

Report and decision of Hearings Commissioner Mr John Childs Whangarei District Council has delegated all the functions, powers and duties as provided under the Resource Management Act 1991 to the Commissioner to consider and decide a subdivision application on behalf of Council at 282 Pipiwai Road Kamo. The application was heard in the May Bain room, Whangarei Library on Monday 14 April 2014

The Hearings Commissioner (“the commissioner”) heard the resource consent application lodged by G and C Eady relating to a 3 lot subdivision at 282 Pipiwai Road Kamo. The application was made in accordance with the Resource Management Act 1991 (“the Act”) and was lodged with Whangarei District Council and referenced as SD1300080 (P125114).

Present	Hearings Commissioner Mr John Childs
Applicant	Mr Gary Eady Mrs Claire Eady Mr Russell Mortimer – Resource Management & Assessment Limited
Consent Authority	Whangarei District Council Mr Ueli Sasagi – Reporting Planner Mr Dean Murphy – Senior Engineering Officer
Submitters	Ms Kathy Pope Mr John Bench Mr Richard Shepherd Mr Takiri Puriri Mr George Cherrington Ms Joye Halford Mr Brett Hood – acting on behalf of Sheree and Barrie Price
In attendance	Ms Linda Wheeler – Administration Team leader (Resource Consents)

1.0 Summary of Decision

- 1.1 Pursuant to sections 104, 104B, 106 and 108 of the Resource Management Act 1991, consent is granted for the discretionary activity subdivision application by Gary and Claire Eady to undertake a three lot subdivision located in the Urban Transition Environment (UTE) Zone under the Operative District Plan at 282 Pipiwai Road, Kamo [Lot 1 DP433894].

2.0 Application and Property Details

Application Number:	SD 1300080 / P125114
Site Address:	282 Pipiwai Road, Kamo
Applicant's Name:	Gary & Claire Eady
Legal Description:	Lot 1 DP433894 CFR528739
Total Site(s) Area:	1.8980 ha
Zoning:	Urban Transition Environment
Lodgement Date:	3 October 2013
Notification Date:	11 December 2013
Submissions Closed:	29 January 2014
Hearing:	14 April 2014
Site Visit:	14 April 2014
Hearing Closed:	5 May 2014

3 Description of the proposal activity

The applicant seeks consent to subdivide this 1.8980 hectare front site into three new allotments;

- Lot 1 of 6,400m²,
- Lot 2 of 2,500m² and
- Lot 3 of 1ha

Lot 3 which abuts the Waikoropupu Stream includes a no build area which extends for a distance of about 80 metres from the stream. A no build area 20 metres wide is also proposed on Lot 1 abutting the road.

The site currently contains a residential unit which will be retained in proposed Lot 2.

A 20 metre wide esplanade strip exists where the site adjoins the Waikoropupu Stream. As lodged the existing esplanade strip was proposed to be retained on new Lot 1. The applicant sought Council's approval to further waive a requirement for an esplanade reserve pursuant to section 405A of the Resource Management Act 1991 (RMA).

Access was to be via an existing right of way on 284 Pipiwai Road (Lot 2 DP433894). This is to be upgraded and widened.

The access and esplanade strip requirements were amended at the hearing and are discussed below.

4 District Plan Rules affected

The proposed activity does not comply with the following rules of the Operative Whangarei District Plan:

- UTE 3.1 as there is no approved management plan for the site. As a result discretionary activity consent is required for the site.
- Rule 47.2.11 Engineering Standards indicates that an activity is permitted if it complies with the Whangarei District Council's Environmental Engineering Standards 2010. In this case the access will be 5.5 metres wide rather than 6m. This requires consideration as a restricted discretionary activity.

An application to waive the 20m esplanade reserve requirement was another reason for consent. The applicants agent advised at the hearing that they accepted conditions of the staff recommendation that a 20 metre esplanade reserve be vested in the Council. As a result it is no longer a consideration.

Overall the application is a discretionary activity.

5 Notification and submissions received

The application was notified pursuant to Section 95 of the Act.

Seven submissions were received. A late submission from R. Annandale was subsequently withdrawn.

The following is a summary of the written submissions received and the main issues raised:

The Submitters were:

- A. KM Pope and JD Bench – 284 Pipiwai Road.
- B. Joyce Halford – 292 Pipiwai Road.
- C. Historic Places Trust.

- D. NZ Fire Service.
- E. B & S Price – 280 Pipiwai Road.
- F. Te Kahu O Torongare (TKOT).

The Main issues raised were:

1. The size of the lots (A, D).
2. The location of the access way and its effects of No 284 (A).
3. Fencing on the common boundary with No 284 Pipiwai Road (A).
4. The esplanade reserve waiver (A, B).
5. Run off onto Ms Halford's property (B).
6. Access and water supply for fire fighting purposes (D).
7. Archaeological finds if identified (C).
8. Interference with area of cultural significance (F).
9. Consultation not conducted with the TKOT mandated representative (F).
10. Adverse impact on adjacent sites (A, E).

6 Procedural matters

6.1 The Esplanade Reserve Waiver

As discussed the applicants advised that they did not wish to pursue this matter.

6.2 Late Submission

A letter was tabled at the hearing withdrawing the submission of R Annandale.

6.3 New Zealand Historic Places Trust Submission –

Mr Mortimer sought a ruling on the validity of this submission indicating he considered it to be a comment rather than submission.

The relevant RMA provisions are section 96 which states:

...

- 4) *A person served with notice of the application may make a submission, but the person's right to make a submission is limited by section 308B if the person is a person A as defined in section 308A and the applicant is a person B as defined in section 308A.*
- 5) *A submission must be in the prescribed form.*
- 6) *A submission must be served –*
 - a) *On the consent authority within the time allowed by section 97; and*
 - b) *On the applicant as soon as is reasonably practicable after service on the consent authority.*

- 7) *A submission may state whether –*
- a) it supports the application; or*
 - b) it opposes the application; or*
 - c) It is neutral.*

The NZHPT were notified of the application. Their submission although not following exactly the prescribed form, gave the name of the submitter, the application to which it relates and their comments on it. It recommends an accidental discovery protocol should an archaeological find be made on the site. It is effectively a neutral submission but requests a condition be imposed if consent is granted.

I consider that it is a legitimate submission as it indicates its stance (neutral), the reasons for the submission and what conditions should be imposed if consent is granted. I therefore rule that it is a valid submission.

4.4 Amendments to the proposal.

This relates to a new driveway on proposed lot 1 which lots 1, 2 and 3 would use.

This amended plan was provided after all evidence was heard but before the hearing was closed, and was circulated to all parties. Given that all affected parties have been consulted of this change and the most affected party is the applicant and the lot numbers or size do not change I consider that this amendment can be part of the application. This is because it is within the scope of the notified application.

On this basis, the amended plan provided (being that plan prepared by Beasley and Burgess referenced as C2990 Rev 4 dated May 2014) is the plan being considered in this decision.

7 Evidence heard

The commissioner heard evidence from the applicant, expert witnesses, submitters, and the council's reporting officer. The following is a summary of the evidence heard at the hearing.

7.1 Applicant's evidence

This came from Mr Russell Mortimer, a Member of the NZ Planning Institute and a director of Resource Management and Assessment Ltd. His evidence included:

1. A background to the application.
2. A request for a ruling on the NZHPT's submission.
3. Alternatives involving single allotments above 2500 m² - this being rejected as it resulted in an inferior layout.
4. The site and the receiving environment.
5. A cadastral analysis which showed over half of the properties within 500 metres of the applicants site were less than 1 hectare in areas.
6. Amenity values indicating that the proposed subdivision was consistent with the surrounding environment including surrounding densities, character and amenities.
7. RMA issues.

8. The permitted baseline which would include a replacement dwelling on the land probably located as far north as practically possible to maximise outlook and views.
9. District Plan matters including the status, objectives and policies. He indicated that in his opinion
“The proposal supports and gives effect to the District Plan objectives and policies.”
10. Comments on the submissions.
11. The Agreement between the Council and the Ngararatunua Marae Committee concluding that the effects *“on cultural values are considered to be less than minor”*.
12. Regarding the esplanade waiver he advised that the applicant accepted conditions that an esplanade reserve be required.
13. He requested minor changes to the recommended conditions of consent.

In his conclusion he requested that approval be granted on the basis that

“The District Plan provides for this type of application in this receiving environment to be advanced, considered and approved.”

7.2 Submitters' evidence

Mr Richard Shepard spoke on behalf of Te Kahu O Torongare

He addressed:

1. The cultural history and significance of the tribal area.
2. Their role was a custodial one and their concerns related to the wider area, opposing any further development.
3. The Iwi's cultural identity was disappearing because of development.
4. The whole tribal area was one of significance and this subdivision development was opposed.
5. The people who were mandated to be involved in consultation had not been consulted.

Joye Halford

In a written submission she:

1. Accepted that conditions that had been recommended to deal with all drainage and the collection of overflow run off.
2. She requested that a covenant be placed on the new certificates of title as follows;

“Not to use the property for fitch farming, pig farming, poultry farming, quarrying, commercial kennels or catteries, for the purposes of breeding dogs or cats or boarding dogs or cats or as a site for landfill or to keep more than 24 domestic poultry or to use the site for any industrial use.”

This was sought to avoid “unpleasant activities” being established on the land.

Kathleen Pope on behalf of John Bench and herself spoke:

1. Their concerns included increased use of the access way with 4 lots using it giving rise to problems of dust, noise and more traffic movements. It would also have adverse impact on John's health.
2. They withdrew their concerns about stormwater
3. They supported an esplanade reserve
4. They supported the Prices proposal for an alternative layout of the three lots

In relation to the amended access arrangements they subsequently advised by letter that they had major concerns about access to Lot 3 which

“would still come along our ROW by our residence impeding our privacy and for safety reasons.”

Brett Hood Planning Consultant, on behalf of Bernie and Sheree Price spoke:

He advised that they did not oppose the subdivision but requested a restriction on the location of buildings on Lot 3 to protect their rural outlook and to safeguard rural character and amenities. This was anticipated by the UTE provisions.

He looked at alternative site shape solutions which had been discussed with and rejected by the applicants.

He indicated that the current layout of the lots may set a precedent for future applications.

He requested that as the applicants had not amended the design of the lot that the application should be declined.

7.3 Council's reporting officer's report and evidence

This came in the form of a Section 42A report and subsequent advice which was circulated to all the parties involved from Council Staff members.

1. Senior Specialist Consents – Ueli Sasagi
2. Dean Murphy – Senior Engineer

The report discussed the proposal, site/ surrounds, district plan assessment, the submissions, statutory considerations / actual and potential effects on the environment, other District Plan Matters, other matters, and Part II.

Their conclusion was that in terms of the relevant provisions of the Act including Part II, consent should be granted subject to conditions as:

- “1. The development is regarded as achieving the terms and conditions of the Terms of Settlement for the Ngararatunua Marae. It is also considered achieving the relevant issues, objectives and policies of the Operative and Proposed Regional Policy Statement for Northland.*
- 2. The proposal reflects a density and layout of subdivision that is generally anticipated and provided for under the provisions relating to subdivision and development within the Urban Transition Environment.*
- 3. The receiving environment, including supporting infrastructure, has sufficient capacity to accommodate the effects presented by the application.” (p28)*

A comment from the Parks Department supporting the esplanade reserve was included in the agenda.

8 Principal issues

The principal issues that were in contention were:

1. Cultural Issues including the terms of settlement signed by Te Kahu O Torongare (TKOT) and the Council.
2. The access arrangements to the three lots and particularly its impacts on the Pope / Bench property at 284 Pipiwai Road and as subsequently amended by the applicant.
3. Amenity issues in particular in relation to potential buildings / development on proposed Lot 3 and its impacts on Mr and Mrs Price's property at 280 Pipiwai Road.
4. Whether a covenant should be placed on the title relating to restrictions on non residential activities similar to that imposed on the Halford subdivision at 286 Pipiwai Road.
5. The location and size of the three lots.

I consider that, given the zone provisions that now apply, all other environmental effects issues are considered to be minor / less than minor. These are outlined in Mr Sasagi's report and I accept his conclusions.

I also accept his conclusion under 6.9.2 of his report that subject to conditions these any effects will be no more than minor.

9 Main findings of fact

I consider that the following are the main findings on the principal issues that were in contention relating to this application:

A. Cultural Issues

Mr Shepherd addressed this issue in his oral submission. It was further addressed in the site visit attended by all parties to the hearing except Ms Halford.

In relation to cultural issues in this application there is both the site specific issue, and the issue of the wider area being of cultural significance.

The starting point for this matter is the "*Memorandum as to terms of settlement from Council*" between the Ngararatunua Marae Committee and the Whangarei District Council which was sealed by the Environment Court about March 2004.

This required the Whangarei District Council

"to ensure that consultation with the Ngaratunua Marae will occur on all resource consent applications (subdivision and land use), which consultation will include a requirement that an archaeological, cultural and historical assessment report be produced for each application". P2

A plan showing the area in question was attached. This was a precursor to a plan change which I am advised has not been promulgated.

However I note:

1. The land subject to this application is in the area of agreement.
2. No archaeological, cultural and historical assessment was provided by the applicant.

3. The Te Kahu O Torongare submission indicated that the “*mandated representatives*” were not consulted. Mr Mortimer for the applicant had earlier advised in a request for further information that he had met over recent years, including as recently as last year, with TKOK representatives.
4. The New Zealand Historic Places Trust advised that the New Zealand Archaeological Associations site record data base that “*no recorded archaeology identified on the site*”.
5. The site visit I undertook with Mr Shepherd and others identified no sites of significance.
6. The land has been modified.
7. No development is allowed within about 100 metres of the Waikotopupu Stream

Although the correct procedures have not been met I am satisfied that on balance cultural issues are respected due to:

- a) Suitable conditions / advice notes, including the provision of an Esplanade Reserve, protecting cultural values.
- b) An additional no build area.
- c) The lack of any identified archaeological sites.
- d) The level of development anticipated by the zoning that applies to the site.

The lack of the subsequent plan change having not been promulgated is outside my jurisdiction and should not defer a decision on this application.

B. Access Arrangements

The rights of way as initially proposed would because of their location have adverse impacts on Number 284 Pipiwai Road owned by Ms Pope and Mr Bench. This is because some of their buildings are close to the common boundary.

The amended proposal to extend the right of way from 1.5 metres to 6 metres onto the applicants site to access Lots 1 and 2 and in part Lot 3 will reduce the pressure / impacts on the Pope / Bench property. Given the geometry and design of the road the access is better located as far away from the bend as possible. As a result I find that the amended access is appropriate.

C. Amenity Issues.

These particularly relate to the impacts on Mr and Mrs Price’s site at Number 280 Pipiwai Road. They have a rear lot on which a single level house is located. The main living areas face to the north / north west towards the stream.

Proposed Lot 3 is the proposed site which potentially impacts on them. Mr Hood referred to various objectives and policies in the UTE zone including maintaining outlook (UTE 3.2.6). I inspected the Price’s home and site and I have received a copy of their site plan.

While not ideal given the L shape of their building with the top of the L furthest away from proposed Lot 3 and the pentagon shape of this lot the Price’s will continue to have a reasonable rural outlook.

Inevitably, with the nature and type of subdivisions anticipated in the UTE zone, compromises in terms of development will occur.

D. Restrictions On The Use Of The Land

This was raised by Ms Halford who requested restrictions on the land to effectively limit it to residential use. A restriction had been imposed on her subdivision at 286 Pipiwai Road.

Mr Mortimer did not offer such a condition.

I am reluctant to impose such a condition given it has not been offered by the applicants, the size of the lots, and the clear intention of the applicant to pursue residential development on this land. However, I note it is open to the applicant to impose a private covenant with restrictions similar to those applying to Ms Halfords property, if they choose to.

E. Site Sizes

Considerable discussion took place at the hearing given that two lots (Lots 1 and 3) contain more than 2,500m². Mr Mortimer tabled complying options which would have resulted in an odd configuration of lots. I note that Lot 3's size is required in part to deal with a no build residential area and its size will be reduced to accommodate the 20 metre Esplanade Reserve.

Given the above analysis I am satisfied that the lot sizes are appropriate to this subdivision particularly in terms of Policy 9 Site Specific Design which requires all subdivision proposals

"to recognise and take into account all site specific elements and features and present comprehensive design".

F. New Zealand Fire Service

I am satisfied that subject to conditions its concerns can be satisfied.

10 Relevant statutory provisions

10.1 RMA Provisions

1. In accordance with section 104 of the Act, I have had regard to the relevant statutory provisions, being Part 2 and sections 104, 104B, 106 and 108, insofar as those provisions relate to the conditions of consent sought to be changed.
2. Section 104 of the Act sets out the matters that must be considered, all of which are subject to the purpose and principles (Part 2) of the Act.
3. Section 104B of the Act empowers the decision maker to either grant or refuse a discretionary activity application with or without conditions.
4. Section 106 of the Act provide for certain matters that might prevent a subdivision grant – such as land instability or inadequate access provision. None of those matters are engaged in the present application.
5. Section 108 of the Act provides for conditions to be placed on any resource consent granted.

10.2 Policy statements and plan provisions

In considering this application, I have had regard to the matters outlined in Section 104 of the Act. In particular, the relevant provisions of the following planning documents:

- i The Operative Whangarei District Plan
- iii the Operative and Proposed Northland Regional Policy Statements (RPS)
- iii the Northland Regional Water and Soil Plan

I accept the advice of the reporting planner that there are no conflicts with the first two documents and subject to conditions the environmental results of third document will be achieved.

10.3 Part II matters

In considering this application, I have taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act as well as the overall the purpose of the Act as presented in Section 5.

Section 6 of the Act lists a number of matters of national importance for which, if they apply, decision makers must recognise and provide.

In terms of Section 6 the esplanade reserve will protect the stream margins in this location (S6 (a)) and allow public access along it (S 6 (d)). I have addressed Section 6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. I would note again that the setbacks including the esplanade reserve will reduce impacts on the stream.

In terms of Section 7 the subdivision as proposed represents efficient use of a land resource (S7b).

Section 8 of the Act relates to the principles of the Treaty of Waitangi. No relevant affected principles were directly identified although the substance of Mr Shephard's concerns clearly raises more general concerns regarding the relationship between TKOT and Council.

Looking to my overall assessment as it relates to the Section 5 sustainable management purpose of the Act, I find that the application subject to conditions as recommended, but modified by changes to this application during the hearing process relating to access and the provision of an esplanade reserve, will promote sustainable management and will have less than minor additional adverse effects on the environment. As a result consent can be granted.

11 Other Documents

These were identified in the planners report, although none were particularly useful to my consideration of the application

12 Decision

THAT pursuant to sections 104, 104B, 108 and 220 of the Resource Management Act 1991, that consent be granted to G and C Eady to undertake a three lot subdivision of the application site at 284 Pipiwai Road being Lot 1 DP 433894 held in CFR 528739 located within the Urban Transition Environment in order to create Lot 1 of 6,400m² (6,300m² net), Lot 2 of 2,500m² and Lot 3 of 1 hectare

13 Reasons for the decision

The reasons for this decision are as follows:

1. The subdivision is not contrary to the relevant objectives and policies of the Operative Whangarei District Plan as amended by the UTE.
2. Subject to conditions including those relating to the amended access, the requirement of an esplanade reserve, on-site infrastructure and servicing requirements, and consent notices on meeting engineering standards for built development which will avoid, remedy or mitigate any adverse effects of the activity on the environment.
3. The proposal is considered to be consistent with overarching purpose and principle of the Resource Management Act 1991 set out within Part 2 of The Act.
4. The development is not inconsistent with the terms and conditions of the Terms of Settlement for the Ngararatunua Marae.
5. The subdivision does not conflict with the the relevant issues, objectives and policies of the Operative and Proposed Regional Policy Statement for Northland.
6. The proposal reflects a density and layout of subdivision that is generally anticipated and provided for under the provisions relating to subdivision and development within the Urban Transition Environment.
7. The receiving environment, including supporting infrastructure, has sufficient capacity to accommodate the effects presented by the application.

14 Conditions of consent

Pursuant to Section 108 this consent is subject to the following conditions:

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

- a) The survey plan submitted for approval shall be in general accordance with the layout (including designated building areas, and no build areas serving to ensure no less than 50% of the total area of the subdivision is indefinitely retained as a no residential unit area) shown on the subdivision plan 'Proposed Subdivision of Lot 1 DP 433894' prepared by Beasley & Burgess Surveyors, reference C 2990 Rev 4, dated May 2014 as attached to this decision. The consent holder must submit a detailed set of engineering plans prepared in accordance with Council's Environmental Engineering Standards 2010 Edition. The engineering plans are to be submitted to the Senior Environmental Engineering Officer for approval.

Plans are to include but are not limited to:

- i Design details of the upgrade, widening and sealing of the existing vehicle crossing for the existing right of way over Lot 2 DP 433894 and proposed right of way A in accordance with Sheet 21 Rural Type 1A Crossing, also in accordance with sheets 22 & 23. The entrance crossing is to be designed and constructed in such a manner that will control stormwater run-off entering a property from the road, and that likewise prevent stormwater and detritus, including gravel, dirt and other materials, migrating onto the road reserve from a property. Urban accessways and private driveways sloping up from the road shall have a stormwater collection and disposal system at the boundary as detailed on Sheet 18.

- ii Design details of the right of way 'A' from the road boundary to the southern boundary of Lot 2 in accordance with the Table 3.7 Category D requirements including a typical cross section, long section, culverts, drainage flow paths and overland flow. Design details of onsite attenuation are also required in accordance with Section 4.11.
 - iii Design details of sufficient water supply for fire fighting purposes by way of tank storage or other approved means, and that this water supply be accessible by fire fighting appliances in accordance with Council's Environmental Engineering Standards 2010 and more particularly with the 'NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008'. The tanks are to be fitted with approved Fire Service "PSL" round thread adaptors Part number 058900.
- b) The consent holder shall provide written confirmation from power and telecommunications utility service operators of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Senior Environmental Engineering Officer or their delegated representative. Note that specific confirmation is required from the power utility service operators of their consent conditions regarding all works required to relocate any existing poles and stays within the proposed right of way 'A' easement to provide unimpeded vehicle access.
 - c) The consent holder must create easements over services, rights of way & fire fighting water supply tanks to the approval of the Senior Environmental Engineering Officer (SEEO).
 - d) The esplanade strip on the scheme plan shall be shown as Lot 4 esplanade reserve to vest in Whangarei District Council, with width of not less than 20 metres.

Note: For avoidance of doubt this consent is deemed to include approval under Section 234 to cancel the existing esplanade strip and, if required, issuing of a certificate under Section 234(7).

2 Before a Certificate is issued pursuant to section 224(c) of the Act the following requirements are to have been satisfied:

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

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

 All staged details of construction works (e.g. road construction) shall be accompanied by the necessary test results in accordance with Council's Environmental Engineering Standards 2010 Edition requirements and good engineering practice, to the approval of the Senior Environmental Engineering Officer.

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

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

 All works that are to be vested in Council require the presence of the Senior Environmental Engineering Officer (or their delegated representative) at all inspections/testing.

 Note The Senior Environmental Engineering Officer (or their delegated representative) will not carry out the inspection/testing, this will be the duty of the Applicant's IQP/project

manager/contractor. The Senior Environmental Engineering Officer will simply observe the process.

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

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

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

- b) The consent holder is to submit a Road Opening Notice or Corridor Access Request application and receive written approval for all works to be carried out within Council's Road Reserve in accordance with Council's Environmental Engineering Standards 2010 to the approval of the Senior Environmental Engineering Officer. (refer advisory clauses below).
- c) The consent holder shall notify council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Senior Environmental Engineering Officer and include the following details:
 - i Name and telephone number of the project manager/IQP.
 - ii Site address to which the consent relates.
 - iii Activities to which the consent relates.
 - iv Expected duration of works.

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

- d) The existing septic tank and effluent field servicing the existing dwelling on Lot 2 is to be decommissioned and removed to the approval of the Subdivision Officer. *Note: the dwelling will require a new system to be designed as per the Engineering Outcomes report dated 2/10/2013, and approved by way of a building consent application, if the dwelling is to remain a habitable building.*
- e) The existing shed and water pumping facilities on the existing esplanade strip shall be decommissioned and removed from the site.
- f) The consent holder shall submit written confirmation from power and telecommunications utility services operators that their conditions for this development have been satisfied in accordance with Council's Environmental Engineering Standards 2010 Edition to the approval of the Senior Environmental Engineering Officer or their delegated representative.
- g) The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries.
- h) Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of Lots 1, 2 & 3 at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
 - i Any development shall comply with the Restrictions and recommendations identified in the Engineering Outcomes Ltd engineering report dated 2/10/2013 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
 - ii (Lots 1 & 3 only) At the time of building consent for a residential dwelling or any other building provide suitable evidence/design to illustrate that, stormwater attenuation will be provided for all impervious surfaces to ensure compliance with Chapter 4, and more specifically Section 4.11 of Council's Environmental Engineering Standards 2010, to the satisfaction of the Senior Environmental Engineering Officer.
 - iii The owners of Lots 1, 2 & 3 shall be aware that the tanks located within easement C on

the subdivision plan compiled by Beasley & Burgess Surveyors Ref: C2990 rev 4, dated May 2014 (attached) are for the purposes of fire fighting water supply and must be maintained full with a minimum water volume of 45m³ in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509: 2008.

- iv No buildings shall be located within any area identified as a 'no build area' identified on the subdivision plan prepared by Beasley & Burgess Surveyors, reference C 2990, Rev 4 dated May 2014 (attached).

Note: *For the purpose of clarity, the 'no build area' denoted within Lot 1 also forms the area subject to a "no residential unit" restriction, and therefore the creation of any additional allotment within this area is a prohibited activity pursuant to UTE 3.1.*

That pursuant to section 113 of the Resource Management Act 1991 the reasons for this recommendation are as follows:

Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, subject to conditions relating to on-site infrastructure and servicing requirements, and consent notices on meeting engineering standards for built development which will avoid, remedy or mitigate any adverse effects of the activity on the environment.

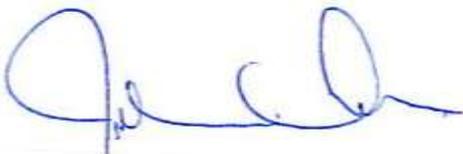
1. The proposal is considered to be consistent with overarching purpose and principle of the Resource Management Act 1991 set out within Part 2 of The Act.
2. The development is regarded as achieving the term and conditions of the Terms of Settlement of the Ngararatunua Marae. It is also considered achieving the relevant issues, objectives and policies of the Operative and Proposed Regional Policy Statement for Northland.
3. The proposal reflects a density and layout of subdivision that is generally anticipated and provided for under the provisions relating to subdivision and development within the Urban Transition Environment.
4. The receiving environment, including supporting infrastructure, has sufficient capacity to accommodate the effects presented by the application.

Advice Notes

1. The applicant shall pay all charges set by Council under Section 36 of the Resource Management Act 1991. The applicant will be advised of the charges as they fall.
2. Section 357B of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal, and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties.
3. Pursuant to Section 102 of the Local Government Act 2002, Whangarei District Council has prepared and adopted a Development Contributions Policy. Under this policy, the activity to which this consent related is subject to Development Contributions. You will be advised of the assessment of the Development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate. Further information regarding Councils Development Contributions Policy may be obtained from the Long Term Community Consultation Plan (LTCCP) or Council's web page at www.wdc.govt.nz.
4. A Corridor Access Request (CAR) is defined in the new "National Code of Practice (CoP) for Utilities access to the Transport Corridors". This CoP has been adopted by Council and will be phased in. It provides a single application for Traffic Management Plans/Road Opening Notice applications. Enquiries as to its use may be directed to Council's Traffic Management Co-ordinator on 430 4230 ext 8258.

5. The consent holder shall obtain all necessary Building consents which may be required for the proposal.
6. All earthworks are required to comply with Section 32.2 (Environmental Standards for Earthworks) of the Northland Regional Council Regional Water and Soil Plan for Northland noting erosion & sediment control and dust suppression requirements.
7. All works to be carried out pursuant to condition 1(b) above shall be undertaken on public land unless written right of entry is obtained from the owners of all private land upon which work is to be carried out. Where any necessary written right of entry has not been obtained, any such infrastructure work shall be re-routed to achieve compliance with this condition.
8. The applicant is advised that a further site inspection of completed works will be required if a period greater than 3 months has passed since the last Council inspection prior to Council issuing the 224(c) certificate.
9. All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
10. The consent holder should recognise that the proposed development is located on an 'at risk' aquifer and to ensure that the development does not result in contamination of the surrounding aquifer or a reduction in groundwater recharge. Mitigation measures may include the return of the collected or diverted treated stormwater to aquifer recharge, the use of low impact stormwater design, and the use of pervious surfaces for roading and drainage

Issued this 8 day of May 2014



John Childs Hearings Commissioner