

**Report and decision of Hearings Commissioner 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 the application on behalf of  
Council. The application was heard in the Council Chambers,  
Whangarei District Council on Thursday 29 May 2014**

The Hearings Commissioner ('the commissioner') heard the resource consent application lodged by H Norcross relating to a seven lot subdivision at Landowners Lane in Tutukaka (Lot 1 DP 148120). The application, made in accordance with the Resource Management Act 1991 ('the Act') was lodged with Whangarei District Council and referenced as SD1300089 (P062303).

Present	Hearings Commissioner Mr John Childs
Applicant	Mr Henry Norcross Mr Trevor Shaw - Surveyor (Simpson Shaw)
Consent Authority	Whangarei District Council Ms Heather Shannon Reporting Planner Ms Kelly Ryan Planning Team Leader (Resource Consents) Mr John Smith Consultant Engineer (Kennedy & Associates) Mr Jeff Devine Roding Manager
Submitters	Ms Susy Bretherton Mr Howard Bretherton Ms Judith Barnette – Not heard Mr Des Searle – Not heard Mr Mark Bellingham Consultant Planner (Terra Nova Planning) on behalf of Hazel Tynan Trust
In attendance	Ms Linda Wheeler – Administration Team Leader (Resource Consents) Mr Bernard Bretherton Mr Brett Ewen Mr John Ballantyne Mr Alistair Trimmer – Simpson Shaw

## **1. Summary of Decision**

- 1.1 Pursuant to sections 104, 104C and 108 of the Resource Management Act 1991, consent is granted to the application by H. Norcross to undertake a seven lot subdivision of Lot 1 DP 148120 at Landowners Lane (PV1) Tutukaka.

## 2. Application and Property Details

Application Number:	SD 1300089 / P062303SD
Site Address:	Lot 1 DP 148120 Landowners Lane Tutukaka.
Applicant's Name:	H. Norcross
Legal Description:	Lot 1 DP 148120
Total Site(s) Area:	1.8780 hectares
Zoning: Operative Plan	Living 3
Lodgement Date:	25 October 2013
Notification Date:	28 February 2014
Submissions Closed:	28 March 2014
Hearing:	29 May 2014
Site Visit:	29 May 2014

## 3. Description of the proposal activity

To undertake a seven-lot subdivision of the application site in Landowners Lane, a private road in Tutukaka. Two access points from the Lane are proposed.

The site is currently undeveloped.

## 4. District Plan Rules affected

The site is subject to a Living 3 Environment in the Operative District Plan.

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

- 4.1 The proposal is a Controlled Activity with respect to Rule 71.3.1 c) *Allotment Area*.
- 4.2 Overall the application is a Restricted Discretionary Activity as the proposal does not comply with Rules 71.3.8 c) and d) *Property Access* as the proposed lots access Landowners Lane which is not formed to the relevant standards and serves more than 8 allotments or residential units.

## 5. Notification and submissions received

The application was notified on 28<sup>th</sup> February 2014 pursuant to Section 95 of the Act. A total of 13 submissions were received. The following is a summary of the written submissions received and the main issues raised:

- Judith Norcross - S  
Landowners Lane (Lot 1 DP 148120)
- Fossil Stone Limited - S  
105 Landowners Lane (Lot 2 DP 398687)
- Giles and Julia Tayelor - D  
Landowners Lane (Lot 1 DP 429611)
- Tony Mair - D  
Landowners Lane (Lot 1 DP 429611)
- Judith Barnette - D  
41B Landowners Lane (Lot 2 DP 432382 and Lot 3 DP 148120)
- Susan Bretherton - D  
115 Landowners Lane (Lot 1 DP 206199)
- Howard Bretherton - D  
117 Landowners Lane (Lot 2 DP 206199)
- Scott and Rosella Parker - D  
41 Landowners Lane (Lot 1 DP 432382)
- Des Searle and Margaret Williams – A/C  
63 Landowners Lane (Lot 6 DP 58957)
- New Zealand Historic Places Trust – A/C
- Lynette Fry and Michael Clack - D  
43 Landowners Lane (Lot 2 DP 143200)
- Lorraine Paul - D  
41A Landowners Lane (Lot 1 DP 143200)
- Advance Developments Limited – A/C  
Landowners Lane (Lot 2 DP 429611)

Key:

S = Support  
D = Decline  
A/C = Approve with conditions

The main reasons for opposition / comment were:

1. Landowners Lane is in a poor state of repair and it cannot support the proposed subdivision. It needs upgrading to meet Council standards etc.

2. Arising from point 1 above, adverse traffic effects including increased traffic / sight lines / safety.
3. Adverse noise.
4. Adverse effects on amenity values.
5. The subdivision will depreciate property values.
6. Adverse stormwater impacts on other sites.
7. The earthworks required.
8. Archaeological values in the vicinity.

Those in support saw the subdivision creating appropriate sites which would enhance the area.

## 6. Procedural matters

I note that Councillor Susan Bretherton appeared in her capacity as a submitter and not as a Councillor.

## 7. Evidence heard

The commissioner heard evidence from the applicant, expert witnesses, submitters, and the council's reporting officers.

The following is a summary of the evidence heard at the hearing.

### 7.1 Applicants evidence

This came from:

**Mr Henry Norcross - the owner.**

**Mr Trevor Shaw - Surveyor.**

#### **Mr Norcross**

He indicated that he had owned the land since 2007. He had contributed about \$200,000 over the years to improve the private road. He has made an offer to the Council which still stands to gift land to widen the road. The road regularly needs maintenance as any repairs do not last long. He hoped that if approved that Council requirements *"are not too demanding"*.

He expressed concern about the DOC reserve and the significant traffic impacts it had on the access.

**Mr Trevor Shaw - a Licensed Cadastral Surveyor.**

He considered that the access was the most important issue. He addressed DOC's use of the access. He then discussed the matters raised by the submitters.

He considered that the proposed density was as envisaged by the District Plan.

He requested that consent be granted but with condition (1(c) (in)) relating to the upgrading of the Lane be deleted.

## **6.2 Submitters' evidence**

### **Mr Howard Bretherton**

He discussed the problems with the private road, with maintenance on it being minimal with DOC making no contribution to its upkeep. The right of way

*"has been a problem for nearly 40 years".*

There were now 21 private users of the Lane plus visitors and DOC.

He indicated that the zoning of the land had been made without the Council considering the impacts it would have.

He also indicated that developers had not helped the situation with the Lane. Regarding the lane

*"the only solution is to create a public road and inhibit any further subdivision until the problem is solved."*

### **Ms Suzy Bretherton**

She spoke in support of Mr Howard Bretherton's submission.

### **Mr Mark Bellingham - Planning Consultant for Hazel Tynan Trust (63 Landowners Lane)**

Issues he raised included:

- 1) The need for colour and other controls for buildings and driveways in the locality to mitigate the adverse effects on amenity values
- 2) Reinstatement and improvements to Landowners Lane to address increased traffic from the subdivision. This could largely be dealt with by way of conditions.
- 3) Geotechnical issues.
- 4) The need to protect amenity values.

He indicated that if consented to conditions should be imposed on the subdivision. He supported Landowners Lane becoming a legal road.

### **S. and R. Parker**

An email was received from Scott and Rose Parker indicating they would not be attending the hearing. They indicated that they had serious concerns that further earthworks would exacerbate sediment run off in rain events and entering Rocky Bay.

### 6.3 Council's reporting officer's report and evidence

This came from Section 42A report from:

- 1) Environmental Planner (Consents) – Ms Heather Shannon.
- 2) Mr John Smith – Consultant Environmental Engineering Officer.
- 3) Mr Wes Edwards – Traffic and Transportation Consultant.

Ms Shannon's report discussed the proposal, the background, the site and its surrounds, District Plan matters including the assessment criteria, notification issues and statutory considerations, actual and potential effects on the environment, relevant policy statements and Part II Matters. She recommended that consent be granted subject to conditions because:

- 1) The subdivision lot sizes comply with the minimum net site area specified for a controlled activity in the Living 3 Environment.
- 2) The sites can be adequately serviced in terms of on site stormwater and wastewater.
- 3) The proposal was consistent with the objectives and policies of the District Plan, and the Operative and Proposed Regional Policy Statements.
- 4) There were no apparent conflicts with Part II of the Act.

Mr Smith recommended consent be granted subject to conditions.

Mr Edwards evaluated the traffic impacts of the proposal concluding that the subdivision would result in a "*modest increase in traffic volumes*" on the road which would have "minimal effects". His recommendation from a traffic point of view was that consent be granted subject to conditions.

Before the right of reply Ms Shannon and Mr Smith advised me that they stood by their recommendations to consent to the application. Ms Shannon indicated that she did not consider it necessary to impose colour conditions on any future buildings as per her report, however, if offered by the applicant it would be acceptable.

#### Right of Reply

Mr Norcross indicated that there were only eight permanent residents in the Lane. He was keen for a joint approach to deal with problems in the Lane.

Mr Shaw indicated that the design and colour controls on future buildings were not necessary.

### 8. Principal issues

The principal issues that were in contention were:

- a) Whether the lane can cope with the additional traffic from the lots proposed in the subdivision in terms of it being a private road.

- b) The appropriateness of the land for this seven lot subdivision.
- c) If consent is granted what conditions should be imposed and whether this should include conditions suggested by Mr Bellingham.

I cannot have regard to the status of the road i.e. it not being a public road. However I would encourage the owners of sites abutting the road to look at a joint maintenance agreement for the road and also take up Mr Devine's offer for owners to meet with the Council regarding the future status of the Lane.

## 9. Main findings of fact

I consider that the following are the main findings of the principle issues that were in contention relating to the application.

### A. The Lane and its ability to sustain the additional traffic from the development the subdivision would allow.

Given that there is an existing and valid subdivision consents which allow four lots on this property with not dissimilar access arrangements, I must look at the implications of the three additional lots.

In looking at the issue I have had the written advice from two traffic experts.

- 1) For the applicant Mr Steve Gibson. His report concludes after a detailed analysis of the District Plan assessment criteria and engineering standards that

*"Subject to conditions that the site is suitable for the proposed subdivision". (P92 of the agenda).*

- 2) Mr Wes Edwards who peer reviewed the application for the Council. He estimated that the proposed three additional lots would generate up to 20 more traffic movements per day in summer and 10 more in winter (Page 342 of the agenda) compared to the consented four lot subdivision, and that this increase is relatively small. He also advised that Landowners Lane

*"Is a relatively low speed environment". (P 346 of the agenda).*

The conditions include incremental improvements plus a shrub being removed.

He concluded that the modest increase in traffic would have minimal effect. He recommended three conditions if consent was granted.

I note that the opposing submitters did not present expert evidence in support of their case. However as regular users of the road they understand its shortcomings.

I walked and drove from the main road to the end of the subdivision and then drove to the DOC Reserve. While not ideal for two way traffic subject to the recommended conditions the traffic effects of this subdivision will be minor.

### B. The appropriateness of the site for this seven lot subdivision.

Given the previous four lot consent which is still valid as indicated above, it is only the additional three lots that I must have regard to in making my decision.

After reviewing the technical reports, walking over the land and looking at the access arrangements I am satisfied that the assessment criteria can, subject to conditions, be satisfied.

## **C. Conditions**

The conditions in the Planners Report are appropriate as they will allow the Lane to be upgraded to an adequate standard recognising that it is a private road.

I accept Mr Bellingham's evidence that a condition should be imposed on the design and appearance of future buildings. Similar conditions were imposed by the Environment Court in 2010 on the Advance Developments Ltd decision (Env – 2007 – AKL00099). This is because the bulk of the site is located on or adjacent to a ridge which has very little established vegetation. As a result any built development which could be up to eight metres high would be conspicuous on this visible property in a coastal setting.

## **10. Relevant statutory provisions**

### **10.1 RMA Provisions**

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 change.

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.

Section 104B of the Act empowers the decision maker to either grant or refuse a discretionary activity application with or without conditions.

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.

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.
- ii. 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 specified in the 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 written 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 for them. None are relevant.

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

Section 8 and the Act relates to the principles of the Treaty of Waitangi. No relevant affected principles were identified.

In looking at my overall assessment as it relates to the Section 5 sustainable management purpose of the Act, I find that the application subject to conditions will promote sustainable management and will have minor additional adverse effects on the environment. As a result consent can be granted.

## 11. Decision

**THAT** pursuant to sections 104, 104C, 108 and 220 of the Resource Management Act 1991, consent be granted to H Norcross to undertake a seven-lot subdivision of Lot 1 DP 148120, being Landowners Lane (Pvt), Tutukaka, so as to create lots ranging from 2000m<sup>2</sup> to 5900m<sup>2</sup> within the Living 3 Environment being a Restricted Discretionary Activity.

## 12. Reasons for the decision

1. The subdivision lot sizes comply with the minimum net site area specified as a controlled activity in the Living 3 Environment. As a result in terms of the environmental effects of the proposal, the primary issues are whether the additional traffic generated by the subdivision proposal would have a significant adverse effect on traffic efficiency and safety. These effects can be appropriately mitigated by conditions.
2. While the access to the proposed lots does not meet the standards specified in the District Plan, subject to conditions, the adverse traffic effects will be minor as:
  - The proposal has been comprehensively considered with respect to traffic effects. Subject to the conditions below, Landowners Lane will be formed to a sufficient width and standard to enable safe and efficient traffic movement. On this basis it is not considered appropriate, necessary nor fair and reasonable to require the upgrading of Landowners Lane to the standard set out in the District Plan.
  - The on-going maintenance of Landowners Lane and the other rights of way is the responsibility of all of the land owners.
3. The proposed sites can be adequately and appropriately serviced in terms of on-site wastewater and stormwater.
4. Subject to conditions including the colours and materials of future buildings other adverse effects on the environment will be minor.

5. The subdivision is generally consistent with the objectives, policies and assessment criteria of the Operative Whangarei District Plan, the Operative and Proposed Regional Policy Statements.
6. There are no apparent conflicts with Part 2, 'Purpose and Principles', of the Resource Management Act 1991.

### 13. CONDITIONS

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

**1. That before the survey plan is certified pursuant to Section 223 of the Act, the following requirements are to be satisfied:**

- a Except as amended by conditions below that the survey plan submitted for approval shall conform with the subdivision consent obtained and the plan of subdivision prepared by Simpson Shaw Surveyors, drawing number 12096-3, revision B, dated 10 February 2014 (as attached to this decision).
- b Area 'B' shall be shown on the plan of subdivision as being an area of protected vegetation.
- c 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.

It is to be noted that certain designs may only be carried out by an Independently Qualified Person (IQP) or Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies. IQP's must have been assessed by Council and hold a current status to submit design work.

All work needing design/certification by a Council approved IQP/CPEng will require completion of a producer statement (design) (EES-PS1 or similar).

Plans are to include but are not limited to:

- i Design details of the upgrading of Landowners Lane from Matapouri Rd to the southern boundary of lot 6 in accordance with Table 3.7 Category G requirements including a plan, typical cross section, culverts, drainage flow paths and overland flow paths. Where the existing sealed surface is damaged, the plans are to include for the repair of all such surfaces. In addition the recent slips along the western boundaries of lots 1 and 7 are to be stabilised for which remediation details are required to be provided by a suitably qualified CPEng or IQP as above. (See also Advice Note 6 and Condition 1e below).
- ii Design details of the construction of Rights of Way K and E in accordance with Table 3.7 Category C(alt)\* requirements including a typical cross section, drainage details and the associated vehicle crossing. Entrance crossings are 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 Landowners Lane 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.
- iii Design details of the construction of Right of Way L in accordance with Table 3.7 Category C(alt)\* requirements including a typical cross section, drainage details and the associated vehicle crossing. Entrance crossings are 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 Landowners Lane 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.

- iv Design details of the sight distance improvements between ROW K and the adjoining existing ROW on Lot 1 DP 429611 such that will ensure a finished height of no more than 600mm above the level of the rights of way for a distance of not less than 5m back from the western boundary of lot 1, noting that the prior agreement of the affected adjoining landowners will be required
- d 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.
- e The consent holder must create easements over services, rights of way and no build areas, to the approval of the Senior Environmental Engineering Officer (SEEO). This shall include the creation of a suitable easement across the western boundaries of lots 3, 1, 7 and 6 as necessary in order to secure sufficient land to enable the reduction of the slope of the existing bank and the taking of land for a future public road should that eventuate. Associated building setbacks from the top of the finished batter are covered by the Opus report, Section 6.
- f The consent holder must create easements in gross over all overland stormwater flow paths that fall into areas proposed for development (i.e. house site, effluent disposal site, accessway from road to house site etc) and/or as directed by the Senior Environmental Engineering Officer. The easements are to cover the extent of the 1% Annual Exceedance Probability flows (+20% allowance for climate change) and are to be to the approval of the Senior Environmental Engineering Officer.

**Note** Overland flow paths are to be assessed in accordance with Section 4.9 of Council's Environmental Engineering Standards 2010 Edition and are to be certified by an IQP/CPEng.

**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 1c 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) EES-PS4 or similar approved.).  
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, of 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 a Council 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 RC conditions/Environmental Engineering Standards 2010 Edition (as applicable). No construction works are to commence onsite until the engineering plans required in condition 1c have been approved and all associated plan inspection fees have been paid.

- b 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.
- c 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.
- d 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. Note that for clarity, this is a requirement to provide suitable 'hard wire' connections to the proposed lots. If the consent holder wishes to choose alternatives, such as no power connections and/or wireless telecommunications, an application to vary this condition will be required.
- e The applicant shall ensure that spoil from the site must not be tracked out onto Council or State Highway Road formations to the approval of the Senior Environmental Engineering Officer.
- f Dust nuisance must be controlled onsite (by use of a water cart or similar) by the applicant so as not to cause "offensive or objectionable" dust at or beyond the boundary of the development.
- 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 That a Solicitor's undertaking be provided to confirm that a private covenant will be registered on the Computer Freehold Register of Lot 4 with respect to the area marked 'B' on the plan of subdivision, to provide ongoing protection of the vegetation located within this area.
- i 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 – 7 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 At the time of building consent for any building on the lot, 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.

- ii Any development shall comply with the Restrictions and recommendations identified in the Opus International Consultants Ltd engineering report reference 1-19893-00 dated June 2013 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- iii Council will not be responsible for the maintenance of the formed vehicle access known as Landowners Lane. The formed access may be vested in and maintained by Council in the future if upgraded to a full roading standard in accordance with prior approved engineering plans complying with Council's Environmental Engineering Standards and/or to the requirements and satisfaction of the Roothing Manager.
- iv Upon construction of a habitable dwelling, sufficient water supply for firefighting purposes is to be provided by way of tank storage or other approved means with the water supply to 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." If water supply is to be provided by way of tank storage, this tank must be located a safe distance away from any habitable dwelling in accordance with "NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008".
- v At the time of lodging a building consent for any building to be constructed on the site (including retaining walls and water tanks where they are deemed to be a building), provide suitable evidence of proposed finished colours and materials for all external materials, including roofing, cladding, and joinery, so as to achieve a Light Reflectivity Value (LRV) of 30% or less, to the satisfaction of the Council's Compliance Team Leader. On approval of those colours and materials, the building shall be constructed, completed, and maintained in the approved colours and materials. In the event that a change to the colours and materials is to be undertaken in future, further advice shall be provided to the Team Leader Compliance for approval to show that any new colours or materials remain in compliance with the LRV of 30% or less.
- vi
- j 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 Lot 4 at the consent holder's expense, containing the following condition which is to be complied with on a continuing basis by the subdividing owner and subsequent owners:
  - i. No modification of the existing ground profile, plantings, fencing or structures of any kind will be permitted within the overland flowpath shown as A and D on the approved subdivision plan, unless a specific design has been done by a Chartered Professional Engineer which mitigates the effects of the obstruction and is approved in writing by the Senior Environmental Engineering Officer.


#### Advice Notes

- 1 The Consent Holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
- 2 Permits are required for drilling any bores in Northland. Therefore, resource consent will need to be gained from the Northland Regional Council if water is obtained in this way. If a

bore is to be constructed, all areas used for sewage effluent disposal and reserve effluent disposal areas must be at least 20 metres away from any groundwater bore.

- 3 Building Consents may be required for retaining structures.
- 4 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.
- 5 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.
- 6 It is suggested that the consent holder liaise with the consent holder of RC39461 (Advance Developments Limited) to ensure that the plans for upgrading Landowners Lane are co-ordinated.
- 7 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.
- 8 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.
- 9 This decision will not supersede SD0900037 or SD1000073, with the consent holder retaining the right hereon to give effect to one of SD0900037, or SD1000073, or SD1300089, but not a combination of these.

Issued      12      day of      June      2014  
this      \_\_\_\_\_



John Childs  
Hearings Commissioner