

Date:	Tuesday, 22 July 2025
Time:	1.00pm
Location:	Council Chamber Level 1, 67 Horomātangi Street Taupō

SUPPLEMENTARY AGENDA

MEMBERSHIP

Chairperson	Cr John Williamson
Deputy Chairperson	Cr Yvonne Westerman

Members	Cr Duncan Campbell
	Cr Kylie Leonard
	Mr Te Moananui Rameka
	Cr Christine Rankin
	Cr Rachel Shepherd
	Cr Kevin Taylor
	Mayor David Trewavas
	Vacancy

Quorum	5
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Julie Gardyne
Chief Executive

Order Of Business

5 Ngā Kaupapa Here Me Ngā Whakataunga | Policy and Decision Making

5.7 Developer requests right of way over Local Purpose Reserve (Plantation) at 140
Kenrigg Road, Kinloch58

5.7 DEVELOPER REQUESTS RIGHT OF WAY OVER LOCAL PURPOSE RESERVE (PLANTATION) AT 140 KENRIGG ROAD, KINLOCH

Author: Billie Vi, Parks Advisor - Planning and Operations

Authorised by: Greg Hadley, Parks and Reserves Manager

TE PŪTAKE | PURPOSE

The purpose of this report is for the Committee to consider a developer request for:

1. Two commercial vehicle crossings over the Kinloch Road plantation reserve; and
2. The removal of an Elm (*Ulmus*) under Council's Tree and Vegetation Policy 2014.

WHAKARĀPOPOTOTANGA MATUA | EXECUTIVE SUMMARY

The customer is planning a commercial development at 140 Kenrigg Road.

The development has one vehicle crossing from the property to Kenrigg Road. To compensate for the expected increase in vehicle movement within and surrounding the commercial development, the first request is for an additional two vehicle crossings over Kinloch Road plantation reserve, one being an exit-only for service and delivery vehicles.

There is an elm (*ulmus*) obstructing the customer's proposed exit-only vehicle crossing, and a request has been received for the Committee to consider the removal of the subject tree under the Tree and Vegetation Policy 2014. A formal tree report was not completed, however, Council's specialist arborist had surveyed the area as part of an overall assessment of street trees in Kinloch. The arborist noted that the subject tree in question was "not of good quality or an original planting, and is most likely a sucker from the roots of one of the adjacent trees."

NGĀ TŪTOHUNGA | RECOMMENDATION(S)

The Taupō Reserves and Roding Committee:

1. Adopts the Kinloch Representative Group recommendation in resolution KIN202502/04, but modified to authorise the removal of an elm (*ulmus*), and to describe the rights of way with reference to Land Transfer Plan 611416.
2. Therefore, the Taupō Reserves & Roding Committee:
 - a. consents, on behalf of the Minister of Conservation under section 48(1) of the Reserves Act 1977, to rights of way over part Lot 2 DPS 50052 shown A and B on Land Transfer Plan 611416 in favour of the land at 140 Kenrigg Road Kinloch;
 - b. authorises the removal of the variegated elm on Lot 2 DPS 50052, being a local purpose reserve (plantation), but only for the purpose of establishing an exit-only vehicle crossing to enable service vehicles to exit onto Kinloch Road from the proposed commercial development at 140 Kenrigg Road;
 - c. authorises the Chief Executive to negotiate the terms of the rights of way on behalf of Council as administering body of the said reserve; and
 - d. authorises the Chief Executive and the Mayor to do and sign anything needed to enable registration of the rights of way against Lot 2 DPS 50052 at Land Information New Zealand,

subject to and conditional on:

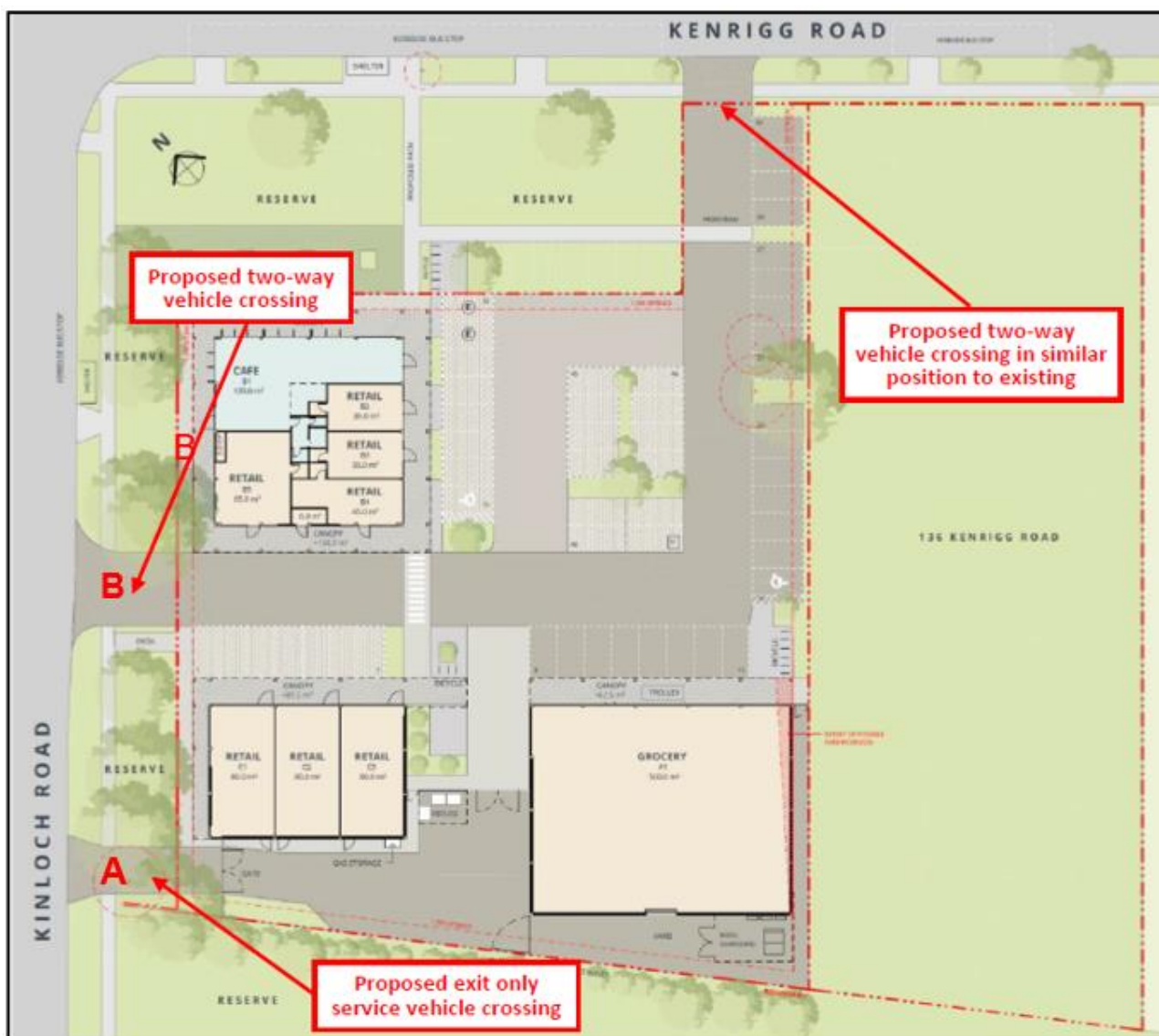
 - the land use consent to the commercial development to benefit from the rights of way;
 - permission under s 348 of the Local Government Act 1974 to the proposed rights of way;
 - declining the developer's planting plan and requiring the developer to plant suitable specimen trees recommended by Council's specialist arborist within the plantation reserve; and
 - the developer paying the costs an an arborist to be on site to guide construction of the vehicle crossings to avoid damaging root systems of other trees.

TE WHAKAMAHUKI | BACKGROUND

On 27 February 2025, an agenda item about the commercial development was presented to the Kinloch Representative Group to gauge interest. They were told of the request to remove the elm (*ulmus*), but no specific recommendation was sought of the committee in that regard. Since resolution KIN202502/04 was passed, the developer has formally applied to Council for land use consent to its proposed commercial development, and for permission under s348 of the Local Government Act 1974 to the proposed rights of way over the reserve. The land use consent application was limited notified in accordance with s95B of the Resource Management Act 1991.

The total land area is 345m² with 11 trees of various species scattered along the length of the plantation reserve. There is approximately three stumps and an elm (*ulmus*) obstructing the customers request for a vehicle crossing.

The elm (*ulmus*) is not on the New Zealand Tree Register, nor is it on Council's Notable or Amenity Tree register on the District Plan. There is no formal tree assessment by Council's specialist arborist. However, the arborist surveyed the area and commented on the elm in question saying that in their opinion the tree is not of good quality and is thought to be a sucker from one of the adjacent elms (*ulmus*). The subject tree is not one of the original plantings and appears to have some crown dieback, so will not have a long life span, and its removal is not likely to have any significant adverse impact.





NGĀ KŌRERORERO | DISCUSSION

Vehicle Crossings

The proposed vehicle crossing (rights of way) areas take up 69.0m² (or 1/5th) of the reserve, being:

Purpose	Shown	Width	Servient Tenement	Dominant Tenement
Right of Way	A	4.5m	Lot 2 DPS 50052	Lot 1 DP 609071
Right of Way	B	9.4m	Lot 2 DPS 50052	Lot 1 DP 609071

The Reserves Act 1977 permits rights of way over reserves provided that the proposal is first publicly notified, unless it can be shown that the proposed rights of way are not likely to materially alter or permanently damage the reserve or affect the public's rights in respect of it.

A small part of the reserve will be permanently altered by the establishment of two vehicle crossings and the tree removal, but most of the reserve will be untouched or enhanced by additional planting of trees representative of species existing in the area, and the reserve will still function as a plantation reserve. Additionally, this proposal has already been before the Kinloch Representative Group, and the developer's consent application for the benefitting commercial development has been subject to limited notification under s 95B of the Resource Management Act 1991.

If needed, conditions may be imposed on rights of way to restrict the type and weight of vehicles using the rights of way areas and to ensure compliance with any conditions relating to legal access to the development site imposed by the land use consent, and permission granted under s 348 of the Local Government Act 1974 (respectively, if granted).

For these reasons, the reserve, and the public's rights in respect of it, are unlikely to be altered or damaged in any permanent or significant way, so public notice of this rights of way proposal is not required.

Although the result will mean the loss of a tree, the customer is prepared to mitigate any resulting impact on the amenity of the reserve through the offset planting of trees.

Policy 3.2 of the Tree and Vegetation Policy 2014 states the removal of a healthy tree is permitted if the vegetation was not intentionally planted. The subject tree was assessed as a sucker from one of the adjacent trees, therefore, the recommendation would be to remove the tree on these grounds.

Pursuant to policy 1.3 of Council's Tree & Vegetation Policy 2014, Council will specify the species remaining and planting on the plantation reserve. The arborist has described street trees in Kinloch as "exotic deciduous, and would recommend replacement species like Maple Red varieties."



NGĀ KŌWHIRINGA | OPTIONS

Analysis of Options

Option 1: Decline to grant Ministerial consent to rights of way over Lot 2 DPS 50052 and subsequent removal of the elm.

Advantages	Disadvantages
<ul style="list-style-type: none"> The plantation reserve is not impacted by development. 	<ul style="list-style-type: none"> Impedes the development of the commercial activity which has community support.

Option 2: Agree to grant Ministerial consent to rights of way over Lot 2 DPS 50052 and removal of the elm tree.

Advantages	Disadvantages
<ul style="list-style-type: none"> Allows the commercial activity, which has community support, to proceed. The tree removal is permitted under policy 3.2 of the Tree and Vegetation Policy 2014. 	<ul style="list-style-type: none"> Loss of plantation reserve land. Slight impact on pedestrian movements.

Analysis Conclusion

The preferred alternative is option 2.

NGĀ HĪRAUNGA | CONSIDERATIONS

Ngā Aronga Pūtea | Financial Considerations

The financial impact of the proposal is estimated to be Nil. The costs to remove the elm including the arborist on site to oversee the works and registering the rights of way, including obtaining new title to the reserve, are to be met by the developer.

Long-term Plan/Annual Plan

There is no expenditure to be budgeted for.

Ngā Aronga Ture | Legal Considerations

Local Government Act 2002

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of [Section 10](#) of the Local Government Act 2002. That section of the Act states that the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future. It is considered that social and economic wellbeing are relevant to this matter.

The proposal has been evaluated with regards to the Local Government Act 1974, Resource Management Act 1991, Reserves Act 1977 and Council's Tree & Vegetation Policy 2014.

Reserves Act 1977

Council may, with the consent of the Minister of Conservation and on such conditions as the Minister thinks fit, grant rights of way over a reserve vested in Council. The Council, as subdelegate of the Minister, may determine the matter.

For the reasons given above this report author believes Council need not give public notice of the rights of way proposal, in reliance on the qualifying provisions in s 48(3) of the Reserves Act 1977.

The proposed rights of way may be granted on terms consistent with any specific conditions imposed by the land use consent issued for the commercial development and/or the s 348 permission, and first approved by Council's Infrastructure Manager.

Authorisations are not required from external parties.

Ngā Hīraunga Kaupapa Here | Policy Implications

Tree and Vegetation Policy 2014

Policy 3.2 – Removal of Healthy Trees

Healthy trees on council land will be retained, and their removal will be the exception. Instances where council may consider removal of a healthy tree include:

- street redevelopment is to be implemented and options to retain the tree have been investigated and discounted,
- severe hardship is being experienced (trees which inhibit views or drop debris are not considered to be causing severe hardship),
- other community assets are impacted by trees or vegetation,
- the trees or vegetation are grown weeds and not intentionally planted, or
- the removal is part of a planned replacement programme.

Te Kōrero tahi ki te Māori | Māori Engagement

Taupō District Council is committed to meeting its statutory Tiriti O Waitangi obligations and acknowledges partnership as the basis of Te Tiriti. Council has a responsibility to act reasonably and in good faith to reflect the partnership relationship, and to give effect to the principles of Te Tiriti. These principles include but are not limited to the protection of Māori rights, enabling Māori participation in Council processes, and having rangatiratanga over tāonga.

Our statutory obligations outline our duties to engage with Māori and enable participation in Council processes. Alongside this, we recognise the need to work side by side with the ahi kaa / resident iwi of our district. Engagement may not always be required by law, however meaningful engagement with Māori allows Council to demonstrate good faith and our commitment to working together as partners across our district.

The report author has considered the above obligations and concludes that no engagement with Māori is required in this instance.

Ngā Tūraru | Risks

There is potential for damage to indirectly affect the adjacent elm trees. Considering the subject tree is a sucker to one of the subject elms, if the Committee agrees to remove the tree, a specialist arborist would need to be on site to guide construction to avoid damaging root systems of other trees. It will be made a condition of approval that the developer pays the cost of the arborist.

TE HIRANGA O TE WHAKATAU, TE TONO RĀNEI | SIGNIFICANCE OF THE DECISION OR PROPOSAL

Council's Significance and Engagement Policy identifies matters to be considered when assessing the degree of significance of proposals and decisions.

Officers have undertaken an assessment of the matters in the [Significance and Engagement Policy \(2022\)](#), and are of the opinion that the proposal under consideration is of a low degree of significance.

TE KŌRERO TAHI | ENGAGEMENT

Taking into consideration the above assessment, that the decision is of a low degree of significance, officers are of the opinion that no further engagement is required prior to Council deciding the matter.

TE WHAKAWHITI KŌRERO PĀPAHO | COMMUNICATION/MEDIA

Direct communication has been/will be carried out with affected parties/key stakeholders but no wider communication is considered necessary.

The agenda item will be sent to the Kinoch Representative Group.

WHAKAKAPINGA | CONCLUSION

Based on the above, the recommendation is to grant the requested easements and remove the subject tree.

NGĀ TĀPIRIHANGA | ATTACHMENTS

1. Kinloch Representative Group report - 27 February 2025 - Right of way over plantation reserve - 140 Kenrigg Road Kinloch [↓](#)
2. Proposed vehicle crossing plan - 140 Kenrigg Road Kinloch [↓](#)

5.2 PRIVATE RIGHT OF WAY OVER LOCAL PURPOSE RESERVE (PLANTATION) FOR COMMERCIAL DEVELOPMENT - 140 KENRIGG ROAD KINLOCH

Author: Karyn Hollman, Senior Solicitor

Authorised by: Nigel McAdie, Legal and Governance Manager

TE PŪTAKE | PURPOSE

To consider a new right of way easement over a local purpose reserve under section 48(1) of the Reserves Act 1977.

WHAKARĀPOPOTOTANGA MATUA | EXECUTIVE SUMMARY

The owner of 140 Kenrigg Road proposes to complete a small-scale commercial (grocery store, café/restaurant and retail) development on the land).

Vehicle access off Kinloch Road to that development is to be over an adjoining local purpose reserve held for plantation purposes. This reserve is subject to the Reserves Act 1977.

The Minister of Conservation's consent is needed to the proposed access arrangement.

NGĀ TŪTOHUNGA | RECOMMENDATION(S)

That the Kinloch Representative Group recommends to the Taupō Reserves and Roding Committee that:

1. Ministerial consent is granted to rights of way to the land at 140 Kenrigg Road Kinloch over the local purpose reserve (plantation) [Lot 2 DPS 50052] pursuant to section 48(1) of the Reserves Act 1977;
2. The Chief Executive be authorised to negotiate the terms of easement on behalf of Council as administering body of the reserve; and
3. The Chief Executive and Mayor are authorised to do whatever is needed to formally signify that ministerial consent is granted to the easement in terms of section 48(1) of the Reserves Act 1977, and enable registration of the easement at Land Information New Zealand.

TE WHAKAMAHUKI | BACKGROUND

The proposal has not been presented previously.

NGĀ KŌRERORERO | DISCUSSION

First attached is an illustration of the proposed development layout, including vehicle access and carparking. It shows the development land outlined in red and the two proposed accessways off Kinloch Road over the reserve. One accessway is to be two-way (entry/exit); and the other is to be exit only.

Second attached is a draft Land Transfer Plan that shows the development land as Lot 1 DPS 83943 and the proposed accessways labelled A and B. The total area of areas A and B is 69m², which is 1/5th of the total (345m²) area of the reserve.

To create the exit only accessway, a Variegated Elm must be removed. But, as part of the development, the developer proposes to include, within the development land and on another adjoining reserve south of the development land, 40 additional trees of mixed species: Red Maple, Evergreen Magnolia and Callery Pear.

As it is, the reserve is largely devoid of any landscape features with exception of a few trees and small garden areas.

Accordingly, there are two options:



Overhead view of development land with reserve on the left beside Kinloch Road. Source: Google Earth



Photo of the plantation reserve beside Kinloch Road (on the right).

Source: Traverse Environmental Limited

NGĀ KŌWHIRINGA | OPTIONS

Analysis of Options

Option 1: Do not consent to rights of way over the plantation reserve.

Advantages	Disadvantages
<ul style="list-style-type: none"> The plantation reserve remains unaffected, including the variegated Elm that remains in place. 	<ul style="list-style-type: none"> The developer will need to re-design its development plans. The developer's application for land use might need to be revised or withdrawn entirely. The developer's boundary adjustment, as approved by Council as consent authority under the Resource Management Act 1991, might be rendered redundant.

Option 2: Consent to rights of way over the plantation reserve.

Advantages	Disadvantages
<ul style="list-style-type: none"> The developer does not need to re-think its development design. The developer's application for land use (as needed to the development) may proceed. The developer may now apply for consent under s348 Local Government Act 1974. The developer can proceed with confidence to have new titles issue for its boundary adjustment. 40 additional trees of mixed species are planted in the vicinity of the development. 	<ul style="list-style-type: none"> A part of the plantation reserve is occupied by a right of way/formed access/vehicle entrance. A variegated Elm must be removed.

Analysis Conclusion:

The preferred option is **Option 2: Consent to rights of way over the plantation reserve.**

NGĀ HĪRAUNGA | CONSIDERATIONS

Ngā Aronga Pūtea | Financial Considerations

The financial impact of this proposal is nil. The costs pertaining to the proposed easement will be met by the developer as a condition of consent.

Long-term Plan/Annual Plan

There is no expenditure to be budgeted for.

Ngā Aronga Ture | Legal Considerations

Local Government Act 2002

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of [Section 10](#) of the Local Government Act 2002. That section of the Act states that the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future. We consider that social and economic wellbeing are relevant to this matter.

Reserves Act 1977

Section 48(1) of the Reserves Act allows easements to be granted over a reserve with the consent of the Minister of Conservation.

Kinloch Representative Group Meeting Agenda

27 February 2025

Public notice of any easement proposal affecting a reserve must be given **unless** the proposed easement will not materially alter or permanently damage the reserve, or permanently affect the public's rights in respect of it. For the reasons above, we think the exception applies and that public notice is not needed.

Local Government Act 1974

Authorisation to this private right of way is separately required of Council, as road controlling authority, under section 348 of the Local Government Act 1974. The developer will apply for a s348 consent if ministerial consent under the Reserves Act 1977 is granted.

Ngā Hīraunga Kaupapa Here | Policy Implications

There are no known policy implications.

Te Kōrero tahi ki te Māori | Māori Engagement

Taupō District Council is committed to meeting its statutory Tiriti O Waitangi obligations and acknowledges partnership as the basis of Te Tiriti. Council has a responsibility to act reasonably and in good faith to reflect the partnership relationship, and to give effect to the principles of Te Tiriti. These principles include but are not limited to the protection of Māori rights, enabling Māori participation in Council processes, and having rangatiratanga over tāonga.

Our statutory obligations outline our duties to engage with Māori and enable participation in Council processes. Alongside this, we recognise the need to work side by side with the ahi kaa / resident iwi of our district. Engagement may not always be required by law, however meaningful engagement with Māori allows Council to demonstrate good faith and our commitment to working together as partners across our district.

The proposed development lies with areas of interest to both Ngāti Tūwharetoa and Ngāti Raukawa. Last year, the developer informed and sought feedback from Te Kotahitanga o Ngāti Tūwharetoa about the development proposal, but to date has not had any response.

The report author has considered the above obligations and concludes that no further engagement with Māori is required on this occasion.

Ngā Tūraru | Risks

There are no known risks.

TE HIRANGA O TE WHAKATAU, TE TONO RĀNEI | SIGNIFICANCE OF THE DECISION OR PROPOSAL

Council's Significance and Engagement Policy identifies matters to be considered when assessing the degree of significance of proposals and decisions.

Officers have undertaken an assessment of the matters in the [Significance and Engagement Policy \(2022\)](#), and are of the opinion that the proposal under consideration is of a low degree of significance.

TE KŌRERO TAHI | ENGAGEMENT

Taking into consideration the above assessment, that the decision is of a low degree of significance, officers are of the opinion that no further engagement is required prior to the Committee making a decision.

TE WHAKAWHITI KŌRERO PĀPAHO | COMMUNICATION/MEDIA

No communication/media required.

WHAKAKAPINGA | CONCLUSION

We believe the Committee should recommend to the Taupō Roding and Reserves Committee to give ministerial consent, under the Reserves Act 1977, to the proposed rights of way over a local purpose (plantation) reserve, for vehicle access to a proposed commercial development at 140 Kenrigg Road, Kinloch.

NGĀ TĀPIRIHANGA | ATTACHMENTS

1. Proposed Development Layout including vehicle access and carparking - 140 Kenrigg Road Kinloch
2. Land Transfer Plan 611416 - Rights of way over Plantation Reserve

Proposed Development layout including vehicle access and carparking

140 Kenrigg Road, Kinloch



