

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
7 September 2017
10am**

**Application by
Jasco Properties Ltd**

**Commissioner
Mr Alan Withy**

Index

	Page No
Authorisation Sheet	1
Environment Planner (Consents) Report	3
Recommendation	33
Attachment 1: Scheme Plan	40
Attachment 2: The application (as lodged).....	43
Attachment 3: Submissions	182
Attachment 4: SEEO Engineering Review Report	215
Attachment 5: District Plan Chapters	233
Attachment 6: Plan Change Submission.....	235
Attachment 7: Submission on Plan Change 85.....	307

Report to Hearings' Commissioner Alan Withy on a Resource Consent Application

This subdivision consent application was lodged by Lands and Survey Ltd on behalf of Jasco Properties Ltd and was reported on by Council's Senior Specialist (Consents), Ueli Sasagi.

The proposal is for a two-stage subdivision of land held in Computer Freehold Registers (CFR) 311829 (Lot 3 DP 377683) and NA92/7 (North Western Portion Section 134 Parish of Waipu and North Western Portion Section 135 Parish of Waipu. Stage 1 will result in Lot 1 of 22.15ha and Lot 2 of 44.58ha. Stage 2 is the subdivision of Lot 1 from Stage 1 resulting in Lot 1 of 4.31ha, Lot 2 of 1.20ha, Lot 3 of 1.50ha, Lot 4 of 2.69ha, Lot 5 of 4.90ha, and Lot 6 of 7.11ha. The subdivision is assessed as a Discretionary Activity.



Ueli Sasagi – Senior Specialist - RMA Consents

11th August 2017

Date

This report was peer reviewed by the following signatory:



Kaylee Kolkman – Team Leader – RMA Consents

11th August 2017

Date

Statement of staff qualification and experience

Ueli Sasagi – Senior Specialist (Consents)

My name is Ueli 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 under the Resource Management Act 1991 (RMA) in the 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 Alan Withy of a discretionary subdivision proposal by Jasco Properties Ltd for a two-stage subdivision. Stage 1 will result in Lot 1 of 22.15ha and Lot 2 of 44.58ha. Stage 2 is the subdivision of Lot 1 from Stage 1 resulting in Lot 1 of 4.31ha, Lot 2 of 1.20ha, Lot 3 of 1.50ha, Lot 4 of 2.69ha, Lot 5 of 4.90ha, and Lot 6 of 7.11ha.

The site is located at Cullen Road, Waipu and held in Computer Freehold Registers (CFR) 311829 (Lot 3 DP 377683) and NA92/7 (North Western Portion Section 134 Parish of Waipu and North Western Portion Section 135 Parish of Waipu. The total area of the site is 66.7315ha.

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

File Refs: SD1700004, P119690 RESCONS-2046405167-5014

Dated: 11 August 2017

1.0 The Proposal & Background

1.1 The proposal

1.1.1 Subdivision of land held in two Computer Freehold Registers (CFR) 311829 (Limited to Parcel) of 50.9488ha and NA92/7 of 15.7827ha. The total combined area to be subdivided is 66.7315ha. The subdivision will be undertaken in two stages:

Stage 1:

- Lot 1 of 22.15ha; and
- Lot 7 of 44.58ha

Stage 2:

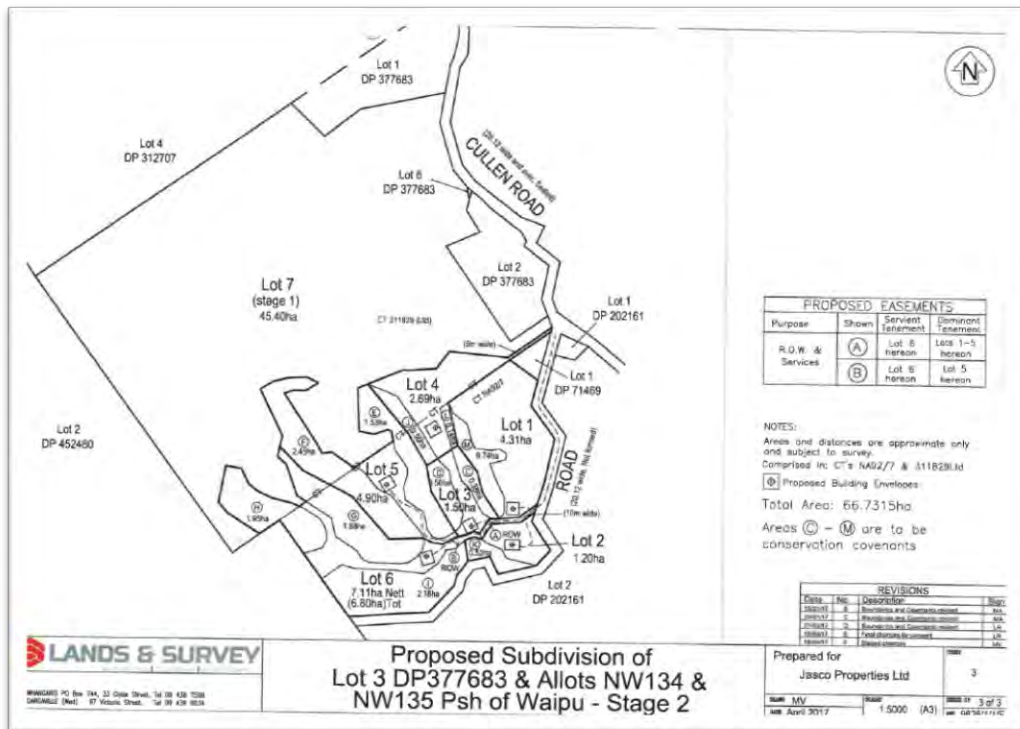
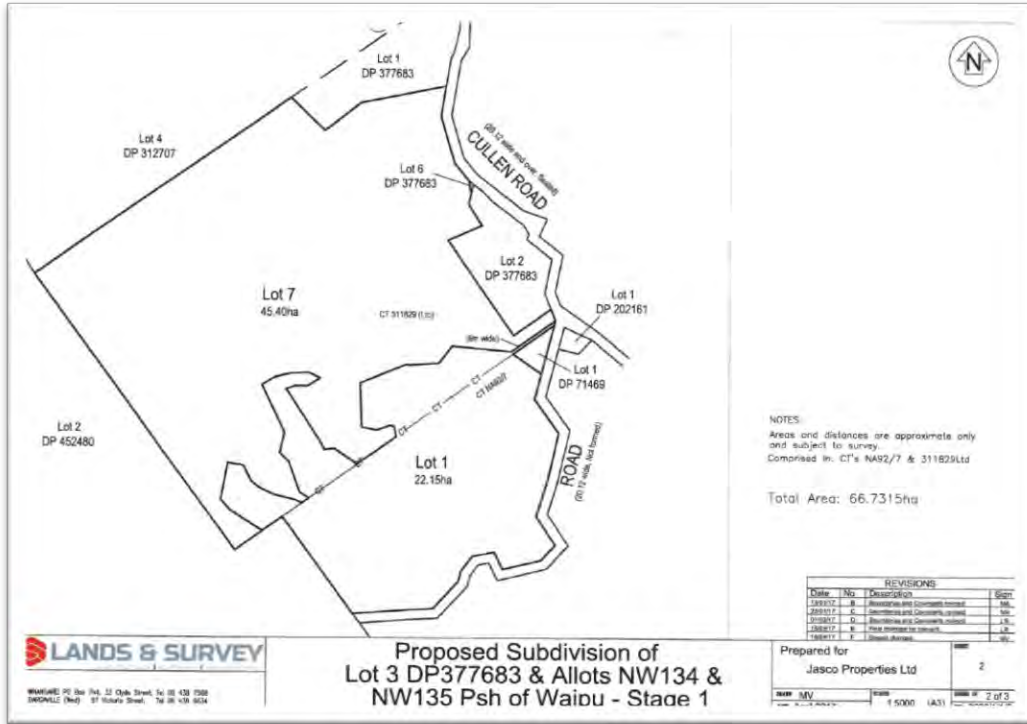
Subdivision of Lot 1 (stage 1) into the following:

- Lot 1 – 4.31ha including 0.74ha (area M) of covenanted vegetation
- Lot 2 – 1.20ha including 0.52ha (area K) of covenanted vegetation
- Lot 3 – 1.50ha including 0.38ha (area C) and 0.50ha (area D) of covenanted vegetation
- Lot 4 – 2.69ha including 0.50ha (area J) and 0.14ha (area L) of covenanted vegetation
- Lot 5 – 4.90ha including 1.53ha (area E) and 2.45ha (area F) of covenanted vegetation
- Lot 6 – 7.11ha including 1.95ha (area H), 1.88ha (area H) and 2.18 (area I) of covenanted vegetation and Right of Way A and B

1.1.2 Access to proposed Lot 1 and 7 of stage 1 will be gained via the existing vehicle crossings off Cullen Road.

1.1.3 For stage 2, proposed Lot 7 will continue to be served by access off an existing crossing directly from Cullen Road. Proposed Lot 4 will gain access via a pan handle connection to the intersection of the paper road and Cullen Road. Site access to other lots is proposed to be provided by forming the paper road along the south-western boundary of proposed Lot 1. Where proposed Lot 1 intersects with proposed Lot 2 the access will change to a Right of Way to service proposed Lots 1-3, 5 and 6.

Figure 1: Proposed Subdivision Plan – Stage 1 and 2



1.1.4 This proposal is supported by an 'Assessment of Landscape, Visual, Rural Amenity & Natural Character Effects' by Littoralis dated March 2017, an 'Ecological Significance Assessment' and Plant and Animal Pest Management' by Scrub Consultants Ltd dated 13 March 2017, supporting comments on Traffic Safety by Engineering Outcomes Ltd, and a 'Geotechnical Investigation' report by Wiley Geotechnical Ltd dated 9 February 2017.

1.1.5 The scheme plan is in **Attachment 1** with the full application as lodged in **Attachment 2**.

1.2 Background

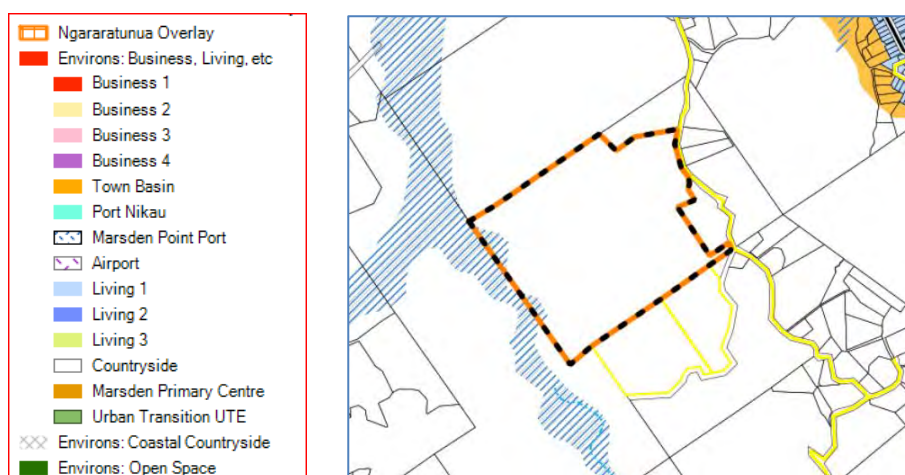
- 1.2.1 The land legally described as Lot 3 DP 377683 was created by subdivision RC39084 which was granted approval on 16 February 2006 with the Deposited Plan approved by Whangarei District Council in October 2006 under Section 223 of the RMA.
- 1.2.2 RC39084 was the subdivision of Part Allotments 30 & 128 and Allotment 417 Parish of Waipu into four allotments being Lot 1 of 4.0ha, Lot 2 of 3.08ha, Lot 3 of 50.9488ha and Lot 6 of 101m². Lot 3 from that subdivision is now seeking further subdivision into seven new lots in combination with land legally described as Allot NW 134 Psh of Waipu and Allot NW 135 Psh of Waipu. These latter parcels were created by a subdivision pre-2006.
- 1.2.3 The application was lodged on 17 March 2017. Further information was sought under Section 92 of the RMA on 30 March 2017 relating to engineering requirements and the required written approvals of affected neighbours. The applicant's agent responded to this request on 17 May 2017 (**Attachment 3**).
- 1.2.4 The notification assessment under Section 95 of the Resource Management Act 1991 (RMA) concludes that the proposal would have localised effects affecting the owners and occupiers of properties adjoining the site to the east. As such, the application would be served as Limited Notification to these properties. The applicant's agent was subsequently advised on 2 May 2017 of the notification assessment conclusion.
- 1.2.5 The application was limited notified to the owners and occupiers of the affected properties on 24 May 2017.

2.0 Site and Surrounds Description

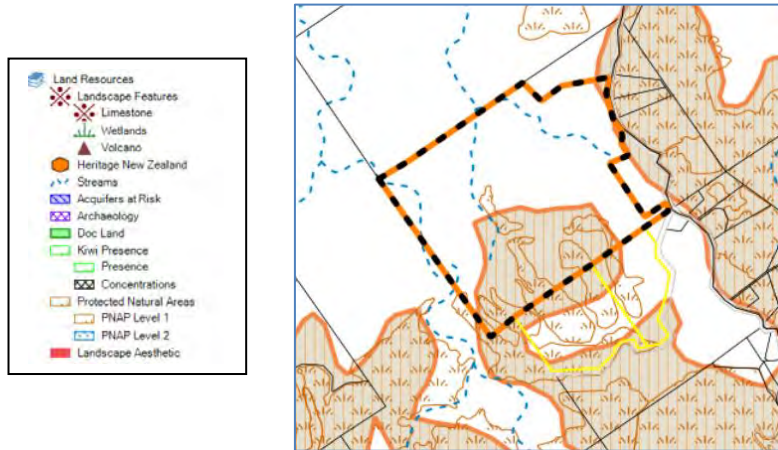
2.1 Zoning, Resource Areas and Other Notations

- 2.1.1 The site is comprised of two properties located at Cullen Road, Waipu and held in separate Computer Freehold Registers (CFR). CFR 311829 legally described as Lot 3 DP 377683 has an area of 50.9488ha and CFR NA92/7 legally described as North Western Portion Section 134 Parish of Waipu and North Western Portion Section 135 Parish of Waipu has an area of 15.7827ha. The total area of the site is 66.7315ha.
- 2.1.2 The subject site is in the Countryside Environment of the Operative District Plan (see Figure 2 below). It is proposed to be rezoned to Rural Production Environment under the current Rural Plan Change PC85.

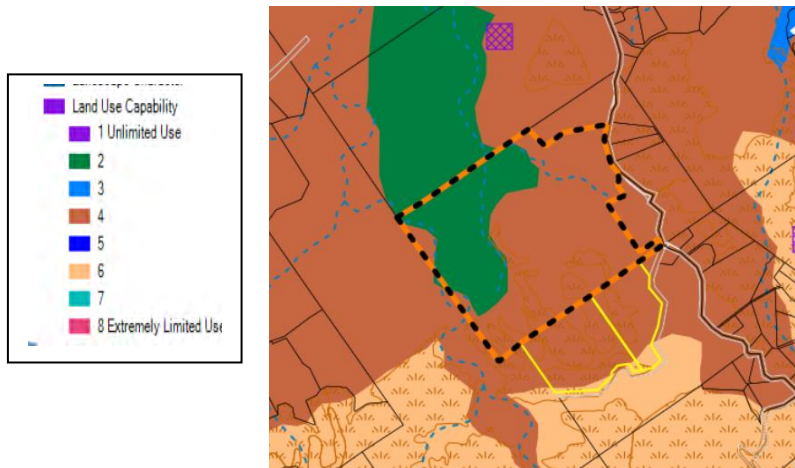
Figure 2: Environment Map



- 2.1.3 The site is shown in Figure 3 below to be affected by Protected Natural Area level 1.

Figure 3: Resource Area

- 2.1.4 Land Use capability classification 2 and 4 (see Figure 4 below). This land use classification is discussed further under the Regional Policy Statement section of this report.

Figure 4: Land Use Capability

2.2 Site Description

- 2.2.1 The site is located approximately 1.5 kilometres from the Waipu Cove settlement. It comprises three parcels held in two separate titles located at 148 and 178A Cullen Road. The property at 148 Cullen Road (Lot 3 DP 377683 – CFR 311829) has a total area of 50.9488ha which is currently used for grazing cattle while the property at 178A Cullen Road (North Western Portion of Section 134 Parish of Waipu and North Western Portion Section 135 Parish of Waipu – CFR NA92/7) has a total area of 15.7827ha which is also used for grazing cattle.
- 2.2.2 Most of the property at 178A Cullen Road contains native vegetation. There is an existing dwelling with farm buildings located on 148 Cullen Road.
- 2.2.3 There is a legal unformed road forming the southern boundary of the site

2.3 Surrounding Environment

- 2.3.1 To the south of the site are larger rural production lots with native vegetation interspersed. To the west and north-west are larger rural production lots. Residential development is located further west of the site and along the lower part of Cullen Road.
- 2.3.2 The topography is varied ranging from river flats in the north west to rolling country elsewhere with a northeast aspect. The vegetated gullies are steep.
- 2.3.3 Cullen Road skirts the crest of a ridge system that commences near Waipu and runs roughly parallel to the Bream Bay coastline as a track south to build into the eastern, coastal end of the Brynderwyn range. Foothills, such as the coastal system project north from the range, containing small flats such as that reversed by South Road and State Highway 1. The site sits on the margin of a slight basin created by the foothills and overlooking a flat which is drained by the Waionehu Stream.
- 2.3.4 Valley floors and the toes of steeper land are predominantly grassed, although the courses of some streams are demarcated by ribbons of native vegetation, predominantly totara. Many damp areas and steep valley heads feature cover of either exotic weeds like gorse or manuka/kanuka shrub land. Production pine forest are a feature of much of the northern face of the Brynderwyn. Intermingled with those plantations there are several extensive areas of native forest comprising podocarp-broadleaf associations, but also featuring blocks of young kauri and kanuka dominant forest.
- 2.3.5 The lower lying terrain is in pastoral agriculture, although even these more intact rural areas feature a measure of established rural-residential development.

3.0 District Plan Assessment

3.1 Reasons for the application

- 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 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 4.24ha, and therefore the proposal requires consideration as a Discretionary Activity.
- 3.1.2 Under the same Rule 73.3.1 *Allotment Area*, a note is included at the end stipulating that further subdivision of any allotment created because of the discretionary activity averaging requirements of Rule 73.3.1 pursuant to a resource consent granted after the 28th of February 2006 shall be a non-complying activity unless any lot created exceeds 40ha. The subdivision consent that created areas of land forming this site (Lot 3 DP 377683) was pre- 28 February 2006. The intention of that note was to discourage further subdivision of lots that do not meet the 20ha minimum requirement for resultant allotments in the Countryside Environment.
- 3.1.3 Rule 73.3.2 Environmental Benefit which is an addition to the above rule and does not need to be complied with for every subdivision. It is noted that while the ecological report demonstrated the high quality of the vegetation and the positive ecological benefits of the proposed protection and pest management, the applicant did not seek the application of this rule.
- 3.1.4 The above comments clarify matters raised by submitters DN Challenger and EJ Rasmussen section 3.1(a) page 2 of their submission. Regarding 'Environment Benefit' raised under 3.1(c), the application did not seek the application of Rule 73.3.2 Environment Benefit in this instance.
- 3.1.5 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, the access as proposed will not comply with the relevant standards in Whangarei District Council's Environmental Engineering Standards 2010, and therefore consideration of this

aspect of the proposal is required as a Restricted Discretionary Activity. Discretion is restricted to the following matters:

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

3.1.6 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 73.3.16 *Telecommunications* and Rule 73.3.17 *Earthworks*.

3.1.7 Under Rural Plan Change (PC85A) the subject site and other rural sites within the locality are proposed to be zoned Rural Production Environment (RPE) which provides for subdivision as a controlled activity where every proposed allotment has a minimum net site area of 20 hectares under rule RPE.2.1.6. Where a subdivision does not comply with this requirement, as in this case, it is classed as a non-complying activity.

3.1.8 However, rules in a proposed plan change do not have legal effect until decisions on related submissions have been made and publicly notified. However, proposed plan change provisions (policies and objectives) are relevant in determining whether persons are affected (notification assessment). In considering an application under section 104 of the Act, the weight to be given to a proposed plan change depends on the extent to which a proposal has proceeded through the objection and appeal process. However, a weighting exercise becomes more relevant when different outcomes arise from assessments of objectives and policies under the operative and proposed plans/plan changes.

3.1.9 Overall, the application is assessed as a Discretionary 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 applicant provided a Council's property search (PCS170024) under the NES Contaminated Soils. Although Council's GIS shows part of the site as HAIL, the property records search for this property has not identified any current or previous activities on the site that are included on the current version of the HAIL. As such, this proposed subdivision is not subject to NES Contaminated Soils.

4.0 Notification, Submissions and Written Approvals

4.1 Notification

- 4.1.1 The notification assessment of the proposed subdivision under section 95 of the Resource Management Act 1991 was completed on 2 May 2017 and determined that the application shall proceed on a limited notified basis.
- 4.1.2 It concludes that the adverse effects in respect of the localised environment will be minor (but not less than minor) for the following reasons:
- Additional new built development on Lots 1-6 will remove land from agricultural use;
 - Open landscapes and views will be affected by increased residential activities i.e. residential noise, dust, lights and traffic movements;
 - Intensity of development around the area will increase;
 - Feelings of remoteness will be affected by the creation of new access and mail boxes along this part of Cullen Road;
 - Low noise levels, particularly at night expected by neighbouring properties (150 Cullen Road, 178 Cullen Road, 180 Cullen Road, and 216 Cullen Road) will be affected;
 - A high degree of privacy, especially for the neighbouring properties at 150 Cullen Road, 178 Cullen Road, 180 Cullen Road, and 216 Cullen Road
- 4.1.3 Based on the above assessment of effects of the proposal on the localised environment, owners and occupiers of 150 Cullen Road, 178 Cullen Road, 180 Cullen Road, and 216 Cullen Road are affected.
- 4.1.4 Therefore, the application was limited notified to the owners and occupiers of the above properties on 24 May 2017.
- 4.1.5 In addition, the application was also served to the Department of Conservation, Northland Health, and the New Zealand Fire Service.

4.2 Submissions

- 4.2.1 The period for submissions opened on 24 May 2017 and closed on 21 June 2017. The application was circulated internally to the Senior Environmental Engineering Officer (SEEO).
- 4.2.2 Council received three submissions within the notification timeframe; two in opposition, and one was neutral. The opposing submissions were from D N Challenger and E J Rasmussen owners and occupiers of 150 Cullen Road, and John & Julie Worthington and Brenda Kelly, owners and occupiers of 178 Cullen Road. Figure 7 below shows the location of the opposing submitters' sites marked with red stars.

Figure 7: Site Location of Submitters



4.2.3 A summary of submissions is in Table 1 below. Two submitters indicated that they wish to be heard in support of their submissions and one did not – see **Attachment 4**.

Table 1 – Summary of Submissions

Name	Issues and Relief Sought	Wish to be Heard
Jo Dones on behalf of Northland District Health Board (NDHB)	NDHB submits that the Council should consider accepting a secondary water treatment system for this proposal. Submission is neutral and did not indicate a relief.	Did not indicate
John & Julie Worthington and Brenda Kelly	Opposed the application for the following reasons. <ul style="list-style-type: none"> Views from their dwelling will be compromised by potential built development because of the subdivision; Traffic associated effects to be generated by the increased users of the access will impact the living area of their home and water through dust. Relief sought – decline consent	Yes
Dwayne Challenger and Ella Rasmussen	Opposed the application because of the following: <ul style="list-style-type: none"> Application is vague or lacks information relating to the corrects status, assessment of Plan Change 85A, application of 'Environment Benefits' proposed vegetation covenant not clear, proposed earthworks inadequate information' and no detail for earthwork mitigation. 	Yes

-
- The proposal has adverse effects affecting them on the intensification of development, alteration of the rural character, change in outlook, views and privacy, inadequate mitigation measures, increased traffic movement, earthwork and noise.
 - Inadequate assessment of the proposal on rural amenity, landscape, ecological values, riparian management and natural rural character.
 - If the proposal is granted, it will lead to cumulative effects that undermine the integrity of the District Plan.

Relief sought – refuse the application. However, should the applicant wish to lodge an amended application, it requests that:

- Provides consistent and accurate information to enable an appropriate assessment to be carried out under the provisions of the RMA;
 - Demonstrate compliance with the density provisions for subdivision under both the Operative District Plan and Proposed Plan Change 85;
 - Include a thorough assessment of the proposal against the relevant objectives, policies, and assessment criteria under both the Operative District Plan and Proposed Plan Change 85;
 - Includes a thorough (rather than cursory) assessment of adverse effects on the neighbouring properties prior to concluding that the effects are ‘Minor’ or ‘less than minor’;
 - Avoid location of building platforms that will have significant adverse effects on rural character, amenity and views from the submitters’ property; and
 - Provide appropriate protection of all natural features including remnants bush areas, areas of ecological significant, riparian margins, and sites of historic and cultural significance.
-

4.2.4 In addition, the applicant provided an email confirmation of discussion with the New Zealand Fire Service on the following matter.

- If the water supply is to be provided by way of tank storage, it should be located a safe distance away from any habitable dwelling in accordance with NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008; and
- Any tank used for the storage of firefighting water supplies is to be fitted with a 100mm female round thread suction hose adaptor in accordance with the NZFS Specification for Firefighting Waterway Equipment SNZ PAS 4505:2007.

4.2.5 The application’s agent has confirmed acceptance of the above requirement which will be included as condition of any consent if the Commissioner is of a mind to grant consent to the proposal.

4.3 Written Approvals

4.3.1 There were no written approvals submitted with the application when it was lodged.

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.*

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

6.2.2 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 may be relevant to the consideration of this application. In this Environment, the construction of a residential unit or a minor residential unit can be considered a permitted activity if:

- The residential unit, after completion, will be the only residential unit on the site; or
- The residential unit will be an additional residential unit on the site; and there is at least 20ha of net site area associated with each residential unit; and
- The minor residential unit, after completion, will be the only minor residential unit on the site and the minimum net site area of the allotment is 8000m²; and
- It is not within a Mineral Extraction Area as shown on the Planning Maps.
- It is not within 500m of a mineral Extraction Area.

6.2.3 Minor residential unit is defined in the District Plan as:

“ a residential unit located no more than 15.0 metres from another residential unit on the same site/lot with a gross floor area of no more than 70.0m², excluding the gross floor area used exclusively for the storage of motor vehicles in association with the minor residential unit.”

6.2.4 In this instance, as there are two certificate of titles with a total combined area of 66.7315ha of land to be subdivided, three residential units and two minor residential units can be erected as of right. With one title containing a legal residential unit; therefore, two residential units and two minor residential units can set the permitted baseline.

6.2.5 There are legal buildings on the site including a residential unit and farm buildings which will be located within proposed Lot 7. Proposed Lots 1 to 6 can accommodate a primary residential unit and a minor residential unit.

6.2.6 As the ‘permitted baseline’ is a discretionary matter under Section 104(2) of the RMA, it is my view that the permitted baseline consideration can be applied in this instance.

6.3 Amenity Values

6.3.1 For measuring the level of effects associated with the proposal on the amenity characteristics, the existing environment must be considered. I considered the site description and its context provided by Littoralis landscape assessment report (pages 3 and 4) to be a reliable source which states:

“the land predominantly subject to the subdivision and creation of new lots is currently free of buildings, with improvements being limited to agricultural fencing, a small stock pond, and some rudimentary farm tracks, the parent lot at 148 Cullen Road contains a daily farm operation, including associated buildings and structures and a residential unit. The area of the site where the new lots would be created is characterised by a sequence of three gradually sloping spurs that run from two high points positioned near the southern edge of the property...”

6.3.2 The landscape assessment report also described the context within which the subject site sits *“... on the margin of a slight basin crated by those foothills and overlooking a flat which is drained by the Waionehu Stream. That watercourse runs immediately to the west of the site to its complex headwaters associated with the Brynderwyn ridge...”* (see comments in 2.3 above).

6.3.3 The proposed subdivision will result in proposed Lot 1 of 4.31, Lot 2 of 1.20ha, Lot 3 of 1.50ha, Lot 4 of 2.69ha, Lot 5 of 4.90ha, Lot 6 of 7.11ha, and Lot 7 of 45.4ha. The surrounding area is characterised by a mixture of lifestyle blocks along Cullen Road and large area of farm lot as described above. The aerial photo in Figure 5 shows the site and its immediate surrounds exhibiting the existing land characteristics. In terms of potential built development, I have identified above the permitted baseline of effects that affects the site and noted that, except for new Lot 7 containing an existing dwelling, all new lots 1-6 can have a primary residential unit and minor residential unit. As such it is crucial to determine as to whether the actual and potential effects of the proposal on the amenity characteristics are less than minor, minor or more than minor.

6.3.4 The application provided a design approach for this subdivision which states *“The pattern and sizing of the lots has been carefully designed around the existing gully fingers of native vegetation on the site. House sites have been nominated to capture rural ad coastal views while maintain privacy between the house sites and where practicable minimising impacts on wider landscape values”*.

6.3.5 While the design approach has good intention, assessment of all mitigation measures relevant to this intention are not adequately addressed e.g. the building location on each new lot are not clear, no suggested landscape mitigation planting, built development controls, etc. These matters are fully assessed in the following paragraphs and where appropriate, relevant conditions are recommended.

6.3.6 Amenity consists of two components; one is ‘amenity attributes’ which are tangible matters such as noise, odour, density or shading and the other 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. The District Plan identifies the Countryside Environment as having high amenity values due to special characteristics such as:

- The intermittent nature of most agricultural activities;
- 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.

6.3.7 It is acknowledged that within the neighbourhood, the site sits in a predominantly large farm holding interspersed by pockets of native vegetation as described above. Such character has been demonstrated by the aerial photo above in Figure 6.

6.3.8 The applicant submitted an "Assessment of Landscape, Visual, Rural Amenity & Natural Character Effects" by Littoralis dated March 2017 in support of the application. It fully assessed the impact of the proposed subdivision on the landscape character, the rural character and visual effects on the surrounding environment. The assessment concludes that effects on "*...the landscape, natural character and rural character of the proposal would be less than minor, if the development occurs in accordance with the parameters described in the report. Visual effects are predicted to be equally subdued, except for those experienced at 150 Cullen Road where initial impacts are anticipated to be more than minor but subside being minor as the development moves through its early years of maturity*". It is noted that Littoralis provided further comments clarifying visual effects assessment of the proposal on owners and occupiers of the property at 150 Cullen Road. It argues that a building could be established with no controls over its scale and finish as a permitted activity on that same location (permitted baseline).

6.3.9 While agreeing with the above argument regarding the landscape and natural character assessment by Littoralis, there are other elements of amenity characteristics from a planning viewpoint that needs assessment. I provide below my assessment of the proposal against those amenity characteristics:

The intermittent nature of most agricultural activities;

The site, in combination with the adjoining properties to the north, south, and west of Cullen Road is rural in character where agricultural activities (pasture) predominate. The subdivision of the two properties which are predominantly used for cattle grazing into smaller lots ranging from 1.20ha – 7.11ha will remove portions of them from agricultural activities into residential. It is therefore considered that the reduction in allotment size, and subsequent change in land use activity link to these reduced lots may change the nature of the area for the surrounding neighbourhood. However, the mitigating factor in this instance is the design and consolidation of smaller lots around the vegetation area plus the retention of vegetation on these new lots via conservation covenant which also act as visual buffers that soften the impact of the potential built development from viewing platforms.

Open landscapes and views;

The site and its neighbourhood demonstrate an open landscape and views with a sense of enclosure provided by pockets of vegetation, towards the south of the properties. Allowing consent for this proposal will give the consent holders the opportunity to establish dwellings which may change the outlook and landscape of the area – despite being screened by existing vegetation under conservation covenant. Incremental change and cumulative effects

A low intensity of development;	<p>can be introduced to the area by increased vehicle movements into the property and changes in relation to residential light, noise and dust. While these may likely change the character of the area, Mike Farrow concludes that <i>“Impacts upon rural character need to be considered in the context of the pattern of rural residential development that prevails along much of the northern foothills of the range and the coastal spur/ridge more closely associated with the Bream Bay coastline. Whilst the site itself is currently largely free of built development, it lays in close context with considerably more conspicuous rural residential settlement to the east and equally imposing lifestyle development in the west. The characteristics of the site and the way that the proposal seeks to carefully merge future development with those natural and rural characteristics would result in the proposal having only muted impacts upon rural character”</i>. I concur with the above statement.</p>
Feelings of remoteness and community;	<p>Viewing the site as it is with its current farming use at 50.9488ha and 15.7827ha, and containing one residential dwelling with farm buildings is typical rural properties to the west of Cullen Road. Granting consent for this subdivision will provide an opportunity to erect a dwelling as of right on each of the 6 new lots. Six fully functional residential units on approximately a third of the site will increase the built-form and may increase the site density like that to the east of Cullen Road. A combination of topographic and vegetation patterns found of the subject site provide an opportunity for carefully considered development to occur in a way that results in very limited wider impact. With appropriate conditions of any consent, it is considered that the proposal will be a low intensity development, and the effects are therefore minor in this regard.</p> <p>At present, the site has a feeling of remoteness and of rural character. This is because of its topographic characteristics providing a feeling of remoteness, being an openness in the north of the site and the steep, rugged landform with interspersed native vegetation towards the south. Granting consent to the proposal will provide opportunity for six new lots to erect new dwellings as of right. Changes brought about by built-form and associated activities may change that feeling due to elements associated with development. Considered in isolation, the changes may be more than minor. However, if considered within the context of the surrounding environment, the effects of the proposal are acceptable.</p>
Low noise levels, particularly at night;	<p>Noise emission is unlikely to be an issue for the area given that agricultural activities often produce noise over and above that expected to be created by residential activities.</p>
A high degree of privacy;	<p>The development right (permitted baseline) for the subject site is three residential units with two minor residential units. Granting consent for the subdivision will allow six additional residential units plus six minor residential units on the site. Considering the changes between three main dwelling and two minor residential units with six main dwellings and six minor residential units, privacy could be considered to be potentially be compromised due to the introduction to the site of new accessways with more vehicle movements, lights, noise, etc. I don't consider the development of landscape and other associated mitigation measures can avoid, remedy or mitigate the internal effects of the proposal on privacy. However, if the effects on privacy are assessed from the surrounding area, then I think the</p>

	<p>effects are acceptable given the lifestyle character of adjacent properties and those in Cullen Road environment.</p> <p>Moreover, residential activity associated with rural activities will often have a high degree of privacy because of the remote location of dwellings associated with larger areas of rural properties or for grazing purpose being strategically located for farm management convenience. The landscape assessment by Littoralis confirmed that the topography and existing vegetation on the site will mitigate any potential effects on privacy.</p>
Daylight and sunlight access;	The adjoining residential dwellings will be separated a reasonable distance from each other, and as such no adverse effects are expected.
Low levels of vehicular traffic;	The level of vehicular traffic will increase due to additional residential activities expected on the site. However, in view of the surrounding area being largely used for lifestyle living along Cullen Road, vehicular traffic presence in the area is not unusual. Coupled with traffic generation associated with agricultural activity is unlikely to create effects which are more than minor.
Green 'unspoiled' landscape with indigenous vegetation.	In the Littoralis report, Landscape Architect Mike Farrow described the area of the site where the new lots will be created as characterised by a sequence of three gradually sloping spurs that run from two high points positioned near the southern edge of the property with vegetation in the intervening valleys. That pattern extends across the majority of the subject site but phases out on the eastern margin where it is more open, gently rolling pastoral terrain. However, the site is not identified as a notable or outstanding landscape by the Operative District Plan or the Regional Policy Statement. Despite that, the proposed covenants to be imposed as condition of consent will protect the natural and indigenous vegetation on the site. Furthermore, the application notes that grazing on proposed Lots 3, 5 and 6 (outside of proposed covenanted areas) will be restricted in perpetuity to enable natural regeneration to occur on these areas. It is expected that this will be incorporated into the Landscape Management and Planting Plan.
6.3.10	Despite effects identified on some amenity characteristics, I consider them as site specific and if considered in isolation they are not minor. However, if considered within the context of the surrounding environment, then effects are acceptable.
6.3.11	On balance, although there are elements of the amenity characteristics that were assessed to be affected, I consider the overall effects of the proposal on the amenity values and the character of the neighbourhood as assessed will 'not tip the balance' and are minor.
6.4	Ecological Effects
6.4.1	The applicant's Ecological Appraisal report by Scrub Consultants Ltd dated 13 March 2017 confirms that "the native bush identified as area C – M proposed for formal protection on the Jasco Properties Ltd property qualifies as significant natural areas (SNA) as per the Whangarei District Plans assessment process".
6.4.2	The report commented that the proposed protected areas contain an intact kanuka – totara – tanekaha dominated canopy (see figures below), with dispersed regenerating understorey and ground cover tiers. It has moderate to high botanical value and high habitat value as assessed under Schedule 17D of the Operative District Plan.



Figure 1. A rimu (500mm dbh) regenerating off a ridge sidling



Figure 2. Notable tanekaha regeneration along the ridgeline on northern margin of Area H.

6.4.3 Therefore, the proposed conservation covenant areas are worthy of protection under the Operative District Plan. A Plant and Animal Pest Management Plan has been included as part of the application which will be included as a condition of any consent. As such, effects of the proposal on the ecological values are less than minor.

6.5 Infrastructure and Services

6.5.1 Council's Consultant Engineer reviewed the Geotechnical Investigation report (including further information sought under s92 of the RMA) prepared by Wiley Geotechnical Engineering Service dated 9 February 2017, and the Traffic Safety comments by Engineering Outcomes Ltd dated 10 March 2017 submitted in support of the application and commented as follows:

6.5.2 Telecommunications and Power

- *Lot 7 has an existing power and telecommunication connection. The applicant has stated that telecommunications and power will be provided to the boundary of all other proposed lots.*

6.5.3 Traffic

- *Cullen Road is classified as a local road with a sealed surface in the area of the proposed vehicle access with a speed environment of between 49-62 km/h requiring sight lines of 40-60 m according to the Engineering Outcomes report dated 10 March 2017.*
- *The application includes a Traffic Effects Assessment compiled by Engineering Outcomes Ltd dated 10 March 2017. This report investigates the existing roading network directly affected by this proposal and determines that the traffic effects relating to the proposal will be no more than minor.*
- *The adverse effects of the proposed access on the existing roading network are no more than minor in this case.*
- *Lots 1-3, 5 & 6 will all gain vehicle access via the proposed private road (to be constructed on the existing paper road) and proposed right of way which are to be constructed in accordance with Table 3.7 of Council's Environmental Engineering Standards 2010 Edition.*
- *Lot 4 will gain vehicle access via the proposed private road which is to be constructed in accordance with Table 3.7 of Council's Environmental Engineering Standards 2010 Edition.*

- **Lot 7 will retain its existing access. No upgrade is required.**
- *This proposal complies with Rule 73.3.7 Property Access as vehicle access will be shared.*
- **The applicant has not demonstrated compliance with the attenuation requirements of section 4 with regards to the accessway. The mechanism proposed is a pond in Lot 1, or alternate means should inadequate grade be available. Given the land available it is considered that compliance is likely to be able to be achieved although proof of concept and performance will be required at detailed engineering design stage.**
- *The proposed vehicle crossing can achieve complying sight lines.*
- **The proposed lot sizes and configuration can comply with Rule 47.2.1 Parking and Loading including Appendix 6A of the District Plan and Section 3.4.18 and Sheets 26, 27, 28 of Council's Environmental Engineering Standards 2010.**

6.5.4 Wastewater and Stormwater

- *Lots 1-6 will require onsite treatment and disposal as there is no public system available for connection. Lot 7 has an existing system.*
- *An engineering site suitability report (Response to S.92 Request) compiled by Wiley Geotechnical Ltd dated 13/05/2017 has been submitted in support of this application, this report includes an onsite soil assessment and a general assessment of onsite effluent disposal capability for lots 1-6 in accordance AS/NZS 1547: 2000 including effluent field slope gradient, soil category, overland flow path separation, water table depth, and recommended design options. These restrictions and recommendations will be included as part of a consent notice that will be registered on the Computer Freehold Register of the subject lots.*
- *Other than that, required for the accessway (as detailed in the Access section above) onsite stormwater attenuation will not be required for this development, as the area of all proposed lots exceeds 1ha and the total area of impervious surfaces (roof, driveways, hardstanding areas) related to the development will not exceed 2% of the total site. However, the disposal of any stormwater off site is not to exceed that which existed pre-development. The applicant will need to demonstrate this at the time of building consent application.*

6.5.5 Water Supply & Firefighting

- *Onsite supply will be required as there is no public system available for connection. Rain water will be utilised from roof top collection therefore the application complies with Rule 73.3.11 Water Supply.*
- *Upon construction of any habitable dwelling, sufficient water supply for firefighting purposes is to be provided by way of tank storage or other approved means, and that this water supply be accessible by firefighting **appliances in accordance with Council's Environmental Engineering Standards 2010** and more particularly with the New Zealand Fire Service Fire Fighting Code of Practice SNZ PAS 4509:2008.*

6.5.6 Councils Consultant Engineer went on to conclude that **"The application has effects regarding engineering aspects which are less than minor"** (see **Attachment 5**). Overall, services for the proposed allotments are considered acceptable.

6.6 Cumulative Effects

6.6.1 *Dye v Auckland Regional Council [2002] 1 NZLR 337* is regarded as the leading case on cumulative effects. In considering the characteristics of cumulative effects, the Court stated:

"A cumulative effect is concerned with things that will occur rather than with something that may occur, that being the connotation of a potential effect... The concept of cumulative effect arising over time is one of a gradual build up consequence.

The concept of combination with other effects is one of effect A combining with effects B and C to create an overall composite effect D. These are effects which are going to happen as a result of the activity which is under consideration."

- 6.6.2 Having regard to the above, the following assessment considers whether the residual effects of the proposed activity (after mitigation by conditions) will give rise to unacceptable cumulative adverse effects that are beyond the carrying capacity of the receiving environment, including supporting infrastructure and the amenity and character values that define the locality.
- 6.6.3 For a cumulative effect to be significant, it must breach a threshold or 'tip the balance'. In this instance, the proposal is considered to extend the existing area of higher density development into a more rural part of the locality which is currently limited of development and as such it is likely the proposal will create adverse cumulative effects with an incremental change in the character of the rural environment.
- 6.6.4 However, will it 'tip the balance' to a level where it can be determined that the overall effects cross an unacceptable level? I do not consider it does based on supporting comment by Landscape Architecture Mike Farrow:
- "A combination of topographic and vegetation patterns found on the site provide an opportunity for carefully considered development to occur in a way that results in very limited wider impacts".*
- 6.6.5 It is clear from the above comment and previous discussion in this report that although there will be landscape, rural character, and visual effects arising from the proposal, it will not entirely result in a more than minor effects if careful landscape and visual mitigations are implemented.
- 6.6.6 I do not consider there are cumulative effects arising from allowing the proposed subdivision on ecological values that are more than minor if a careful weed and pest management plan is implemented and the covenant areas are established.

6.7 Submissions

- 6.7.1 The submission by Dwayne Challenger and Ella Rasmussen indicated that they were opposing the application because of the following:
- (a) *Application is vague or lack of information relating to the corrects status, assessment of Plan Change 85A, application of 'Environment Benefits' proposed vegetation covenant not clear, proposed earthworks inadequate information' and no detail for earthwork mitigation.*
 - (b) *The proposal has adverse effects affecting them on the intensification of development, alteration of the rural character, change in outlook, views and privacy, inadequate mitigation measures, increased traffic movement, earthwork and noise.*
 - (c) *Inadequate assessment of the proposal on rural amenity, landscape, ecological values, riparian management and natural rural character.*
 - (d) *If the proposal is granted, it will lead to cumulative effects that undermine the integrity of the District Plan.*
- 6.7.2 Regarding point (a) I have addressed the above matters in the assessment of effects of the proposal on the environment in the previous chapters of the report. In particular, the subdivision has been assessment as a 'Discretionary Activity' and the application did not seek the application of Rule 73.3.2 Environmental Benefits. Regarding the relevant objectives and policies of the Operative District Plan and Plan Change 85A, I have addressed those matters in Chapter 7 of this report.
- 6.7.3 Regarding points (b) and (c), I have provided a full assessment of effects in sections 6.3 and 6.4 of this report which concluded overall that the effects of the proposal are acceptable. It is my view that imposing relevant conditions of any consent as identified in the Landscape Architect's report by Littoralis and the Ecological report by Scrub Consultant will adequately mitigate the effects of the proposal on the environment.
- 6.7.4 Regarding point (d), I have discussed 'cumulative effects' in section 6.6 of this report which concludes that any identified cumulative effects will 'not tip the balance'.
- 6.7.5 John & Julie Worthington and Brenda Kelly submitted that:
- Views from their dwelling will be compromised by potential built development because of the subdivision;

- Traffic associated effects to be generated by the increased users of the access will impact the living area of their home and water through dust.

I have assessed the adverse effects of the proposal on the surrounding environment and considered that the inclusion of relevant conditions of consent relating to landscape and visual effects will adequately mitigate effects identified by the Worthington and Kelly's submission.

6.7.6 Regarding the submission by the Northland District Health Board relating to the use of 'secondary water treatment system', that matter can be adequately addressed through an advice note and be dealt with at the building consent stage.

6.8 Conclusion on Effects Assessment

6.8.1 While there may be capacity within the surrounding area (including the site) to retain its rural character and avoid sporadic effects from future subdivision, I am not satisfied that would be the most appropriate use of the site. This is based on a balanced consideration of the site's land use whereby it consolidates built development around existing bush areas while retaining the majority of the farm as pastoral land. In addition, the professional views expressed by an experienced landscape architect and an ecologist support the above view.

6.8.2 I have also considered whether the sizes of the proposed lots could tip the balance and cross the more than minor effect threshold particularly in terms of amenity. In my view, it does not based on the following reasons:

- The proposal is qualified as a 'discretionary activity' through the specific requirement of Rule 73.3.1 of the Operative District Plan. The proposal meets the numerical standards in the rule (i.e. average allotment area of 4ha minimum, no more than two allotments having net site area of less than 2ha, and no lot with a minimum area of 4,000m² or less).
- Every subdivision proposal is to be considered on its own merits taking into account the characteristics and features of the environment within which the site is located. With careful implementation of landscape mitigation measures suggested by the landscape architect, effects on landscape values and visual aspects will be no more than minor.

6.8.3 I have considered the character and features of the area along Cullen Road (between Waipu settlement and the site) in assessing the overall impact of the proposed subdivision. In a traditional sense, settlements have a distinct 'sense of place', identity and individuality accentuated by their spatial separation and sense of containment within their own unique respective landscape features. This pattern is common within the coastal areas of the district which is already weakened and compromised as can be seen in the areas around Waipu Cove settlement. Such strong statements confirm my overall assessment that the effects of the proposal on the surrounding environment will be no more than minor.

6.8.4 Furthermore, being a discretionary activity the proposal as configured will serve to extend the existing pattern of higher residential density along Cullen Road and introduce a density of development that is similar to the surrounding environment and will not erode the existing rural amenity of the wider area based on my earlier comments. Therefore, taking into account the above assessment, overall I am of the opinion that the adverse effects of the proposal are acceptable in this instance and will be no more than minor.

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

7.1 Statutory Consideration

7.1.1 Section 104 of the Act sets out those matters that, subject to Part 2, a consent authority must have regard to when considering an application for resource consent. These matters include any actual or potential effects on the environment of allowing the activity, any relevant provisions of a Plan or Proposed Plan, and any other matter the consent authority considers relevant and reasonably necessary to determine the application.

7.1.2 Pursuant to Section 104B of the Act, after considering an application for resource consent, a consent authority may grant or refuse the application, and if it grants the application, may impose conditions under Section 108 of the Act.

7.1.3 The following sections assess the proposal against the relevant objectives and policies of the relevant plans for the subject site. These being:

- Northland Regional Policy Statement
- Regional Water and Soil Plan for Northland
- Operative Whangarei District Plan
- Proposed Rural Plan Change (discussed later in this report)

7.2 Operative Regional Policy Statement for Northland (RPS)

7.2.1 The Regional Policy Statement for Northland (RPS) contains 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 content of the RPS is reflected in and given effect to through the provisions of the Whangarei District Plan and as such the relevant matters are considered further in subsection 7.4.

7.2.3 It is considered the more relevant provision in this instance is Policy 5.1.1 *Planned and Co-Ordinate Development* of the RPS which seeks, amongst other things, to ensure that:

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

- (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; and*
- (f) *Ensures that subdivision 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.*

7.2.4 In terms of maintaining the opportunity for soil based primary production, Land Use Capability Maps identify the subject site as having Class II and IV soils. Class II shows part the site to be suitable for many crops which is currently cattle grazing and will continue with that use. Class VI shows part the site to be occasional cropping but reduced range of crops and intensity of cultivation; and cattle or sheep grazing. Class IV covers the majority of the site which include the area to be covenanted for bush protection and grazing.

7.2.5 The Regional Policy Statement identifies land use classes LUC I to LUC III as being considered versatile/productive soils. Therefore, policy 5.1.1 (f) above is relevant in this case. However, given the proposed subdivision will not affect the current use of that area of the site, the proposal is consistent with policies 5.1.1 (c) and (g).

7.2.6 Overall, the proposal is consistent with the RPS (as given effect to through the Whangarei District Plan), as required to be considered under Section 104(b)(v).

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 would result in unacceptable adverse effects.

- 7.3.2 The site is not located on an At-Risk Aquifer. It is expected that any residential activity for new lots will be serviced by onsite roof-water.
- 7.3.3 Council's Consultant Engineer has considered matters relating to site servicing, including the engineering recommendations within the application. The consultant engineer is satisfied that subject to appropriate conditions of consent, future development will achieve the environmental results anticipated by the RWSP.
- 7.3.4 Furthermore, it is expected that there will be no earthwork on erosion prone land or in the riparian management zone to trigger NRC resource consent requirements.

7.4 Operative Whangarei District Plan

- 7.4.1 Those objectives and policies of relevance to the proposal are included within Chapter 5 *Amenity Values*, Chapter 6 *Built Form and Development*, Chapter 8 *Subdivision and Development*, and Chapter 17 *Indigenous Vegetation and Habitat*. Full copies of these chapters are included in **Attachment 6**.
- 7.4.2 The following table assesses the proposed subdivision against the relevant objectives and policies within these Chapters:

Table 3 – Assessment of Relevant Objectives and Policies within the District Plan

Chapter 5 – Amenity Values	
Objective	Comment
5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.	<p>The objectives and policies of Chapter 5 focus on maintaining the amenity values of localities and avoiding/preventing inappropriate subdivision throughout the district. This is to be achieved through appropriate intensity and design of the subdivision and promoting development that is sustainable and avoids, remedies or mitigates adverse effects through consolidated (non-sporadic and non-sprawling) development.</p> <p>As discussed in Section 6.0 of this report the proposal can arguably be considered in line with the existing patterns of landholdings and developments in this locality, the pattern found along Cullen Road. Note that considerations were given to changes to the surrounding area that occurred within the last 10 years (from rural to lifestyle character). Those changes have weighed significantly in considering this proposal being able to be absorbed into the existing land fragmentations and incremental cumulative changes to the pattern and character. The assessment of the effects on balance concludes that effects are no more than minor.</p> <p>That view was further supported by Mike Farrow's landscape report which stated that:</p> <p><i>"...Impacts upon rural character need to be considered in the context of the pattern of rural residential development that prevails along much of the northern foothills of the range and the coastal spur/ridge more closely associated with the Bream Bay coastline. Whilst the site</i></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</p> <p>5.4.5 Countryside Environments</p> <p>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>5.4.7 Intensity and Design of Subdivision and Development</p> <p>To ensure that subdivision and development do not unduly compromise the outlook and privacy of adjoining properties, and should be compatible with the character and amenity of the surrounding environment. Particular regard should be given to:</p>	

<ul style="list-style-type: none"> • The layout and intensity of subdivision. • The location, design and siting of buildings and structures except, where such buildings and structures provide a specific service for the surrounding environment. In the latter case, any building or structure shall be designed, laid out and located, so as to avoid, remedy or mitigate any adverse effects on the environment. 	<p><i>itself is currently largely free of built development, it lays in close context with considerably more conspicuous rural residential settlement in the east and equally imposing lifestyle development in the west. The characteristics of the site and the way that the proposal seeks to carefully merge future development with those natural and rural characteristics would result in the proposed having only muted impacts upon rural character.”</i></p> <p>Moreover, the assessment of the proposal on the characteristic amenities in section 6 confirms that the proposal as presented will not have adverse effects on open landscape and view, low intensity of development and feeling of remoteness that are considered on balance to be more than minor. As such, it is considered that the proposal is not inconsistent with these objectives and policies of the District Plan.</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 intention of this objective is to ensure subdivision and associated developments are consolidated to avoid sprawling or sporadic or ribbon development patterns. Consolidation aimed at directing subdivisions and developments of this magnitude to be located around the fringes of Waipu Cove settlement. However, this confined settlement and rural pattern has been progressively weakened by changes in character of the area along Cullen Road between the Waipu Cove and the site due to the granting of subdivision and development consents. If viewed from that angle, then the proposed subdivision as presented will result in adverse cumulative effects with incremental change to the character of the area due to sprawling and sporadic location of built development on an area that is currently vacant. However, with appropriate mitigation measures the effects could be mitigated to an acceptable level which renders the proposal not inconsistent with this policy.</p>
Policy	Comment
<p>6.4.2 Consolidated Development</p> <p>To consolidate urban development by:</p> <p>i. Further develop within existing built up areas, so as to avoid sporadic or sprawling subdivision and ribbon development patterns,</p>	<p>As discussed above, the proposal as it is presented is introducing rural lifestyle development that is not considered to be directly consolidating existing development patterns but could be described as incrementally changing the rural outlook of the site to a rural lifestyle character.</p> <p>While overall this policy refers to urban development, it provides direction of where</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>consolidation of developments in rural areas should be considered as a mean to avoid remedy or mitigate sprawl, sporadic and ribbon development patterns in the Countryside Environment.</p> <p>In view of the lifestyle character in the area and the location of the subdivision site, it is considered that consolidation as promoted by this policy will not be challenged by the proposal. Moreover, I consider the deliberate setting of built development amongst the vegetative and topographic frame of the site will offer additional mitigation.</p>
<p>6.4.10 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>Land Use Capability Maps identify the subject site as having LUCII which denotes land considered suitable for many crops. The Operative Regional Policy Statement identifies land use classes LUCI to LUCIII as being considered versatile/productive soils.</p> <p>As LUCII is classified as versatile soil, subdivision of the land with proposed residential development can arguably be inconsistent with this policy. However, in view of the area of the site identified as LUC II as not being a change of its current use, the proposal is considered to not be inconsistent with this policy.</p> <p>Moreover, the land to be covenanted for bush protection and removed from productive use is wholly located within the LUC IV.</p>
Chapter 8 – Subdivision and Development	
Objective	Comment
<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>As further discussed in Section 9.0 and my earlier assessment of effects of this proposal on the environment, I am satisfied that the proposal is consistent with the purpose and principles of sustainable management given the location of the subdivision site and the compromised character of the surrounding environment. In addition, both the experienced landscape architect and the ecologist have suggested mitigation that can allow the proposal to adequately avoid, remedy or mitigate adverse effects of future development and protect landscape features and amenity values on the site.</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>Overall, the resultant lots of 4 hectare average area that are adjoined by similar sized lots with associated developments, does reflect the character and density pattern within the locality; however the incremental change to the character of the area may raise a question as to whether or not it creates conflict between incompatible land uses (i.e. rural farming vs residential activities noting the area southwest</p>
<p>8.3.4 Subdivision and development that provides for the protection of, and where appropriate enhances, the District's:</p>	

<p>versatile soils;</p> <p>mineral resources:</p> <p>water quality;</p> <p>nature features;</p> <p>landscapes (including coastal landscapes);</p> <p>open spaces;</p> <p>significant ecological areas;</p> <p>biodiversity;</p> <p>public access to coast, lakes and rivers;</p> <p>historic, cultural and amenity values, including the cultural values of tangata whenua.</p>	<p>of the site is rural in character while northeast and south is rural residential character).</p> <p>Maintaining the amenity values of localities and avoiding/preventing inappropriate subdivision throughout the district is a core thrust of the objectives and policies. This is to be achieved through appropriate intensity and design of the subdivision and by the promotion of development that is sustainable and avoids remedies or mitigates adverse effects through consolidated development.</p> <p>I have provided an assessment of effects of the proposal on the environment and concluded overall that the effects are acceptable. The reason for that conclusion was that:</p> <p>Any visible built development on this property will inevitably add incrementally to the cumulative effects of sprawling and sporadic development between the traditional settlements. However, the character of the surrounding area is already compromised due to continuous 'coastal lifestyle' subdivision and development. In addition, the landscape architect recommended measures that will mitigate adverse visual and landscape effects arising from the proposal.</p> <p>Overall and based on the above comments, I consider that the proposal will not be inconsistent with these objectives.</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>Overall and based on the above comments, I consider that the proposal will not be inconsistent with these objectives.</p>
Policy	Comment
<p>8.4.3 Density of Development</p> <p>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>Again, while the density proposed is considered commensurate with the developments in the surrounding environment, the pattern of the development is such that the area of lifestyle density is being extended, especially where an area of change to the character as argued in the landscape assessment. The measures suggested by the landscape architect can mitigate the effects of the proposed development on the density which allow the proposal to be considered consistent with this policy.</p>
<p>8.4.4 Cumulative Effects</p> <p>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 landuse activities, the consolidated and orderly development of land and the density of development.</p>	<p>It has been concluded in the assessment of effects that allowing this development may create adverse cumulative effects with incremental change to the character of the area. As such the proposed subdivision, will not support this policy as it is considered contrary to it. However, the conclusion reached by the landscape architect in his assessment of which I concur, suggests that although some adverse effects would certainly arise from this proposal, it would nevertheless be an 'overstatement' to describe them as contributing a more than minor level of effects within this incrementally changing landscape</p>

	context. As such, I do not consider the proposal will 'tip the balance' to an unacceptable level of cumulative effects.
<p>8.4.5 Reverse Sensitivity</p> <p>To ensure that subdivision and development in, or adjacent to:</p> <ul style="list-style-type: none"> • rural areas; • existing commercial, industrial and mineral extraction activities; • land zoned for commercial, industrial, or mineral extraction activities; • existing infrastructure, including the state highway network and airport. • is designed and located to avoid, remedy or mitigate reverse sensitivity effects on existing or permitted activities. Such effects can include noise, odour, spray drift and dust, vibration and traffic. 	<p>Reverse sensitivity effects can be considered relevant on future residents of any residential activity undertaken on these lots. Having considered that resultant lots can continue to be grazed or replanted in forestry, it is unlikely that reverse sensitivity will be an issue for future residents.</p>
<p>8.4.7 Design and Location</p> <p>To ensure subdivision and development is designed and located so as to avoid, remedy or mitigate adverse effects on, and where appropriate, enhance:</p> <p>Natural character of the coastal environment, indigenous wetlands, lakes and rivers and their margins;</p> <p>Landscape values;</p> <p>Ecological values;</p> <p>Amenity values and sense of place;</p> <p>Archaeological, cultural (including tangata whenua) and heritage features;</p> <p>Sites of Significance to Maori;</p> <p>Heritage areas of significance to Maori;</p>	<p>As previously discussed it is considered that the proposal could contribute to an expansion of the existing area of rural-lifestyle development that would start to undermine the more undeveloped rural character of the western and southern part of the site. However, in view of weakening of the rural character by favouring residential lifestyle developments, I consider the proposed subdivision to be of a design and within a location acceptable in this instance.</p> <p>Furthermore, the inclusion of a weed and pest management plan and landscape management and planting plan through conditions of consent will avoid, remedy or mitigate any adverse effects and with the identified vegetative areas to be covenanted will also enhance the landscape values, ecological values amenity values and sense of place, etc.</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</p>	<p>No constraints in terms of the onsite servicing arrangements proposed have been identified, and suitable conditions of consent pursuant to Sections 108 and 220 of the Resource Management Act 1991 can be imposed to ensure the development is undertaken in accordance with Whangarei District Council Environmental Engineering Standards 2010 and the relevant standards of utility providers.</p>

<p>specific protection purposes), including:</p> <ul style="list-style-type: none"> • Vehicle access, including emergency service vehicle access; • Water supply, (including for firefighting 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 runoff. 	
Chapter 17 – Indigenous Vegetation and Habitat	
Objective and policies	Comment
<p>Objective 17.3.2 Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna from inappropriate subdivision, use and development.</p> <p>Policy 17.4.3 - Enhancement To promote the enhancement of areas of significant indigenous vegetation and significant habitats of indigenous fauna that have been, or may be, degraded by inappropriate subdivision, use and development.</p> <p>Policies:</p> <p>17.4.5A: To avoid the introduction of plant and animal pests where practicable.</p> <p>17.4.5B: To encourage programmes for plant and animal pest control in areas of ecological value.</p> <p>17.4.5C: To recognise that dogs, cats and mustelids are a significant threat to kiwi.</p>	<p>The intention of this objective and policies is to ensure any identified significant area of indigenous vegetation and habitat shall be protected and enhanced.</p> <p>The ecologist provided the following comments relevant to the document setting out the protection and enhancement of vegetation and habitat as follows:</p> <p><i>“the proposed covenant areas are worthy of protection under the Whangarei District Plan provisions due to the indigenous biodiversity values contained therein, along with the erosion protection and spoil conservation services the area provides for... Areas C-M are therefore recommended for protection.”</i></p> <p>The imposition of relevant conditions of consent will ensure that any identified habitat values are protected or enhanced which allows the proposal to be consistent with the objective and policies.</p>

- 7.4.3 It is acknowledged that the surrounding environment exhibits an increased density of development that is in excess of the zoning of the area and the current proposal will create lots of similar sizes, which may contribute to the intensification in the area. If consent is granted to allow built development in an area that is characterised by open rural outlook, this could give rise to an expansion of residential lifestyle development that is extending along Cullen Road, rather than attempting to consolidate the pattern along this part of Cullen Road.
- 7.4.4 However, given the progressive and incremental change in the character of this area over the last 10 years, and the weakening of the traditional pattern of land settlements and character, I am satisfied that the additional change to be introduced by this proposal will not challenge the relevant objectives and policies of the Countryside Environment to an inconsistent level. Moreover, appropriate mitigation by way of strategic location of built development, the mitigation

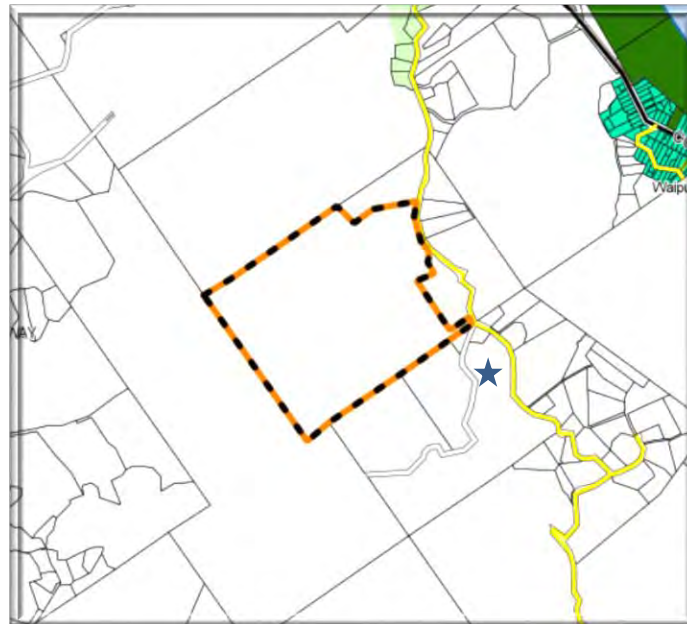
planting and the retention of existing bush land will further enhance the visual amenity of the area.

8.0 Other Matters

8.1 Rural Plan Change

- 8.1.1 Whangarei District Council publicly advertised Plan Change 85, A-D and 86A & B on 10 August 2016. Figure 5 below shows the proposed rezoning of the area coloured white denoting Rural Production. The further submission period for the above plan change was closed on 20 December 2016 with Council recently completed hearings.
- 8.1.2 It is noted that a submission by Warner David Cullen of 216 Cullen Road (property marked with a star in Figure 8 below) opposed the rezoning of their property to Rural Production. They submitted to the Council to change the zone of properties along Cullen Road to Rural Living Environment which includes the subject site– see the submission in **Attachment 7**.
- 8.1.3 The site is proposed to be rezoned as Rural Production Environment from its current Countryside Environment. The plan change is relevant for consideration to this proposal however, the proposed plan change is still subject to a decision and the appeal process. An assessment of the relevant objectives and policies is provided below.

Figure 8: Propose New Environment



- 8.1.4 The following Objectives and Policies are considered of relevance in consideration of the proposal and in my view, offend them:

RPE.1.2 Objectives:

2– Recognise, maintain and where appropriate protect the rural character of the RPE, acknowledging that character is formed through a combination of values such as ecology values, openness, topography and heritage.

4– Support a range of amenity values associated with the RPE

5- Minimise fragmentation of rural land and promote allotment sizes that facilitate productive rural land use

RPE.1.3 Policies

4- To maintain rural amenity, privacy, openness and rural character by ensuring that all new building and rural landuse

(a) are of a scale and character to the RPE

- (b) *Are sited in a location sufficiently set back from site boundaries to enable privacy, the retention of openness and access to sunlight.*
- (c) *Avoid ribbon development.*

5- *To preserve openness, rural character and amenity by limiting the density of residential units.*

10- *To avoid the subdivision of land into allotments less than 20ha unless it is demonstrated that:*

- (a) *The subdivision of rural land and associated building is for the purpose of supporting an existing farm, forestry or horticultural enterprise associated with rural production.*
- (b) *The size, shape and arrangement of allotments is a practical size for rural land use activities and does not restrict the range of options for the use of production land.*
- (c) *The existing farm, forestry or horticultural enterprise can continue to operate efficiently at the subdivided scale.*
- (d) *The subdivision and subsequent development will not result in significant adverse effects on the operation and viability of any adjoining farm, forestry or horticultural activity.*
- (e) *The land and buildings have greater potential to produce primary products, forestry or crops because of the subdivision.*

8.1.5 The proposal is one that exhibits an increase density of development that is more than that envisaged by the future zoning of the area. My view is that the proposal, if granted consent, would result in 6 new lots of less than 7ha that are considered small and would give rise to an expansion of residential lifestyle or rural residential development in the neighbourhood. Due to the density of the existing pattern of development as highlighted by the applicant, the proposal would result in additional small lots which may considered a 'step too far'.

8.1.6 However, the proposed subdivision design allows most of the existing farm to continue as production land while the residential lots are formatted around the existing vegetated area to be covenanted. Therefore, the proposal is not at all considered to be inconsistent with the objectives and policies above.

8.1.7 At this stage of the Plan Change, I consider that more weight should be placed on the objectives and policies of the relevant plan change. However, with Council decision yet to be released with a substantial number of submissions, many seeking significant changes to the provisions, I consider the relevant objectives and policies of the Operative District Plan are preferred.

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 wellbeing and for their health and safety while -

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

9.1.2 Based on the conclusions reached in the foregoing assessment, the proposal is considered not 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 The location of the site is not affecting any matters of national importance.

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 of 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 Kaitiakitanga, 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 Patuharakeke Iwi have mana whenua over the application site, and a copy of the proposal was subsequently forwarded to them.
- 9.3.3 Patuharakeke Iwi did not respond to the application served on them.

9.4 Section 8 – Treaty of Waitangi

- 9.4.1 Section 8 requires that decision makers consider 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 supersede 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, Patuharakeke Iwi 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 if they have any issue with the proposal. Patuharakeke Iwi did not respond to the application served on them and therefore it is assumed that they did not oppose the proposal.

10.0 Conclusion & Recommendation

10.1 Conclusion

- 10.1.1 As a Discretionary Activity, under Section 104B Council as a Consent Authority must determine after having considered all relevant matters under Section 104(1) whether the proposal meets the overarching purpose of the Act as defined within Part 2.
- 10.1.2 The proposal has been assessed against the relevant matters and concluded that the effects are no more than minor. The proposal will not be inconsistent with the relevant objectives and policies of the District Plan.
- 10.1.3 As a Discretionary Activity, the Plan is clear through its objectives and policies that any discretionary proposal must be appropriate to its location; it must consolidate with like existing development and not undermine existing character and amenity values. In this instance the proposal as presented is appropriate in this location given that the subdivision will be considered an extension of the existing rural-lifestyle pattern around the site. Visual effects will be

mitigated by conditions of consent that have been offered to counter some of these potential adverse effects.

- 10.1.4 If the Commissioner accepts the expert reports upon which I rely, my overall conclusion reached after undertaking a full assessment of the proposal and is of a mind to grant consent to the proposal, I provide below recommended conditions.

10.2 Recommendation

That pursuant to Sections 104, 104B and 104D, 108 and 220 of the Resource Management Act 1991, consent is granted to Jasco Properties Limited to subdivide land held in Computer Freehold Registers 311829 (Lot 3 DP 377683) and NA92/7 (North Western Portion Section 134 Parish of Waipu and North Western Portion Section 135 Parish of Waipu) in two stages. Stage 1 will result in Lot 1 of 22.15ha and Lot 2 of 44.58ha. Stage 2 is the subdivision of Lot 1 from Stage 1 resulting in Lot 1 of 4.31ha, Lot 2 of 1.20ha, Lot 3 of 1.50ha, Lot 4 of 2.69ha, Lot 5 of 4.90ha, and Lot 6 of 7.11ha. The subdivision consent is subject to the following conditions:

Stage 1

1. Prior to issue of a Section 223 certificate;

- a The survey plan submitted for approval shall conform with the subdivision consent obtained and the plan of subdivision prepared by Lands & Survey scheme plans entitled 'Proposed Subdivision of Lot 3 DP377683 & Allots NW134 & NW135 Psh of Waipu' Reference 9626/1/1/F Sheet 2 dated April 2017.
- 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 the construction of the access way on the existing paper road for the first 80 metres from Cullen Road in accordance with Table 3.7 Category G and Sheet 9 of Council's Environmental Engineering Standards 2010 Edition including a typical cross section, long section, culverts, drainage flow paths, overland flow and the location of the existing tree/flax bush in relation to the proposed access.
 - ii. Design details (including provision of the hydrological, hydraulic and physical design) of the stormwater attenuation proposed for the paper road section of the access way in accordance with S 4.11.2 of the Environmental Engineering Standards 2010 Edition.
 - iii. Design details of sufficient water supply for firefighting purposes for each lot by way of tank storage or other approved means including a "PSL" Round Thread Adaptor with a gate valve (Part number 58900), suitable access for firefighting appliances in accordance with Section 6.7.8 of Council's Environmental Engineering standards 2010 Edition and more particularly with "NZFS Fire Fighting Code of Practice SNZ PAS 4509: 2008. This is to include a completed "NZFS Fire Fighting Facilities Checklist" approved by the New Zealand Fire Service.
- c 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 delegated representative.
 - d The consent holder shall provide a detailed Landscape Management and Planting Plan prepared by a qualified landscape architect in general accordance with matters identified and discussed in the report by Littoralis Landscape Architecture Ltd entitled "Assessment of Landscape, Visual,

Rural Amenity & Natural Character”, dated March 2017. The plan shall provide details of development controls for structures, landscape materials and planting for Lots 1 and 2 and shall also include any proposed entry features and plantings along the accessway where applicable. The plan shall show as a minimum the following;

- Names of proposed species (Note: No species in the Prohibited Plants Schedule are to be used).
 - Size of proposed stock for planting.
 - Numbers, locations, spacing and staking of proposed plants and trees considering the need to retain suitable sight lines for traffic.
 - Detail planting schedule.
 - Details of any structures including location, dimensions, materials and construction methods.
 - Details of any mulch or other stabilisation structures, including type, depth, and stabilisation methods; and shall include a weed management plan and a plant replacement programme for maintenance of the asset until the date of the s224(c) certificate.
- e The plan required under Conditions 2(d) is subject to the approval of RMA Consents Manager, or delegated representative. The plans shall be prepared such that they are consistent and complementary to achieve an integrated approach to rehabilitation of the sites.
- f The consent holder must create easements over services and rights of way to the approval of the Senior Environmental Engineering Officer or delegated representative.

2. Prior to issue of a Section 224 (c) certificate;

- a The consent holder is to submit a Corridor Access Request application to Council’s Road Corridor Co-ordinator 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 satisfaction of the Senior Environmental Engineering Officer or delegated representative (refer to the advisory clause below for the definition of a Corridor Access Request).
- b All work on the approved engineering plans in Condition 1(b) is to be carried out to the approval to the approval of the Senior Environmental Engineering Officer.

Compliance with this condition shall be determined by site inspections undertaken as agreed in Council’s engineering plan approval letter for the engineering plans as required by Condition 1(b) and by provision and approval of supporting documentation provided by the developers representative/s in support of the constructed works – EES PS4 and producer statements including supporting evidence of inspections by those persons, works acceptance certificate, statement of compliance of as built works and as built plans, RAMM data, management plans, operation and maintenance plans and all other test certificates and statements and supporting information required to confirm compliance of the works as required by Council’s QA/QC Manual and the Council’s Environmental Engineering Standards 2010.

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.

- 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, Inspection and Test Plan, approved corridor access request 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 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 consent holder shall ensure that spoil from the site must not be tracked out onto Council or State Highway Road formations to the approval to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- 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 to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- g The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- h Council's road carriageway formation, if affected by construction works associated with the subdivision and land use activities, shall be reinstated in accordance with Section 3 of Council's Environmental Engineering Standards 2010 Edition at the expense of the consent holder to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- 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 2010 Edition to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- j The consent holder must submit certified RAMM data for all new/upgraded or extended vehicle crossing culverts prepared by a suitably qualified person in accordance with Council's Environmental Engineering Standards 2010 Edition to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- k Upon completion of the development works, the consent holder must submit for approval a "Certificate of Completion of Development Works" (EES-PS4) to the Senior Environmental Engineering Officer.
- l Following completion of construction, the consent holder shall provide a works producer statement from the suitably qualified contractors who completed the 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 Whangarei District Council's Senior Environmental Engineering Officer.
- m The consent holder shall provide written evidence from a suitably qualified landscape architect for the approval of Council's Team Leader RMA Approval and Compliance, or delegated representative, that all landscape matters approved under condition 1(d) have been implemented.
- n Provide written evidence from a suitably qualified ecologist within 12 months of implementing the approved Plant and Animal Pest Management Plan by Scrub Consultants Ltd dated 13 March 2017 have been implemented. The on-going planting and weed management requirements outlined in the Plant and Animal Pest Management Plan shall form the basis of consent notice conditions (s221 conditions) relating to Lots 1 and 7.
- o 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 1 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. Council will not be responsible for the maintenance of the formed vehicle access within the paper road beyond the existing Council road maintenance termination point of the intersection of the paper road with Cullen Road.
- ii. Any development shall comply with the restrictions and recommendations identified in the Wiley Geotechnical engineering reports dated 13/05/2017 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- iii. On Lot 1 a maintenance contract for the on-site wastewater system shall be in place at all times which includes inspections and maintenance of both the wastewater treatment and disposal systems.
- iv. Upon construction of any habitable dwelling, sufficient water supply for firefighting purposes is to be provided by way of tank storage or other approved means, and that this water supply be accessible by firefighting 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'. Demonstration of achievement of an alternative means of compliance with this standard will be considered to satisfy this requirement but note that written approval from the NZ Fire service is required.
- v. All landscape planting and/or areas identified as vegetation to be retained on the approved plan under condition 1(d) and implemented under condition 2(m) shall be maintained in perpetuity.
- vi. The lot owner shall ensure compliance with Plant and Animal Pest Management Plan as approved and implemented.

Stage 2

3. Prior to issue of a Section 223 certificate

- a. The survey plan submitted for approval shall conform with the subdivision consent obtained and the plan of subdivision prepared by Lands & Survey scheme plans entitled 'Proposed Subdivision of Lot 3 DP377683 & Allots NW134 & NW135 Psh of Waipu" Reference 9626/1/1/F Sheet 3 dated April 2017. The survey plan must show areas 'C-M' as conservation covenant areas.
- 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 the construction of the access way on the existing paper road for the first 80 metres from Cullen Road in accordance with Table 3.7 Category G and Sheet 9 of Council's Environmental Engineering Standards 2010 Edition including a typical cross section, long section, culverts, drainage flow paths, overland flow and the location of the existing tree/flax bush in relation to the proposed access.
- ii. Design details of the construction of the access way on the existing paper road from 80 metres to the ROW boundary in accordance with Table 3.7 Category F

and Sheet 9 of Council's Environmental Engineering Standards 2010 Edition including a typical cross section, long section, culverts, drainage flow paths and overland flow.

- iii. Design details (including provision of the hydrological, hydraulic and physical design) of the stormwater attenuation proposed for the paper road section of the access way in accordance with S 4.11.2 of the Environmental Engineering Standards 2010 Edition.
 - iv. Design details of the construction of the right of way A in accordance with Table 3.7 Category F and Sheet 9 of Council's Environmental Engineering Standards 2010 Edition including a typical cross section, long section, culverts, drainage flow paths and overland flow.
 - v. Design details of the construction of the right of way B in accordance with Table 3.7 Category E(alt)* and Sheet 9 of Council's Environmental Engineering Standards 2010 Edition including a typical cross section, long section, culverts, drainage flow paths and overland flow.
 - vi. Design details of the construction of the access for Lot 4 including a typical cross section, long section, culverts, drainage flow paths and overland flow.
 - vii. Design details of sufficient water supply for firefighting purposes for each lot by way of tank storage or other approved means including a "PSL" Round Thread Adaptor with a gate valve (Part number 58900), suitable access for firefighting appliances in accordance with Section 6.7.8 of Council's Environmental Engineering standards 2010 Edition and more particularly with "NZFS Fire Fighting Code of Practice SNZ PAS 4509: 2008. This is to include a completed "NZFS Fire Fighting Facilities Checklist" approved by the New Zealand Fire Service.
- c 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 delegated representative.
- d The consent holder must create easements over services and rights of way to the approval of the Senior Environmental Engineering Officer or delegated representative.
- e The consent holder shall provide a detailed Landscape Management and Planting Plan prepared by a qualified landscape architect in general accordance with matters identified and discussed in the report by Littoralis Landscape Architecture Ltd entitled "Assessment of Landscape, Visual, Rural Amenity & Natural Character", dated March 2017. The plan shall provide details of development controls for structures, landscape materials and planting for Lots 1 to 6 and shall also include any proposed entry features and plantings along the accessway where applicable. The plan shall show as a minimum the following;
- Names of proposed species (Note: no species in the Prohibited Plants Schedule are to be used).
 - Size of proposed stock for planting.
 - Numbers, locations, spacing and staking of proposed plants and trees considering the need to retain suitable sight lines for traffic.
 - Detail planting schedule.
 - Details of any structures including location, dimensions, materials and construction methods.
 - Details of any mulch or other stabilisation structures, including type, depth, and stabilisation methods; and shall include a weed management plan and a plant replacement programme for maintenance of the asset until the date of the s224(c) certificate.

- f The plan required under Conditions 2(e) is subject to the approval of RMA Consents Manager or their delegated representative. The plans shall be prepared such that they are consistent and complementary to achieve an integrated approach to rehabilitation of the sites.

4. Prior to issue of a Section 224 certificate

- a The consent holder is to submit a Corridor Access Request application to Council's Road Corridor Co-ordinator 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 satisfaction of the Senior Environmental Engineering Officer or delegated representative (refer to the advisory clause below for the definition of a Corridor Access Request).

- b All work on the approved engineering plans in Condition 3(b) is to be carried out to the approval to the approval of the Senior Environmental Engineering Officer.

Compliance with this condition shall be determined by site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by Condition 3(b) and by provision and approval of supporting documentation provided by the developers representative/s in support of the constructed works – EES PS4 and producer statements including supporting evidence of inspections by those persons, works acceptance certificate, statement of compliance of as built works and as built plans, RAMM data, management plans, operation and maintenance plans and all other test certificates and statements and supporting information required to confirm compliance of the works as required by Council's QA/QC Manual and the Council's Environmental Engineering Standards 2010.

No construction works are to commence onsite until the engineering plans required in condition 3(b) have been approved and all associated plan inspection fees have been paid.

- 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, Inspection and Test Plan, approved corridor access request 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 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 consent holder shall ensure that spoil from the site must not be tracked out onto Council or State Highway Road formations to the approval to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- 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 to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- g The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement

boundaries to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.

- h Council's road carriageway formation, if affected by construction works associated with the subdivision and land use activities, shall be reinstated in accordance with Section 3 of Council's Environmental Engineering Standards 2010 Edition at the expense of the consent holder to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- 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 2010 Edition to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- j The consent holder must submit certified RAMM data for all new/upgraded or extended vehicle crossing culverts prepared by a suitably qualified person in accordance with Council's Environmental Engineering Standards 2010 Edition to the satisfaction of the Senior Environmental Engineering Officer or delegated representative.
- k Upon completion of the development works, the consent holder must submit for approval a "Certificate of Completion of Development Works" (EES-PS4) to the Senior Environmental Engineering Officer.
- l Following completion of construction, the consent holder shall provide a works producer statement from the suitably qualified contractors who completed the 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 Whangarei District Council's Senior Environmental Engineering Officer.
- m The consent holder shall provide written evidence from a suitably qualified landscape architect for the approval of Council's Team Leader RMA Approval and Compliance or their delegated representative that all landscape matters approved under condition 3(e) have been completed.
- n Provide written evidence from a suitably qualified ecologist within 12 months of implementing the approved Plant and Animal Pest Management Plan by Scrub Consultants Ltd dated 13 March 2017 that the plan has been implemented. The on-going planting and weed management requirements outlined in the Plant and Animal Pest Management Plan shall form the basis of consent notice conditions (s221 conditions) relating to all relevant lots.
- o 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 2-6 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. Council will not be responsible for the maintenance of the formed vehicle access within the paper road beyond the existing Council road maintenance termination point of the intersection of the paper road with Cullen Road.
 - ii. Any development shall comply with the restrictions and recommendations identified in the Wiley Geotechnical engineering reports dated 13/05/2017 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
 - iii. On Lots 2-6 a maintenance contract for the onsite wastewater system shall be in place at all times which includes inspections and maintenance of both the wastewater treatment and disposal systems.
 - iv. Upon construction of any habitable dwelling, sufficient water supply for firefighting purposes is to be provided by way of tank storage or other approved means, and that this water supply be accessible by firefighting 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'. Demonstration of achievement of an alternative means of compliance with this standard will be considered to satisfy this requirement but note that written approval from the NZ Fire service is required.

- v. No mustelids, rodents or cats shall be kept on the property. If dogs are required for stock management they shall be allowed on site for no more than two hours and they shall be muzzled at all times.
 - vi. There shall be no more than one residential unit as defined by the District Plan per site. No minor residential unit is permitted on any site.
 - vii. At the time of building consent, the lot owner shall ensure that building facade materials and finishes shall have a reflectance value of no more than 35%. Smaller architectural elements, such as joinery, or other minor features, are excluded from this requirement. Windows shall not be mirror type glazing.
 - viii. At the time of building consent, the lot owner shall ensure that roof surfaces have a reflectance value of 30% which shall be the maximum and shall be painted "Karakā green" or equivalent.
 - ix. All water tanks shall be sited so that the top of the tank is no more than 1.5m above the ground (natural or formed) and shall be screened from view from outside the site.
 - x. All landscape planting and/or areas identified as vegetation to be retained on the approved plan under condition 3(e) and implemented under condition 4(n) shall be maintained in perpetuity.
 - xi. The lot owner shall ensure compliance with Plant and Animal Pest Management Plan as approved and implemented.
- p Pursuant to Section 108(2)(b) and 108A of the Resource Management Act 1991 a bond shall be entered to cover all aspects of the Plant and Animal Pest Management Plan approved under condition 4(n) and implemented under this condition.

The amount of each bond shall be based on the approved schedule of the costs supplied in the Plant and Animal Pest Management Plan submitted under condition 4(n).

The bond shall be prepared by the Council's solicitor at the expense of the applicant and shall be drawn up if required by the council in a form enabling it to be registered pursuant to Section 109 of the Resource Management Act 1991 against the title to the land to which this bond relates (unless land affected is public land vested in Council).

The bond may be either a cash bond or bond that is guaranteed by a recognised trading bank in New Zealand. The bond shall be reduced by 33% in any one year on certification by an appropriately qualified person that the recommendations and operations identified in the Plant and Animal Pest Management Plan approved under condition 4(n) has been effectively carried out.

Notwithstanding any transfer of title by the consent holder to a new owner of any one or more of the lots, the consent holder or subsequent nominees or representatives are to continue the implementation of the Plant and Animal Pest Management Plan approved in condition 5(n) for the 3-year period.

If the total bond is less than \$1,500 this condition is not required to be met.

- q Conservation covenants in accordance with Section 77 of the Reserves Act 1977 or alternative instrument of similar effect to the approval of Council's RMA Consents Manager shall be prepared for registration, at the consent holder's expense, against the Titles of the land depicted on the survey plan as being subject to conservation covenants (area C-M). The conservation covenants shall require in respect of the covenanted area, but not limited to:
- No indigenous vegetation shall be cut down or destroyed;
 - Invasive and/or woody weeds shall be controlled;
 - No grazing by stock shall be permitted.

11.0 Attachments

1. **Scheme Plan**
2. **The application (as lodged)**
3. **S92 Information**
4. **Submissions**
5. **Engineering Review Report**
6. **District Plan Chapters**
7. **Submission on Plan Change 85**