

Hearings Commissioner

Notice of Meeting

A meeting of the Hearings Commissioner will be held in the Whangarei Library, May Bain Room, Rust Avenue, Whangarei on:

**Thursday
26 June 2014
10am**

**Application by
G & M Pulham**

**Commissioner
David Hill**

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Report to Hearings' Commissioner David Hill on a Resource Consent Application

This land use consent application was lodged by Resource Management and Assessment Limited on behalf of M & G Pulham and was reported on by Council's Senior Specialist (Consents), Ueli Sasagi.

The proposal is for the subdivision of the subject site into two new allotments; Lot 1 of 4,398m² and Lot 2 of 5,755m² (5,238m² net). New Lot 1 will contain an existing residential unit.

This report was peer reviewed by the following signatories:



Ueli Sasagi – Senior Specialist (Consents)

6 June 2014

Date

This report was peer reviewed by the following signatory:

Alister Hartstone – Resource Consents Manager

Date

Statement of staff qualification and experience

Ueli Sasagi – Senior Specialist (Consents)

My full name is Maualaivao Ueligitone Sasagi. I hold the qualifications of Master of Regional and Resource Planning, a Bachelor of Science (Forestry) and a Diploma in Agriculture. I am a full member of the New Zealand Planning Institute. I have been working in resource management and planning matters throughout New Zealand since 1996. I am currently employed as a senior specialist planner for the Whangarei District Council, and have worked for the Council since May 2013. I have been working in a wide range of statutory and policy planning functions, including all stages of the resource consent process in Local and Central Governments, the Private Sector and the Environment Court.

Vladimir Rozov – Senior Environmental Engineering Officer

I am a civil engineer employed by Whangarei District Council in the Resource Consents department. I have the title of Senior Environmental Engineering Officer. I qualified from a Polytechnic University (in former USSR) in 1981 with a Bachelor degree in Industrial and Civil engineering and I am a graduate member of the Institute of Professional Engineers New Zealand Inc. I have many years experience in roading/drainage/earthworks/civil construction and I have worked for the Whangarei District Council as Environmental Engineering Technician, Support Officer, Officer and Senior Environmental Engineering Officer since 1999. My position within the Resource Consent department requires me to assess all engineering aspects of resource consent applications using my technical knowledge and oversee construction works to ensure compliance with Council Standards.

The above staff are familiar with the Environment Court's 'Code of Conduct' for expert witnesses and agree to comply with the Code of Conduct in presenting hearing evidence to the Commissioner.

Section 42A Hearing Report

Hearing By: Hearings' Commissioner David Hill of a non-complying subdivision proposal by M & G Pulham to subdivide the subject site into two new allotments; Lot 1 of 4,398m² and Lot 2 of 5,755m² (5,238m² net). New Lot 1 will contain an existing residential unit.

The site is located at 41 Ngunguru Road, Whangarei 0173 being legally described as Lot 1 DP 204453.

Evidence By: Ueli Sasagi, MRRP, BSc (Forestry), Dip (Agr), MNZPI

File Refs: SD1400002, P098740 SD, TRIM 14/42332

Dated: 6 June 2014

1.0 The Proposal & Background

1.1 The proposal

- 1.1.1 The proposal is for the subdivision of the subject site into two new allotments being Lot 1 of 4,398m² and Lot 2 of 5,755m² (5,238m² net). New Lot 1 will contain an existing residential unit (scheme plan in **Attachment 1**).
- 1.1.2 Access to the new allotments will be via an existing shared vehicle crossing off Ngunguru Road serving 8 sites (4 existing residential activities plus 4 new residential activities consented under SD0900076). This proposed subdivision will increase the number of users to 9.
- 1.1.3 The proposed use of newly created allotments will be for rural residential activities.

1.2 Background

- 1.2.1 A copy of the original application lodged with Council on 7 January 2014 is in **Attachment 2**. The following further information has been provided by the applicant for clarification and in support of the application (**Attachment 3**):
- Information on the number of users using the existing access lot;
 - Site Suitability Report prepared by Richardson Stevens Limited; and
 - Site plan detailing existing service connections and pipework.
- 1.2.2 The proposal was distributed internally to Council's Senior Environmental Engineering Officer (SEEO) for review. Council SEEO assessment report is in **Attachment 4**.
- 1.2.3 The proposal was also sent to Mr Mike Farrow for peer review of the Landscape Mitigation Plan provided in support of the application. Mr Farrow was also requested to review the wider effects of the proposal on landscape and the amenity of the area. Copy of Mr Farrow's comment is in **Attachment 5**.

2.0 Site and Surrounds Description

2.1 Zoning, resource areas and other notations

- 2.1.1 The site is located in the Countryside Environment of the Operative District Plan.

2.1.2 There is a low instability hazard designation over the entire site identified on Whangarei District Council's (WDC) GIS maps. The applicant submitted an engineering report in support of this application confirming the suitability of the entire site for building construction.

2.2 Site Description

2.2.1 The site is located at 41 Ngunguru Road, Glenbervie and comprises a single parcel of land with a total area of 1.0155 hectares. The site is legally described as Lot 1 Deposited Plan 204453 held in Computer Freehold Register NA133A/314.

2.2.2 The property is located on the urban fringe of Tikipunga, within a zone of transition between the suburban character residential area and the spaciousness of the rural land to the north east. The character of development in the immediate area is intensive rural residential, partially a consequence of dwellings being clustered close to the road corridor.

2.2.3 The site adjoins Ngunguru Road and accessed via an existing shared access. There are existing rights of way and service easements over this access lot that provide access to Lots 1 2 and 3 DP 351137 and Lot 1 DP 204453 (subject site). The southern side of the site along Ngunguru Road is partially screened by trees. It is relatively flat and covered in grass.



2.2.4 The site is adjoined in the north by a recently approved subdivision. Resource consent SD0900076 was granted on 8 July 2010 for a six lot subdivision of that property. The resultant allotments were Lots 1-6 with areas of 4525m², 3435m², 7908m², 3345m², 5020m², 2950m² and 5284m² respectively.

2.2.5 The site is surrounded by residential development of a similar density and character to that proposed with some larger farming blocks across the road and to the north.

3.0 District Plan Assessment

3.1 Operative District Plan

3.1.1 Rule 73.3.1 *Allotment Area* provides for subdivision to be considered as a Discretionary Activity whereby the minimum average net site area of all proposed allotments is 4.0ha (for the purpose of calculating average net site area, any proposed allotment with a net site area greater than 8.0ha will be deemed to have a net site area of 8.0ha). In this instance, upon application of the averaging provisions of the rule, the minimum average net site area is 0.5076ha, and therefore the proposal requires consideration as a non-complying activity.

3.1.2 Rule 73.3.7 *Property Access* stipulates that subdivision is a controlled activity if vehicular access to a road is shared where there are 2 or more allotments in the subdivision; and the access complies, in all respects, with the relevant standards in Whangarei District Council's Environmental Engineering Standards 2010 and the relevant provisions in Appendix 9; and no more than 8 allotments or 8 residential units are served by a shared access. In this instance, access to the subdivision is gained via a driveway currently shared by eight existing titles.

The access will not comply with the relevant standards in Whangarei District Council's Environmental Engineering Standards 2010, as there will be nine users. Therefore consideration of this aspect of the proposal is required as a Restricted Discretionary Activity. Discretion is restricted to the following matters:

- i. The relevant provisions of the Whangarei District Council's Environmental Engineering Standards 2010;
- ii. The adequacy of the access for the anticipated use;
- iii. The ability of the access to contain required services;
- iv. Traffic safety and visibility;
- v. The need for acceleration and deceleration lanes;
- vi. Type, frequency and timing of traffic;
- vii. Access design, number and location of vehicle crossings;
- viii. Efficiency and safety of roads;
- ix. Need for forming or upgrading of roads in the vicinity of the site;
- x. Need for traffic control, including signs, signals and traffic islands;
- xi. The additional matters listed in Chapter 70.3.
- xii. The need for access to the allotment;
- xiii. The safe and efficient movement of people, vehicles and goods;
- xiv. The ability of the road structure to withstand anticipated loads;
- xv. The effects of water runoff.



3.1.3 The proposal meets the relevant standards and terms as controlled activities under additional rules of relevance including Rule 73.3.5 *Existing Buildings*, Rule 73.3.6 *Sites of Significance to Maori* (none identified), Rule 73.3.8 *Vehicle Crossings*, Rule 73.3.10 *Provision for Extension of Services*, Rule 73.3.11 *Water Supply*, Rule 73.3.12 *Stormwater*, Rule 73.3.14 *Sewage*, Rule 73.3.15 *Electricity*, Rule 73.3.16 *Telecommunications* and Rule 73.3.17 *Earthworks*.

3.1.4 Overall, the application is considered to be for a Non-complying Activity.

3.2 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

3.2.1 The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES Contaminated Soils) were gazetted on 13th October 2011 and took effect on 1st January 2012. Council is required by law to implement this NES in accordance with the Resource Management Act 1991 (RMA). The standards are applicable if the land in question is, or has been, or is more likely than not to have been used for a hazardous activity or industry and the applicant proposes to subdivide or change the use of the land, or disturb the soil, or remove or replace a fuel storage system.

3.2.2 The following table assesses the proposal's compliance with the NES regulations:

Table 1 – Site Assessment for HAIL Activities

| Question | Answer | Comment |
|---------------------------------|--------|-----------------------------------|
| Is an activity described on the | No | There is no evidence in Council's |

| | | |
|---|-------------|--|
| HAIL currently being undertaken on the piece of land to which this application applies? | | records to indicate that an activity described on the HAIL has been undertaken on the subject site. The owner of the property has also completed the NES pre-lodgement questionnaire where it confirmed that there has been no HAIL activity undertaken on the site. |
| Has an activity described on the HAIL ever been undertaken on the piece of land to which this application applies? | No Evidence | |
| Is it more likely than not that an activity described on the HAIL is being or has been undertaken on the piece of land to which this application applies? | No Evidence | |

- 3.2.3 The applicant provided in support of the application a Preliminary Site Investigation where it concludes that – *“This preliminary site investigation report concludes that it is highly unlikely that there will be a risk to human health if the proposed subdivision proceeds.”* In view of the conclusion of the PSI it is considered that the activity is not subject to the NES and no further assessment is required.

4.0 Notification, Submissions and Written Approvals

4.1 Notification

- 4.1.1 Pursuant to sections 95A-95F a consent authority may, using its discretion make a decision whether to notify an application for resource consent. In determining the notification decision the consent authority must firstly have regard to the likely adverse effects on the environment of the proposal and secondly whether any persons are considered to be adversely affected by the proposal.
- 4.1.2 If the consent authority decides that the adverse effects on the environment may be more than minor it must notify the application. If the decision has been made that the effects will not be more than minor, the consent authority must then identify any persons adversely affected by the proposal to determine whether limited notification is required.
- 4.1.3 A full assessment pursuant to Section 95 of the Act has been undertaken in order to reach a conclusion as to whether the effects of the activity will be more than minor or minor, and who may be adversely affected by the proposed activity. Copy of the Section 95 report is attached as **Attachment 6**. In summary, the assessment concluded that the cumulative effect of the proposal crosses the more than minor threshold and was then considered to be a fully publicly notified application.
- 4.1.4 The application was publicly notified on Tuesday 8 April 2014.

4.2 Submissions

- 4.2.1 The period for submissions opened on Tuesday 8 April 2014 and closed on Friday 9 May 2014. Copies of the application were specifically served upon the following parties/persons:

| | |
|--|-----------------------------------|
| The General Manager, Attn – M Day | Northland Regional Council |
| The Regional Director | New Zealand Transport Authority |
| Northland Regional Office, Attn – Jodie Mitchell | New Zealand Historic Places Trust |

| | |
|---|-------------------------|
| NZ Fire Service, Attn – S Kerr | C/- Beca Planning |
| A Young, W Young, S Young and M Cheung | 1 Kipling Avenue |
| N F Thomas | P O Box 4012, Kamo |
| Torin Orchids Limited | 47 Ngunguru Road |
| Northland Property Holdings Ltd | 136 Bank Street |
| JBL Trustee Ltd – Client GH & MJ Lester | 69/14 Sands Road |
| GH & MJ Lester | 49 Ngunguru Road |
| DR Flanagan & AA Kirk | P O Box 1280, Whangarei |
| R A Herbert | 39A Ngunguru Road |
| Ngati Hau Ki Whakapara – Attn: Allan Halliday | 114 Akerama Road |

4.2.2 Council received one submission within the timeframe, who opposed the proposal and requesting that the application be declined. He has requested to be heard in support of his submission.

4.2.3 The submission is summarised as follows (a full copy of the individual submissions is in **Attachment 7**):

Table 2 – Summary of Submission

| Submitter | Issues and Relief Sought |
|----------------------------|--|
| David Ross Flanagan | <p>Issues: Concerns about the safety of users due to increased traffic movements on the existing access.</p> <p>Relief sought: Decline the application.</p> <p>If consent is granted then the following must be considered:</p> <p>(a) Existing vehicle crossing and access design must meet the Council's Standards for a road to vest;</p> <p>(b) Create a standalone entry/exit further up Ngunguru Road.</p> |

4.3 Written Approvals

4.3.1 The following persons have provided their written approval and their respective locations in respect to the site is shown on the map provided below.

Table 3 – Written Approvals

| Name | Owner/Occupier | Address | Reason why adversely affected | Written approval secured |
|--|----------------------|---------------------|---|--------------------------|
| Graham & Maggie Lester on behalf of JBL Trustees Ltd | Owners and Occupiers | 49 Ngunguru Road | Lots are smaller and increased access users | Yes |
| Norman Thomas | Owner | 33/35 Ngunguru Road | Lots are smaller and increased access users | Yes |

| | | | | |
|--------------------|----------|---------------------|---|-----|
| Rachel Ann Herbert | Owners | 39A Ngunguru Road | Lots are smaller and increased access users | Yes |
| Don Robertson | Owner | 47 Ngunguru Road | Lots are smaller and increased access users | Yes |
| Jodi Winton | Occupier | 33/35 Ngunguru Road | Lots are smaller and increased access users | Yes |



5.0 Resource Management Act 1991- Statutory Considerations

5.1 Section 104

5.1.1 Section 104 provides the matters, subject to Part 2 of the Act that Council must have regard to when considering and application for resource consent and any submissions received. These matters are:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- [[(b) *any relevant provisions of—*
 - (i) *a national environmental standard:*
 - (ii) *other regulations:*
 - (iii) *a national policy statement:*
 - (iv) *a New Zealand coastal policy statement:*
 - (v) *a regional policy statement or proposed regional policy statement:*
 - (vi) *a plan or proposed plan; and]]*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

5.2 Section 104B

5.2.1 Section 104B outlines Council's powers when making a determination on a discretionary or non-complying activity. Section 104B states that:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under [section 108](#).*

5.3 Section 104D

5.3.1 Being a non-complying activity, the proposal is subject to the thresholds outlined in section 104D of the Act, 'Particular restrictions for non-complying activities'. Section 104D states

- (1) Despite any decision made for the purpose of [section 95A\(2\)\(a\)](#) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - (a) the adverse effects of the activity on the environment (other than any effect to which [section 104\(3\)\(a\)\(ii\)](#) applies) will be minor; or*
 - (b) the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- (2) To avoid doubt, [section 104\(2\)](#) applies to the determination of an application for a non-complying activity*

6.0 Actual and Potential Effects on the Environment (s104 (1)(a))

6.1 Definition of Effect

6.1.1 Section 3 of the Act defines the term 'effect' as including –

- (a) any positive or adverse effects; and*
- (b) any temporary or permanent effect; and*
- (c) any past, present or future effect; and*
- (d) any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and also includes-*
- (e) any potential effect of high probability; and*
- (f) any potential effect of low probability which has a high potential impact."*

6.2 Permitted Baseline

6.2.1 In terms of determining whether the adverse effects of the proposal are more than minor, section 104(2) of the Act provides that Council 'may' have regard to the permitted baseline in

order for effects on the environment that are permitted under the Plan (or by way of resource consent) to be disregarded.

6.2.2 The application site comprises of a single independent title area of 1.0155ha, occupied by one existing residential unit.

6.2.3 There are no permitted forms of subdivision under the Operative Whangarei District Plan, and therefore the standards for land use activities within the Countryside Environment are relevant to the consideration of this application. The Countryside Environment provides for the establishment of one main residential unit and one minor residential unit¹ per site, or where an additional residential unit is proposed, there is at least 20ha of net site area associated with each residential unit. The site is occupied by an existing residential unit.

6.3 Amenity Values

6.3.1 The District Plan provides an overview of the term amenity values. It identifies amenity values as being the characteristics that influence and enhance people's appreciation of a particular area. It also states that amenity values of an area are determined by natural and physical characteristics of the area, and the effects of activities.

6.3.2 This is in keeping with Part 1, Section 2 of the Resource Management Act 1991 (RMA) which provides the following definitions:

Amenity Values – “means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes”.

Environment – includes

- a) *ecosystems and their constituent parts, including people and their communities; and*
- b) *all natural and physical resource; and*
- c) *amenity values; and*
- d) *the social, economic, aesthetic and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.*

6.3.3 As such, it is ascertained that amenity consists of two components. One component is 'amenity attributes' which are tangible matters such as noise, odour, density or shading. The other component to amenity involves 'perceptions and expectations' which are more intangible values which individuals and communities hold to their neighbourhoods such as their own perceptions of noise, culture, desires and tolerance.

6.3.4 The District Plan goes on to identify the Countryside Environment as having high amenity values due to special characteristics such as:

- Open landscapes and views;
- A low intensity of development;
- Feelings of remoteness and community;
- Low noise levels, particularly at night;
- A high degree of privacy;
- Daylight and sunlight access;
- Low levels of vehicular traffic;
- Green 'unspoiled' landscape with indigenous vegetation

6.3.5 The applicant assessed the receiving environment character as an area featured by a cluster of rural residential properties of comparable size to those proposed in this subdivision. Land use of the properties in the area includes residential, rural residential, lifestyle and hobby farming. The applicant argues that because the design and format of the proposed

¹ At completion will be the only minor residential unit on the site and the minimum net site area of the

subdivision is similar to the existing pattern of subdivision which has developed over time, it will not detract from the existing character and scale of development and as such, effects of the proposal on the environment are considered to be acceptable.

- 6.3.6 In terms of effects of the proposal on the landscape values, the applicant contended that the site is not an Outstanding or Notable Landscape Overlay in the Resource Section of the District Plan. Additionally it appears to be in a Landscape Character Unit rated 4 overall sensitivity of the Whangarei District Landscape Assessment (with 2 having low sensitivity and 7 having high sensitivity). Furthermore when the Torrin Orchids Ltd application was reviewed by a Council commissioned Landscape Architect, he commented that *"I am of the opinion that the character of the proposal will be consistent with the previously established development character and will result in no more than minor effects on amenity and no more than minor visual effects."*
- 6.3.7 Regarding visual effects, the applicant has produced a Landscape Mitigation Plan which provides landscape planting along part of the site that borders onto Ngunguru Road. This will soften the view of any proposed development on the site from Ngunguru Road and other properties on the opposite side of the road.
- 6.3.8 The applicant also produced a comparison between the existing receiving environment and that anticipated as a result of the proposed subdivision. The comparison concludes that *"the proposal is anticipated to result in no significant changes to amenity levels in the receiving environment."*
- 6.3.9 The proposal including the Landscape Mitigation Plan was peer reviewed by Mr Mike Farrow of Littoralis. His conclusion is restated below.
- 6.3.10 *"My analysis of the setting for the proposal concludes that the rural amenity of the wider area is both compromised and fragmented, largely as a result of a number of relatively recently developed rural residential properties.*

The land immediately to the south and west of the application arguably represents the closest that exists as a "core" to that rural residential theme. In its position effectively on the corner of that block of large lot housing, the application site would be experienced as contiguous with this existing area of settlement. The size of the lots sought is consistent with many adjacent titles and would therefore express a very similar level of density to that of neighbouring lots.

The existence of a tree-lined driveway to the northeast of the site serves as a strong demarcation between more rural land to the north and the residential sweep just described. The application would sit comfortably on the developed side of that dividing feature.

Whilst the Blampied application is not too far removed from the application site as the crow (or tui) flies, the circumstances related to that proposal were subtly different to those which exist in relation to the Pulham property on a much busier thoroughfare and in an area where land use patterns are less clearly differentiated. I offer this observation solely from a rural amenity and landscape perspective, and will leave it to others to contemplate other dimensions of the decision."

- 6.3.11 In view of the above assessments by the applicant's agent and Mr Farrow, I conclude overall that I concur with their conclusions. The effects of the proposal on the amenity values of the wider area are considered to be no more than minor.

6.4 Water supply, Stormwater and Wastewater Treatment and Disposal

- 6.4.1 Regarding water supply, the Council's Senior Environmental Engineering Officer (SEEO) has noted that the existing residential dwelling on new Lot 1 is already connected to Council's water supply. Lot 2 will also be connected to Council's water reticulation system.
- 6.4.2 Regarding wastewater, Council's SEEO has noted that both allotments are already connected to Council's reticulation system.

- 6.4.3 In terms of stormwater, Council's SEEO also noted that stormwater from the subject property currently gravitates to a roadside drain and then via a culvert under Ngunguru Road. Onsite stormwater attenuation will be required to limit flows from proposed Lot 2 in accordance with Chapter 4 of Council's Environmental Engineering Standards 2010 Edition and more specifically Section 4.11.
- 6.4.4 Council's SEEO further commented that *"the area of the proposed allotments are less than 1ha; therefore easements in gross will be required over all existing overflow paths at subdivision stage to ensure no modification of the existing ground profile such as plantings, fencing or structures of any kind in areas proposed for development such as building sites, vehicle access & effluent disposal areas will be permitted within the overall flow path 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."*
- 6.4.5 Stormwater attenuation will be addressed in any consent notices. Overall, the effects of wastewater treatment and disposal on the environment will be no more than minor.
- 6.5 Roads and Access**
- 6.5.1 Council's SEEO reviewed the application and commented as follows:
- "Ngunguru Road is classified as an arterial road with a sealed surface in the area of the proposed vehicle access with a speed environment of between 50 to 60 km/h requiring sight lines of 90 to 115m. The potential effects of proposal, on the existing roading network are considered to be less than minor in this case.*
- It is noted that it is an existing aggregate right of way and concreted vehicle entrance crossing which currently serves 4 properties. There is also another subdivision SD0900074 in progress which will increase the number of users to 8 properties.*
- Proposed Lot 2 access will be located directly by the entrance to the existing vehicle entrance crossing for the right of way and will increase the number of users to 9 properties.*
- In response to my request for additional information the applicant has submitted an engineering suitability report ref: 12379 compiled by Richardson Stevens Consultants Ltd dated 13 March 2014 in support of the application.*
- Engineering report has confirmed that the existing vehicle crossing has complying sight lines with 300m to the west and >400m to the east.*
- Engineering report also concluded that based on the sight distances available, only 9 users proposed for the right of way and the location of access for Lot 2 directly by the entrance to the existing vehicle crossing, the requirement for the very small portion of the right of way to be upgraded to a road standard can be waived for this subdivision."*
- 6.5.2 In conclusion, Council's SEEO commented that *"Further to assessment of all available information and based on my experience I am going to agree with the Richardson Stevens report conclusion and consider that upgrade of existing vehicle entrance crossing on Ngunguru Road to a road standard can be waived for this subdivision creating only one additional user and bringing total number of users to 9 properties"*.
- 6.5.3 In light of the above conclusion by Council SEEO, it is considered that the submission by Mr Flanagan seeking to establish a new vehicle crossing off Ngunguru Road to provide access to new Lot 2 cannot be pursued further. Establishing another vehicle crossing in close proximity to the existing one could have implications that need further assessment.
- 6.5.4 Overall, the road and traffic effects associated with the proposal are considered to be no more than minor.

6.6 Cumulative Effects

- 6.6.1 The applicant's agent has argued that this proposal is significantly different from Blampied decision². It is therefore worth noting the features of the Blampied proposal for comparison. Blampied sought consent for the subdivision of a site with an area of 6,285m² into two allotments of 2,025m² and 4,260m². The site is located within the Countryside Environment and is surrounded by existing sites of similar areas. It is located about 1.3 kilometres north of the site for this proposal. In comparison therefore, I find it difficult to differentiate the features of this proposal from that of Blampied. As such it is crucial to reflect on what Judge Newhook has said about 'cumulative effects' on the appeal for Blampied consent, which I believe is appropriate for consideration in this proposal.
- 6.6.2 Judge Newhook in J Blampied vs Whangarei District Council decision states *"there will be an adverse cumulative effect that is more than minor, when analysed and understood as required by the Court of Appeal in Dye. There is clearly an existing enclave of rural residential development of quite some intensity along the western side of Clapham Road. While we share the scepticism of the commissioner as to how that should have come about, it is a current fact. We consider that creating two smaller rural residential blocks each with the potential for a house, where presently there is one, will have an adverse cumulative effect that is more than minor in the visual catchment which we have described, notwithstanding landscape planting in the manner recently proposed."*
- 6.6.3 If that statement is taken in a similar context, the approval of this proposal will likely to create the following:
- One more residential activities created as a result;
 - As such, there will be more vehicles using the same access in addition to existing users; and
 - An obvious increase in vehicle movements will result in more dust, noise emissions and light.
- 6.6.4 Having received the peer review of landscape and amenity values by Mr Farrow and engineering assessment by Council's SEEO, I hold the view that the proposal will not cross the more than minor threshold based on the following reasons:
- The features of the Blampied site and the subject site in comparison is now considered dissimilar after careful assessment by a qualified expert;
 - Mr Farrow in comparing two sites states that *"The first is that the lots sought be Mr Blampied were approximately 60% of the size proposed by the Pulhams (acknowledging however that both are clearly considerably short of the 20ha permitted activity for the zone). The next is that Clapham Road is effectively a small, dead end lane with limited traffic or activity, whereas Ngunguru Road is a busy arterial road that carries considerably more vehicles and has a pedestrian footpath down one side."*
 - Mr Farrow also commented that *"Arguably the most important difference is that the rural character and amenity at Clapham Road is more intact and legible by virtue of the largely undeveloped eastern side of the road, with its adjacent hill flank and wrapping of native forest. By contrast the "surrounding environment" of the Pulham site is more fragmented by pockets of rural residential development that erode the rural amenity brought by remaining areas of clear pasture. That influence of development includes a number of houses that overlook the portion of Ngunguru Road area in question from higher terrain immediately to the east. The fragmented pattern of rural residential development around the Pulham site, and the intensity of that land use occurring around the Torin Orchids (former) land, has a bearing upon potential cumulative effects in relation to the decision. In my observation, the Ngunguru Road area is one that has had its balance predominantly tipped into a rural area that is dominated by scattered settlement already, reinforced by the Torin Orchids subdivision consent. In this circumstance, the additional*

² See Attachment 9

proposed lot (which is effectively within one of the enclaves that exist) can be seen as occurring within an area that is now preconditioned to a prevailing rural residential theme”.

- Council's SEEO assessed the access and considered that the additional user will not have effects that will require any mitigation or are considered to be more than minor. He therefore concluded that the access will not require to be upgraded.

6.6.5 Taking the above comments in consideration I consider that the additional residential dwelling and associated activities will not introduce cumulative effects to the neighbourhood that are considered to be more than minor.

6.7 Summary of Effects Assessment

6.7.1 In conclusion, it is considered overall that the effects of the proposal on the environment will be acceptable taking into account the above assessment. The reasons are summarised as follows:

- The surrounding environment with respect to the subject site is fragmented by pockets of rural residential development that erode the rural amenity brought about by open areas of pasture and forest. The design of the subdivision therefore compliments the existing receiving environment. Moreover, the principle reasons for the 'Allotment Area' rule states that *“Subdivision that does not comply with a standard for a controlled or discretionary activity is a non-complying activity. Consequently, for any such proposal to be assessed as acceptable, the applicant would first need to show that the proposed subdivision would have no more than minor effects on the overall level of density appropriate to the Environment in question, and/or was consistent with the density of development in the immediate area surrounding the proposal. In other words, the proposed subdivision would need to be in keeping with the surrounding allotment sizes already in existence and should not increase the existing density of development by producing smaller allotment sizes”.*
- The proposed new development can be connected to Council reticulated services (stormwater, water supply, and wastewater).
- The cumulative effects of the proposal are considered to be no more than minor.

7.0 Relevant Policy Statements, Plans or Proposed Plans (s104 (1)(b))

7.1 Statutory Gateway Test

7.1.1 Section 104D(b) directs that Council consider whether the proposed activity will not be contrary to the objectives and policies of the relevant plans.

7.1.2 The meaning of 'contrary' was considered in the decision of Monowai Properties Ltd V Rodney District Council (A215/03) where it was established:

“A non-complying activity will rarely, if ever, find direct support in the objectives and policies of a Plan but an absence of support does not equate to the activity being contrary to those provisions. Contrary to in this context means... repugnant to... or opposed to... the objectives and policies considered as a whole”.

7.1.3 The following sections assess whether the proposal will be contrary to the relevant objectives and policies of the relevant plans for the subject site- being the Northland Regional Policy Statement (both the operative and proposed) and the Regional Water and Soil Plan for Northland and the Operative Whangarei District Plan.

7.2 Operative and Proposed Regional Policy Statement for Northland (RPS and PRPS)

7.2.1 The Regional Policy Statement for Northland (RPS) was made operative in July 2002; however in October 2012, a new Proposed Regional Policy Statement for Northland (PRPS) was publicly notified, which will (in its final form) supersede the 2002 document. The

decisions on the Proposed Regional Policy Statement for Northland were publicly notified in September 2013. These documents contain high level policy guidance for the development of lower order statutory documents, including the Regional Soil and Water Plan, and the District Plan. The Resource Management Act 1991 requires that district plans must “give effect to” the regional policy statement of a region and must “not be inconsistent” with regional plans.

- 7.2.2 The document has not been declared as operative at this point in time (pending appeals) so full weighting cannot be given to the provisions at this time, however it is considered to more accurately reflect the current issues relating to subdivision and development than the RPS which was prepared in 2002. Therefore, in terms of controlling the effects of subdivision, Policy 5.1.1 *Planned and Co-Ordinated Development* of the PRPS seeks to ensure that:

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

- a) *Is guided by the ‘Regional Form and Development Guidelines’ in Appendix 2;*
- b) *Is guided by the ‘Regional Urban Design Guidelines’ in Appendix 2 when it is urban in nature;*
- c) *Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects of development;*
- d) *Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- e) *Should not result in incompatible adjacent land uses in close proximity and avoids the potential for reverse sensitivity; and*
- f) *Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- g) *Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*

- 7.2.3 In terms of maintaining the opportunity for soil based primary production, Whangarei District Council’s Land Use Capability Maps identifies the subject site as having an LUC 3 rating, denoting the site as having moderate limitations for arable use, however is identified as suitable for cultivated crops, pasture or forestry. In view of the fragmented nature of the surrounding environment (resulting in a residential use predominantly) and the proposed subdivision to be for rural residential use, maintaining the opportunity for soil based primary production may not be possible. However, opportunities can still be there for intensive farming production.

- 7.2.4 Taking into account the pattern of residential land uses within the receiving environment, no concerns relating to reverse sensitivity considerations exist.

- 7.2.5 No apparent conflicts between the proposal and the RPS have been identified, and based on the above; it is considered the proposal is also consistent with the PRPS.

7.3 Regional Soil and Water Plan for Northland

- 7.3.1 The Regional Water and Soil Plan for Northland (RWSP), which is administered by the Northland Regional Council, covers the land and water resources of the Northland region, it controls discharges and land disturbance activities. The Plan aims to prevent activities occurring which can result in unacceptable adverse effects.

- 7.3.2 Council’s Senior Environmental Engineering Officer, has considered matters relating to site servicing, including the engineering recommendations within the application. Mr Rozov is satisfied that subject to appropriate conditions of consent, future development will achieve the environmental results anticipated by the RWSP.

7.4 Operative Whangarei District Plan

7.4.1 Those objectives and policies of relevance to the proposal are in, Chapter 5 'Amenity Values', Chapter 6 *Built Form and Development*, and Chapter 8 'Subdivision and Development'. A full copy of these chapters is included in **Attachment 8**.

7.4.2 The following table assesses the proposed subdivision against the relevant objectives and policies within these Chapters:

Table 4 – Assessment of Relevant Objectives and Policies within the District Plan

| Chapter 5 – Amenity Values | |
|--|---|
| Objective | Comment |
| <p>5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.</p> | <p>The characteristic amenity values of the Countryside Environment in this area including the subject site are both compromised and fragmented, largely as a result of a number of relatively recently developed rural residential properties. As such, the real anticipated characteristic amenity values expected in the Countryside Environment can never be achieved in this neighbourhood. However, Objective 5.3.5 seeks developments to be compatible with existing and identified future patterns of development and the level of amenity in the surrounding environment.</p> <p>The application site and the proposed subdivision reflect a pattern and density of subdivision that is generally occurring in this neighbourhood. As such, I am satisfied that the proposal is consistent, and will not detract from, the characteristic amenity values found within this area.</p> |
| <p>5.3.5 The actual or potential effects of subdivision use and development is appropriately controlled and those activities located and designed, are to be compatible with existing and identified future patterns of development and levels of amenity in the surrounding environment.</p> | |
| Policy | Comment |
| <p>5.4.5 Countryside Environments - To ensure rural amenity values in the Countryside Environments are protected from subdivision, use or development that is sporadic or otherwise inappropriate in character, intensity, scale or location.</p> | <p>I consider the proposed subdivision and any associated residential use is not inappropriate in character, intensity and scale in this neighbourhood. The land fragmentation and recent development of rural residential nature has changed the characteristic amenity of the neighbourhood. Therefore, the resultant allotment (shapes and sizes) will not detract from the pattern and design of existing allotments.</p> |
| Chapter 6 – Built Form and Development | |
| Objective | Comment |
| <p>6.3.2 Subdivision and development that ensures consolidated development in appropriate locations and avoids sprawling or sporadic subdivision and ribbon development patterns in the coastal and rural environment.</p> | <p>The consistency of the proposal with the receiving environment and the neighbourhood character ensures the application reflects an appropriate development pattern that is not sprawling or sporadic in nature.</p> |
| Policy | Comment |
| <p>6.4.2 Consolidated Development</p> <p>To consolidate urban development by:</p> <ol style="list-style-type: none"> i. Further develop within existing built up areas, so as to avoid sporadic or sprawling subdivision and ribbon development patterns, | <p>The application indicates the site is appropriate for the density and layout of subdivision proposed, recognising the proximity of the site to the urban settlement of Tikipunga, the existing receiving environment and the character of the neighbourhood as an ideal area for rural residential activities. As such, I am satisfied the proposal does not represent a form of subdivision that is sprawling</p> |

| | |
|---|---|
| <p>particularly in rural areas and along the coast.</p> <p>ii. Directing rural lifestyle and rural-residential development to appropriate locations adjacent to existing settlements, rather than allowing sporadic development throughout rural and coastal areas.</p> | <p>or sporadic in nature.</p> |
| <p>6.4.10 Policy – Productive Soils</p> <p>i. To identify and protect the district’s highly productive and versatile soils for their productive capacity.</p> <p>ii. To recognise the value of productive soils and economic farming units to the District’s economy.</p> | <p>The application site is not currently used in a productive capacity (the site is identified as having moderate limitations for arable use, but suitable for cultivated crops, pasture or forestry) however the opportunity for intensive glass-house development exists for both allotments.</p> |
| <p>Chapter 8 – Subdivision and Development</p> <p><i>This chapter provides a policy framework to address the effects of subdivision and development on the environment, and acknowledges that subdivision and development can have both positive and negative effects.</i></p> | |
| <p>Objective</p> | <p>Comment</p> |
| <p>8.3.1 Subdivision and development that achieves the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.</p> | <p>I have assessed the effects of the proposed subdivision on the environment to be no more than minor and I am satisfied that the proposal is consistent with the purpose and principles of sustainable management, and subject to recommended conditions of consent, will incorporate sufficient and appropriate means to avoid, remedy or mitigate adverse effects on the environment.</p> |
| <p>8.3.2 Subdivision and development that does not detract from the character of the locality and avoids conflicts between incompatible land use activities.</p> | <p>As previously discussed, I am satisfied that the proposal will not detract from the character of the locality, and no conflicts between incompatible land use activities have been identified.</p> |
| <p>8.3.7 Subdivision and development that provides for comprehensive development of land with a range of allotment sizes and is appropriate to the character of the Environment in which it is located.</p> | <p>It is evident that the proposal reflects a density and layout of subdivision which is consistent with the receiving environment and the neighbourhood character. I am therefore satisfied that the proposed subdivision is appropriate to the character of this part of the Countryside Environment.</p> |
| <p>Policy</p> | <p>Comment</p> |
| <p>8.4.3 Density of Development To ensure that subdivision and development results in a pattern and density of land use which reflects flexibility in allotment size, and is of a density appropriate to the locality.</p> | <p>The proposal is of a density appropriate to the locality, given the rural land fragmentation that occurred incrementally which results in the existing character of the neighbourhood. The development will produce a rural residential outlook that compliments other existing developments in the neighbourhood.</p> |

| | |
|--|--|
| <p>8.4.4 Cumulative Effects To ensure that the cumulative effects of on-going subdivision and development do not compromise the objectives and policies of this Plan, in particular those objectives and policies relating to reducing conflicts between incompatible land use activities, the consolidated and orderly development of land and the density of development.</p> | <p>The proposal represents the consolidated development of an area of land located within the Countryside Environment that has changed character over time. The site and locality has sufficient capacity to accommodate the density of development proposed, and the proposal is considered to be compatible with adjacent land use activities.</p> |
| <p>8.4.12 Services and Infrastructure</p> <p>To ensure that all subdivision and development is capable of being provided, by the subdivider or developer, with adequate services and infrastructure having regard to Whangarei District Council's Environmental Engineering Standards 2010 (except where the subdivision or development is for specific protection purposes), including:</p> <ul style="list-style-type: none"> • Vehicle access, including emergency service vehicle access; • Water supply, (including for fire fighting purposes), storm water and sewage disposal; • Energy and telecommunication connections; • Useable open space in urban areas; • During the design and construction of the subdivision, measures to reduce storm water run off. | <p>No constraints in terms of the on-site servicing arrangements proposed have been identified as Council infrastructure services are at the site, and suitable conditions of consent pursuant to Sections 108 and 220 of the Resource Management Act 1991 have been recommended to ensure the development is undertaken in accordance with Whangarei District Council Environmental Engineering Standards 2010 Edition and the relevant standards of utility providers.</p> |
| <p>Chapter 22 – Road Transport.</p> | |
| <p>Objective</p> | <p>Comment</p> |
| <p>22.3.3 Protect the road transport network from the adverse effects of adjacent land use, development or subdivision.</p> | <p>Access off and onto Ngunguru Road has taken place for many years. The additional user of the access will not create effects that are considered more than minor as assessed by Council's SEEO. I am therefore satisfied that the proposed development will not create adverse effects on the road transport network that are considered to be more than minor.</p> |

7.4.3 Therefore for the reasons discussed in the table above it is concluded that the proposed subdivision is consistent with the overarching intent of the aforementioned relevant objectives and policies of the Operative District Plan and therefore passes the second gateway test in section 104D(b).

8.0 Other Matters

8.1 Kamo, Springs Flat, Three Mile Bush and Whau Valley Structure Plan

8.1.1 Whangarei District Council adopted the '*Kamo, Springs Flat, Three Mile Bush and Whau Valley Structure Plan*' in February 2009. Since the adoption of the above structure plan, Whangarei District Council has given effect to Plan Change 93 *Urban Transition Environment*.

The application site is not part of that Plan Change and as such, no further comment in relation to the structure plan is considered necessary.

8.2 Growth Strategies –

- 8.2.1 The Sustainable Futures 30/50 was adopted by Council in September 2010. The strategy outlines a long term, integrated, strategic policy framework and spatial plan which will assist the sustainable development of the district over the next 50 years. The strategy addresses all aspects of development including economic, environmental, social and cultural. The main objective of the strategy is to provide an integrated and holistic approach to managing growth in the district based upon sustainability principles.
- 8.2.2 In addition, Council adopted the Whangarei Urban Growth Strategy in October 2003 aiming to provide long term guidance for the management of urban environment in and around Whangarei, so that people in Whangarei can enjoy the variety of lifestyles offers by the city. The strategy has being subsumed into the Sustainable Futures 30/50 Strategy 2010. The vision of this strategy has also been largely realised in its District Plan which became full operative in 2007 and the subsequent approved plan changes.
- 8.2.3 A component of these two strategies is the Tikipunga Structure Plan where it identifies the extension of the Living 1 Environment northeast along Ngunguru Road which includes the subject site.

8.3 Precedent

- 8.3.1 Although the Resource Management Act 1991 does not require resource consent applications to be assessed with reference to such matters as district plan integrity, consistent administration and precedent, it is a matter that is relevant in the consideration of non-complying activities, particularly in the case of this application.
- 8.3.2 From the analysis undertaken for the purposes of Section 104D, it is considered that if implemented in accordance with the scheme plan and proposed conditions, the application would not, as a whole, be contrary to the relevant objectives and policies of the Plan. Having reached that conclusion, it is then difficult to find a basis to conclude that the application will affect the integrity of the Plan or create an adverse planning precedent. It is accepted that the minimum lot size would not be achieved, however that is the reason why the application is non-complying and not a reason for it to considered contrary to the objectives and policies.
- 8.3.3 An analysis of the application has been undertaken to identify its unusual and/or exceptional circumstances that in combination might distinguish it from other similar applications in the Countryside zone in the future. It is considered that the following reasons provide grounds for granting the application as sought:
- The site is set in an area where subdivision of lots to this size is relatively common and consistent with the principle reasons for the 'Allotment Area' rule in the Countryside Environment;
 - The site is well contained with the landform and can support the increased density of development as proposed;
 - The site is fully serviced with water, sewer, stormwater and wastewater reticulation.
- 8.3.4 Based on the above reasons, it is considered that this application displays sufficient unique characteristics that justifies itself against any precedent being created, or any effect on the integrity of the District Plan occurring.

9.0 Part 2 Matters

9.1 Section 5 – Purpose

- 9.1.1 Part 2 of the Resource Management Act 1991 details the overarching purpose and principles of the Act. Part 2 of the Act requires that the proposed activity must meet the purpose of the Act set out in section 5 which is “*to promote the sustainable management of natural and physical resources.*” As outlined in section 5(2), “sustainable management” means:

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety while -

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

9.1.2 Based on the conclusions reached in the foregoing assessment, the proposal is considered to be consistent with the purpose of the Act.

9.2 Section 6 – Matters of National Importance

9.2.1 Section 6 identifies seven matters of national importance that must be recognised and provided for. In summary, these relate to the preservation of the rivers and their margins from inappropriate use and development, the protection of outstanding natural features and landscapes and areas of significant indigenous vegetation and habits; the maintenance and enhancement of public access to and along rivers; the relationship of Maori and their culture and traditions, and the protection of historic heritage.

9.2.2 These matters are not relevant in the consideration of this application.

9.3 Section 7 – Other Matters

9.3.1 Section 7 of the Act identifies eleven other matters to be had regard to in achieving the purposes of the Act. The following are considered to be of particular relevance to the proposal;

- Kaitiakitanga;
- The ethic of stewardship;
- The efficient use and development of natural and physical resources;
- The maintenance and enhancement of amenity values;
- Intrinsic values of ecosystems;
- Maintenance and enhancement of the quality of the environment;

9.3.2 Kaitiakitangi, being the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; includes the ethic of stewardship. It is recognised the Ngati Hau Ki Whakapara have mana whenua over the application site, and a copy of the proposal was subsequently forwarded to them.

9.3.3 Overall, I am satisfied the overall intensity, scale and location of the proposal will maintain the character and amenity values of the locality, and there is no evidence to suggest the proposal will compromise the quality of the environment. As such, it is considered the proposal upholds the matters outlined under Section 7.

9.4 Section 8 – Treaty of Waitangi

9.4.1 Section 8 requires that decision makers take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in managing the use development and protection of natural and physical resources. The principles of the Treaty do not supercede the Treaty itself; rather they derive from the Treaty and assist the practical application of it. In this regard, the Court of Appeal has defined relevant principles as reflecting the purpose and intent of the Treaty in the management of natural and physical resources; including the Principles of Kawanatanga; Rangatiratanga, Partnership; Active Protection and Hapu and Iwi Resource Development.

9.4.2 With respect to the current proposal, the Ngati Hau Ki Whakapara was identified as a local iwi affected by the proposal. A copy of the proposal was subsequently sent to them for review and to obtain an indication as to whether or not they are affected. The iwi did not advise Council on their position; therefore, they were not considered further in the process.

10.0 Conclusion & Recommendation

10.1 Conclusion

- 10.1.1 Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, subject to conditions which will avoid, remedy or mitigate any adverse effects of the activity on the environment.
- 10.1.2 The lot sizes proposed are not considered to be out of character with the surrounding existing pattern of development that has been established and the possible effects of the proposal. The proposal is within the ambit of the principle reasons for Allotment Area rule in the Countryside Environment of the Operative District Plan.
- 10.1.3 The proposal is considered consistent with the objectives and policies of the Operative District Plan on the basis that the lots sizes are considered to be in keeping the with surrounding existing development and the proposal is not demonstrative of ribbon development, sporadic development, or development in an area currently undeveloped.

10.2 Recommendation

THAT pursuant to sections 104, 104B, 104D, 108 and 220 of the Resource Management Act 1991, it is recommended to **grant** consent to M & G Pulham (SD1400002) to subdivide the subject site into two new allotments; Lot 1 of 4,398m² and Lot 2 of 5,755m² (5,238m² net).

The proposed subdivision fails to meet the requirements of Rule 73.3.1 – Allotment Area and Rule 73.3.7 – Property Access. It is assessed as a non-complying activity.

Recommended Conditions of consent

1 Prior to issue of a Section 223 certificate

- a. The consent holder shall ensure that the survey plan submitted for approval is be given effects to in general accordance with the layout shown on the subdivision plan 'Proposed Subdivision of Lot 1 DP 204453 at 41 Ngunguru Road, G and M Pulham' prepared by Beasley & Burgess Surveyors, reference 3022C, dated 11 November 2013.
- b. 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 current registration to submit engineering design work.

All work needing design/certification by a Council approved IQP/CPEng will require the submission of a producer statement (design) on form EES-PS1 (or similar approved) to the satisfaction of the Senior Environmental Engineering Officer.

Plans are to include but are not limited to:

- i Design details of water connections to Lot 2 in accordance with (2010 Edition) Sheet 46 or 47 including fire fighting coverage in accordance with Sheet 45 & Section 6.11.
- c. The consent holder shall provide written confirmation from power and telecommunications utility service operators, including wireless internet telecommunication providers, 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.
- d. The consent holder must create easements over services, rights of way etc to the approval of the Senior Environmental Engineering Officer (SEEO).
- e. 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, 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 flowpaths 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 Prior to issue of a section 224 (c) certificate;

- 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.

The consent holder, 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 consent holder 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 consent holder'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.

No construction works are to commence onsite until the engineering plans required in condition 1(b) 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 consent holder shall submit written confirmation from power and telecommunications utility services operators, including wireless internet telecommunication providers 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.
- 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 watercart 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 all damage to the road stormwater drain, road carriageway formation, road berm and services by the demolition and construction works associated with the subdivision and land use activities shall be reinstated at the expense of the consent holder.
- i The consent holder must submit a certified and dated 'as built' plan of completed works and services in accordance with Council's Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer.
- 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 2 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 a dwelling 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 Richardson Stevens Consultants Ltd engineering suitability report reference 12379 dated 13/03/2014 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.

Reasons for the Recommendation:

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

1. 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.
2. 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.
3. 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 Any works carried out within Council's road reserve will require an approved road opening notice/traffic management plan or Corridor Access Request.
- 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 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.



11.0 Attachments

1. **Scheme Plan**
2. **The application (as lodged)**
3. **Further Information (s92)**
4. **Technical Engineering Report by Council's SEEO**
5. **Mr Farrow's Landscape Peer-review report**
6. **Section 95 report (Notification)**
7. **Submission**
8. **Relevant Sections of the District Plan**
9. **Copy of Blampied's decision**