropriate option (See legal opinion; Attachment 3). A valuation was sought (Attachment 5) and a credit against reserve fund contributions of \$9,000 was included within the consent.

An objection to conditions 4 (Telecommunications easement) and 7 (Public access easement) was received by Council on 15 June.

Public access easements in conjunction with subdivisions have been previously imposed by Council as conditions of subdivision consents. Two recent examples being for the Tasman Limited application at Stringer Road and CBH off SH 60 (See Attachment 4).

Reasons for seeking public access easement over the Lees property

There is already a comprehensive network of esplanade reserves around Tata Beach and Tata Beach Headland which have been created over time via subdivision (See Attachment 6 and 7). Access to the beach and the estuary is provided at the northern end of Tata Beach settlement via Peterson Road. There are two access ways to the beach on the western side of the peninsula between number 14 and 16 and 32 and 34 Peninsula Road. There is currently only one access to the estuary on the eastern side of the peninsula between number 13 and 15 Peninsula Road. These access ways in conjunction with the esplanade reserves provide both access and small loop walkways to and along the coast and estuary. However, the southern portion of the esplanade reserve on the eastern estuary side of the peninsula is effectively landlocked and people who enjoy the estuary edge have to retrace their tracks in order to return to Peninsula Road (Incidentally discussions with the adjoining landowner at our site visit confirm that people do use the existing access road on the Lees property on occasion in order to link back to Peninsula Road).

The proposed link adjoining the access road will provide a long sought after link from Peninsula Road to the esplanade reserve adjoining the estuary and to the headland and will complete the picture with respect to public access at Tata Beach. The area is a rapidly growing urban enclave in one of New Zealand prime holiday destinations and the provision of public access to and along the coast in these situations is a very high priority for Council.

Legislative and Plan Context

Resource Management Act 1991

Section 5

Section 5 of the Act outlines the purpose its purpose which is to manage 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.

Section 6

Section 6 outlines the matters of national importance, which include the maintenance and enhancement of public access to and the along the coastal marine area.

Proposed Tasman Resource Management Plan

The site of the proposed subdivision is zoned Rural Residential. One of the matters Council has reserved its control/discretion over is the provision, design and routes of cycle ways, walkways and bridle-paths, including linkages between any site and local retail area, schools, reserves, bus routes and arterial roads.

Objectives and Policies

Chapter 8 outlines Councils objectives and policies for the margins of rivers, lakes and the coast. The creation of a public access easement is considered to be consistent with all the objectives and policies listed below:

Objective 8.1.0 aims to maintain and enhance public access to and along the margins of lakes, rivers, wetlands and the coast, which are of recreational value to the public.

Policy 8.1.1 aims to maintain and enhance public access to and along the margins of water bodies while avoiding, remedying or mitigating adverse effects on other resources or values, including: indigenous vegetation and habitat; public health, safety, security and infrastructure; cultural values; and use of adjoining private land.

Policy 8.1.4 provides for the setting aside of esplanade reserves, esplanade strips or access strips at the time of subdivision of land adjoining water bodies where there is a priority for public access.

Policy 8.1.5 seeks to provide public access linkages between reserves and public access adjoining water bodies.

Chapter 14 outlines Councils objectives and Policies with respect to reserves and open spaces.

Objective 14.1.0 aims to provide adequate area and distribution of a wide range of reserves and open spaces to maintain and enhance recreation, conservation, access and amenity values.

The related policies include policy 14.1.4 which aims to provide for new open space areas that are convenient and accessible for users, including the provision of walking and cycling linkages in and around townships, between townships and between reserves.

Reserve Management Plans

General Policies for Golden Bay Ward Reserves

The general policies for reserves in the Golden Bay Ward are set out in the Golden Bay Ward Reserves Management Plan, these include:

- 5.1.1 Acquire land through reserve contributions from subdivisions and by other means to meet the present and future recreational and amenity needs of residents;
- 5.1.2 Give priority to the acquisition of land that complements or links existing reserves so as to buffer forest remnants or estuary and river margins, and to provide continuous public walkways and open space;
- 5.1.3 Ensure that land is set aside for reserves and open space in all parts of the Ward, to ensure all residents have easy access to local reserves;
- 5.1.4 Ensure that land acquired for reserves is of sufficient size, and is appropriately located, to protect the natural features of the land or to provide for public access

Tata Beach Reserves Management Plan

The Tata Beach Reserves Management Plan was completed in 2001. The general objectives of the Plan were set out in section 6, these include the following:

1. To provide and enhance public access to the sea, streams and other natural features;
3. To provide an adequate area, distribution and range of reserves to maintain and enhance recreation, conservation, access and amenity values in the Tata Beach settlement;
4. To ensure the efficient and effective use of reserves in the Tata Beach settlement to meet community needs for recreation amenity; and
9. To ensure that maximum community benefit is gained from recreational services offered within the resources available.

A review of the plan was initiated with the release of a guideline document in November 2006, 38 submissions were received in response and a draft reviewed plan was released in May 2007. Eight submissions requested development of additional or safer walking access at or to the reserves. Five of these submissions specifically request the development of walking access around the headland at the southern end of the peninsula, noting that it is currently inaccessible.

Summary

The condition requiring the creation of a public access easement is consistent with Part II of the Resource Management Act 1991, the objectives and policies in the Tasman Resource Management Plan and the objectives and policies of the Golden Bay and Tata Beach Reserve Management Plans.

The creation of a walkway link from Peninsula Road to the esplanade reserves adjoining the estuary is a link that Community Services had been hoping to make for a long time. The likelihood of Council being able to negotiate an access strip outside of the subdivision process is slim as illustrated from this process. The opportunity to require the creation of easement in conjunction with a subdivision application in this location is unlikely to come up again in the foreseeable future. The ability to require a right-of-way easement as a condition of the subdivision consent is provided by the both the Resource Management Act 1991 and the Tasman Resource Management Plan and is consistent with both these documents and the Tata Beach Reserve Management Plan.

Rosalind Squire
Planner, Community Services

Condition 11 – Tasman Limited

11. Walkway/Cycleways

a) Public dual walkway/cycleway linkages in the locations shown on the Walkway Plan prepared by Peter Rough Landscape Architects Ltd, dated April 2007 and attached to this consent as Plan I RM060737 shall be provided and maintained for a period of time approved by Council's Reserves Manager, linking the site to Bronte Road via Pt Lot 2 DP 767 and also providing for a linkage to the south via proposed Lot 211.

b) The abovementioned walkway/cycleways shall include:

(i) A walkway/cycleway adjoining the north eastern boundary of proposed Lot 75 to provide a walkway link from the adjoining property owned by CHH (and ultimately to the Galeo subdivision to the south east) to Right-of-Way AC;

(ii) A walkway/cycleway off Right-of-Way L through the subdivision to ROAD 3;

Advice Note:

This will provide an off road option for cyclists and walkers through the subdivision.

(iii) A walkway/cycleway from ROAD 3 to Bronte Road West.

Advice Note:

This will provide a walkway off ROAD 3, across the valley floor at the toe of the spur up through the gully along its western flank linking to Bronte Road West. The issue of the protection of the regenerating native vegetation in the gully was raised and it is noted that the application states that the site will be protected and ultimately returned to a mature native forest.

c) All walkway/cycleways shall have formation widths of 1.5 metres within 5 metre wide public access easements. The formation of the walkway/ cycleways shall be undertaken in accordance with the TDC Engineering Standards and the walkway standard SNZ HB 8630:2004 as part of the development works and completed prior to the application for the Section 224(c) certificate for each stage/sub stage.

Advice Note:

The costs of formation may be credited against the reserve fund contributions (subject to a quote acceptable to Council).

d) Right-of-way AB and AC shall provide for public access in addition to rights-of-way for road users;

e) Roads 1, 2, 3, 4, 5 and 6 shall contain walkway/cycleways within the road reserve with a formation width of 1.5 metres.

f) The gradient of each walkway shall not exceed 1 in 5.5 unless approved by Council's Community Services Manager.

Advice Note:

The costs of formation will be credited against the reserve fund contributions (subject to a quote acceptable to Council).

Condition 10 CBH Application

10. Walkways shall be constructed as shown on the David Sissons CBH Ltd Landscape Design Fig 4 Development Layout and Landscape concept dated 19 June 2003.

Walkways shall have a legal easement width of 4-metres (except where the walkway is part of road reserve) and be formed with a chip sealed (minimum) surface 1.4 metres wide prior to the application for the Section 224(c) certificate for each stage.

A walkway from the Lot 22 Reserve shall be formed down to the Redwood Valley Stream, then following the stream as shown on the David Sissons Plan and continuing up the paper road that adjoins Lot 2 to join up with the Access Road opposite Lot 5.

Note:

The costs of formation will be credited against the reserve fund contributions (subject to a quote acceptable to Council).

A private walkway easement shall be granted over proposed Lot 45 in favour of Pt Sec 183 (the property owned by S and J Eden)).

Note: The purpose of this easement is to provide legal pedestrian access from the Eden property to the proposed walkway easement.