

Subdivision Consent Application

PAUL AND LISA ROBERTS

Pepi Road, Parua Bay Road

Paul and Lisa Roberts

Application for Subdivision and Land Use Consent

Planning Report Prepared by:



Report Prepared For:

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Consent Authority:

Whangarei District Council

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Report Reference

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3. Scheme Plan
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1. INTRODUCTION

1.1 Report Basis

This report has been prepared for Paul and Lisa Roberts in support of subdivision consent application at Pepi Road, Parua Bay. It has been prepared in accordance with the provisions of Section 88 and the Fourth Schedule of the Resource Management Act, 1991.

Section 88 of the Act requires that resource consent applications be accompanied by an Assessment of Environmental Effects (A.E.E.) in accordance with the Fourth Schedule. The Fourth Schedule sets out the matters that should be included in an assessment of effects on the environment. These include a description of the proposal, an assessment of any actual or potential effects the proposed activity(s) may have on the environment, a description of any proposed mitigation measures to reduce the actual and potential effects on the environment, and identification and consultation with potentially affected persons.

The report also includes a full analysis of the relevant provisions of the district and regional planning documents that are pertinent to the assessment required under Section 104(1)(b) and (c) of the Resource Management Act.

1.2 Resource Consents Required and Activity Status

Resource consent is required under the following district plan rules:

Whangarei District Plan

- 73.3.1 Allotment Area – Non-complying Activity
- 73.3.7(b) Property Access – Restricted Discretionary Activity

The activity is a controlled activity with regards to the remaining Rules of Section 73.

2. SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

2.1 Subject Site

Legal Description & District Plan Zoning

The legal description of the subject site is Lot 1 DP 150222. The certificate of title reference is NA89B/822. The total area of the title is 3.7650ha. A copy of the certificate of title is attached in Appendix 1. The property is located in the Countryside Environment (zone) of the Whangarei District Plan. The property is partially flood susceptible in the lower lying areas of the site. There are no other District Plan Resource Areas on the site. The relevant District Plan Maps are attached in Appendix 2.

Location

The site is located down a long shared accessway off Pepi Road, a small metalled local road accessed from Whangarei Heads Road. The property is predominantly surrounded by areas of native bush and rural residential properties. The presence of built structures in the vicinity contribute to the rural residential character of the immediate location.

To the north of this site are a number of properties accessed off Te Rongo Road, which all achieve views to the south over the Whangarei Harbour. Similarly, to the south of the site there are similar sized allotments accessed off Pepi Road.

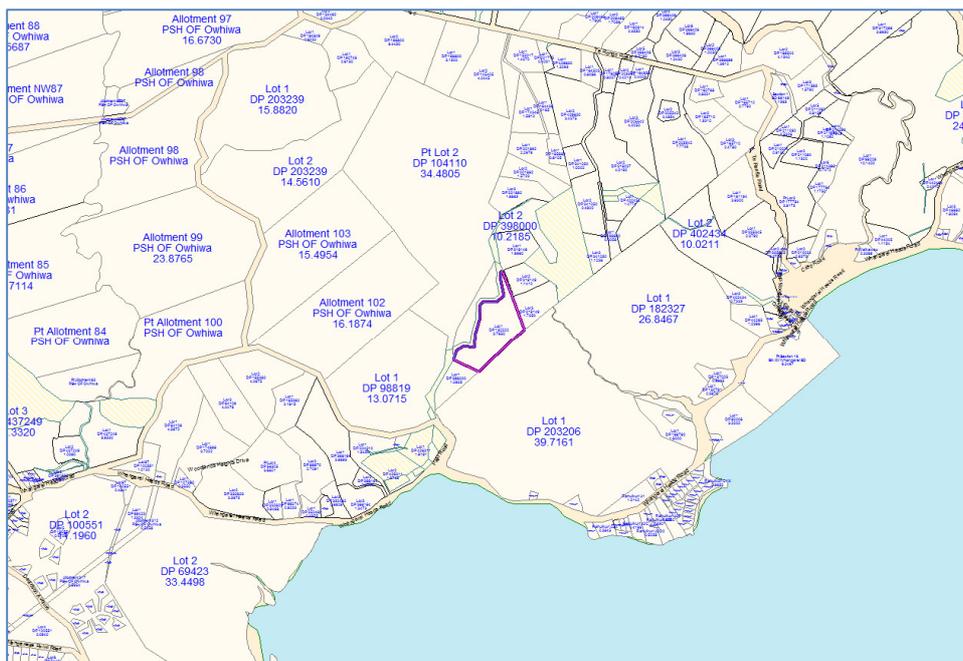


Figure 1: Location Map

Access

Existing vehicle access to the property is obtained via a sealed right of way access over Lot 2 DP 398000 which is formed as a private extension to Pepi Road. The right of way follows the valley floor before rising some 60-80m to the cluster of residential houses around the subdivision site. The right of way currently serves seven properties and the formation of two new residential lots will increase this number to nine.

Existing Uses

The property includes an existing dwelling, and a large area of native bush (predominantly kanuka, kahikatea, totara and tanekaha). The area in the vicinity of the existing dwelling (including its access) and the proposed location of the Lot 2 building site, is the only area on site not covered by native bush.

3. DESCRIPTION OF THE PROPOSAL

3.1 Subdivision

The proposal is to subdivide the parent title into three allotments in general accordance with the Reyburn and Bryant scheme plan S13312 Rev. A dated December 2014. A copy of this plan is provided in [Appendix 3](#). The proposed new lots are as follows:

- Lot 1 – 1.420ha
- Lot 2 – 1.28ha
- Lot 3 – 1.065ha (1.015ha Nett)

3.2 Access

Existing vehicle access to the property is obtained via a right of way access over Lot 2 DP 398000 which is formed as a private extension to Pepi Road. The right of way follows the valley floor before rising some 60-80m to the cluster of residential houses at the subdivision site. The right of way currently serves seven properties and the formation of two new residential lots will increase this number to nine.

For a private access way Whangarei District Council Environmental Engineering Standards (**WDC EES**) limits the maximum number of lots to eight. The existing right of way has been constructed with a sealed surface of varying formation width and condition along the length. **WDC EES** indicates that for a right of way serving 6-8 lots a 6m wide formation including 0.25m wide unsealed shoulder each side is required. Localised widening and surfacing of the existing access is proposed for compliance with **WDC EES**. This widening is as follows:

- To install a passing bay on the existing right of way on Lot 2 DP 398000 on or about the south-western portion of their property. The passing bay is to be constructed in accordance with the Councils engineering standards and will be formed with a sealed surface. The passing bay is to be constructed on the northern side of the right of way corner, just before the upgraded culvert mentioned below and approximately 80m past the entrance to 49 Pepi Road.
- To upgrade the existing culvert crossing, generally located at the boundary between proposed Lots 2 and 3, where the new driveway will exit onto the existing right of way. The intention is to upgrade the existing culvert to ensure that it meets the **WDC EES** and to

ensure that it has adequate capacity to convey stormwater from the eastern to the western side of the existing right of way.

The proposed access to Lots 2 and 3 is via an existing vehicle crossing from the right of way extension of Pepi Road. This vehicle crossing and a short length of shared right of way access within Lot 3 will be upgraded to form a suitable access.

3.3 Building Site Suitability

Base Group Consulting (**BGC**) has undertaken a visual inspection of the site and has not identified any recent land instabilities at the proposed building sites. However, evidence of historic land movement and previous instabilities are present on the steeper slopes within the property and on adjacent land. Accelerated surface creep, cut batter failures and shallow slippage can be expected in the steeper parts of the site.

The historic aerial photograph included as Figure 3 in the **BGC** report provides a good indication of the underlying land form and the location of past land movement in relation to the proposed building sites. The building sites themselves appear to have changed little since 1942, and do not appear to have been subject to episodic slippage or movement. The proposed building sites within Lot 2 and 3 are considered to be sufficiently stable for the proposed residential development. However the site is considered to be stability sensitive, reinforcing the need for good stormwater management.

Groundwater was not encountered during excavation of the boreholes but moisture content was seen to increase with depth. Given the nature of the proposed development groundwater is unlikely to present significant difficulties when developing the site. Further recommendations are provided in the attached **BGC** report.

3.4 Wastewater Disposal

There is currently no reticulated wastewater system available at the site and as such all wastewater generated by new residential dwellings will require on-site management.

For proposed lot 2, the preferred method of wastewater management is traditional septic tank achieving primary treated effluent discharging to an evapotranspiration seepage (ETS) bed system. Specific details of this recommended system are provided in section 4.2 of the attached **BGC** report.

With regards to proposed lot 3, given the site topography, proximity to surface water and other site constraints **BGC recommends** that a secondary treatment system be provided at this site. The system will be required to produce effluent of a quality meeting or exceeding the requirements of secondary treated effluent (<20g/m³ BOD₅ and <30g/m³ SS). A nitrogen removal plant is recommended for use at the site (to achieve TN < 15mg/l) and this can be achieved using an aerated treatment plant such as a suitably sized Hynds Ultimate system or similar. Further recommendations are provided in the attached **BGC** report.

3.5 Stormwater Control

The existing site drainage is achieved by general surface runoff following the natural topography of the property. Proposed Lots 2 and 3 contain elevated hilltops shedding surface water runoff to different sub-catchments each draining to the Harbour. A majority of the sites drains west via a clearly defined gully along the proposed ROW alignment before discharging to the valley floor at Pepi Road.

The site has moderately steep topography with elevated building sites and flooding of the building sites is not expected. The existing vehicle access tracks to the proposed building sites have limited surface water drainage controls and will require improvement.

It is recommended that the runoff from Lot 3 be collected and directed to suitable roadside drainage along the driveway for conveyance to the natural water course. Discharge of stormwater to the slopes below the building site is not recommended.

Similarly the runoff from Lot 2 can be collected and directed to the driveway drainage along for conveyance to the natural water course. Alternatively a level spreader outlet can be provided to discharge stormwater to the east of the property, ensuring an acceptable rate of dispersed discharge at the boundary.

3.6 Water Supply (Domestic)

At present there is no reticulated water supply at the development site and it is not expected that the reticulated supply will be made available in the near future. It is considered that the most convenient method of potable water supply for new households is by means of individual household on-site rainwater harvesting which is the source of drinking water for a large part of New Zealand's rural population. The use of rainwater harvesting has the added benefit of contributing to stormwater retention and minimising the impact of post development

stormwater runoff. This can provide significant benefits to the design and operation of downstream stormwater systems.

3.7 Fire Fighting

It is anticipated that for this development, a consent notice will be included advising the future purchasers that compliance with fire fighting standards is required. This will include the option of either supplying the required water storage or the installation of a sprinkler system.

3.8 Electricity and Telecommunications

Electricity and telecommunication services will be provided to the boundary of each new allotment prior to the release of service provider's clearance letter and the application for 224(c). This can be covered by Council's standard 223 and 224c conditions of consent.

3.9 Conservation Covenants

Large areas of established native bush are present on site that form part of a much larger area of established native bush in the Parua Bay Area, spanning many titles. It is proposed to protect areas of bush on all proposed lots by registering conservation covenants shown as areas B, C, D, E, F and G. The proposed covenants will contain a total of approximately 2.3150ha of bush.

3.10 Vegetation removal

A 600m² building area is shown on proposed Lot 3 on the attached scheme plan S13312 Rev B dated December 2014. Rule 38.3.18 'Indigenous Vegetation removal', it is not proposed that any vegetation clearance will be greater than the 500m² as permitted under this rule. If necessary, a consent notice condition can be put in place advising future owners of this District Plan restriction.

4. RESOURCE CONSENT ACTIVITY STATUS

4.1 District Plan Activity Status and Relevant Assessment Criteria

Resource consent is required under the following District Plan rules:

Whangarei District Plan

- 73.3.1 Allotment Area – Non Complying Activity
- 73.3.7(b) Property Access – Restricted Discretionary Activity

The activity is a controlled activity with regards to the remaining rules of Section 73.

While a small portion of the site is flood susceptible, no structures will be established within this area. The site is not located within any other ‘Resource Areas’ as shown on the District Plan ‘Resource Area’ Maps. The subdivision fails to comply with the 4ha average density requirements, and therefore qualifies as a non-complying activity under Rule 73.3.1.

Overall the proposal is a non-complying activity under the provisions of the Whangarei District Plan.

4.2 National Environmental Standard – Soil Contamination

All applications that involve subdivision, an activity that changes the use of a piece of land, or earthworks are subject to the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011. The regulation sets out the requirements for considering the potential for soil contamination, based on the HAIL (Hazardous Activities and Industries List) and the risk that this may pose to human health as a result of the proposed land use.

Potentially Contaminated Site Search has been commissioned from Whangarei District Council, which has not identified any indication of current or previous HAIL activities on the site. This site search is included in [Appendix 5](#).

5. DECISION MAKING CONTEXT

5.1 Resource Management Act 1991

All resource consent applications are subject to the Part 2 of the RMA. The proposal is assessed in terms of the Part 2 matters in Part B of this report.

Subject to Part 2, Section 104 of the Act sets out the matters that a consent authority should “have regard to” when considering an application(s) for resource consent.

Section 104 Consideration of Applications

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—

(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.

(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

Section 104B sets out specific requirements for the determination of discretionary or non-complying activities.

Section 104B Determination of Applications for Discretionary or Non-Complying Activities

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.

The requirements of Section 104(1), most notably the environmental effects and the provisions of the Whangarei District Plan are the focus of remainder of this report.

Section 104D of the Act identifies particular restrictions for non-complying activities.

Specifically the consent authority must only grant approval for a non-complying activity (in this case the subdivision) if it is satisfied that either -

- (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
- (b) the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

The Act also clarifies that the permitted baseline is relevant in terms of the consideration under s104D(1)(a).

The relevant matters under s104D are addressed in the remaining sections of this report.

6. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

6.1 Assessment Context

When consent authorities decide whether or not to grant a resource consent, they must consider the actual and potential effects of the proposed activity on the environment. Sections 95D(1)(b) and 95E(2)(a) of the Resource Management Act (RMA) provide that when determining the extent of the adverse effects of an activity or the effects on a person, a council ‘may disregard an adverse effect if a rule or national environmental standard permits an activity with that effect’.

The permitted activity baseline applies to consideration of both who is affected and whether effects are, or are likely to be, minor.

If a council applies the baseline, only the adverse effects that are over and above those that form the baseline are relevant when considering who is affected and whether effects are, or are likely to be, minor. It is at the council’s discretion whether to use the permitted baseline as the basis for assessing effects and identifying affected parties.

The purpose of the permitted baseline test is to isolate the adverse effects on the environment and make them irrelevant if an activity with those effects is permitted by the plan, or already has a resource consent.

As distinct from the permitted baseline the ‘environment’ upon which effects should be assessed is the existing and reasonably foreseeable future environment. In identifying the environment, a council should consider the environment as it is at the time of the application. It should also consider the likelihood of change to that environment in the future, based upon the activities that could be carried out as permitted activities and under resource consents that have been granted (where it is likely that they will be given effect to).

6.2 The “existing environment”

The starting point for considering the effects of the proposed subdivision is establishing the “existing environment” against which the effects are to be measured. As confirmed in *Queenstown Lakes District Council v Hawthorn Estate Limited* the word “environment” embraces the future state of the environment as it might be modified by the utilisation of rights to carry out permitted activities under a District Plan. It also includes the environment as it might be modified by the implementation of resource consents which have been granted at the

time a particular application is considered, where it appears likely that those resource consents will be implemented.

Permitted activities that may take place on the other lots in the subdivision are:

- Commercial activities that do not exceed 500m² building GFA, where there is 100m of separation from dwellings on adjoining sites, and provided the traffic movements do not exceed 30 per site. Activities may include *inter alia* manufacturing/processing type businesses, especially (although not limited to) those that are ancillary to primary production activities (i.e. pellet making, honey processing).
- Up to 500m² of vegetation clearance per site for house site purposes.
- Farm buildings (sheds etc.) not exceeding a GFA of 500m² or 5% of the net site area, with a height of up to 10m.
- Production forestry (up to 30m from existing dwellings).
- The keeping of cats and dogs.

While it is not reasonable to expect that all of these activities will be established on the surrounding land, it is reasonable to expect that at least some of them will, particularly as there is examples of these activities located throughout the Countryside Environment.

Understanding the future state of the environment in the context of considering the effects of the proposed subdivision is important because it confirms that additional buildings can be constructed on the lots as a permitted activity, therefore affecting the natural character of the site and its surrounds. It cannot be assumed that the environment will remain static when there are a raft of other permitted activities that are possible in the Countryside Environment. It is also important to be cognisant of the fact that these activities could generate similar or greater effects than those generated by the proposed subdivision.

6.3 The “permitted baseline”

Section 104(2) of the RMA allows a consent authority to disregard an adverse effect of an activity on the environment if a plan (the Whangarei District Plan in this instance) permits an activity with that effect. This is commonly referred to as the “permitted baseline”.

The permitted baseline is relevant to the consideration of the effects of the proposed subdivision. The WDP is an effects based plan. In respect to the Countryside Environment, rather than limiting the type of activities that can be established in the zone (with the exception of a select few), the plan contains a suite of rules to control the “effects” of activities. Accordingly, the permitted activity rules are essentially standards that represent the baseline

for the level of effects considered acceptable in the zone. Understanding the permitted baseline therefore enables the assessment of effects to focus only on those that exceed the base levels specified in the plan.

Activities that fall within the permitted baseline on the subject site are *inter alia* as follows:

- Small scale manufacturing businesses i.e. pellet making.
- Production forestry.
- Up to 500m² of vegetation clearance.
- Farm buildings (sheds etc.) not exceeding a GFA of 5% of the net site area, with a height of up to 10m.
- The keeping of cats and dogs.

The potential environmental effects of the proposed subdivision over and above the permitted baseline are:

- Up to 60 additional traffic movements (2 additional lots).
- Two additional dwellings and ancillary residential buildings.

Positive effects relative to the permitted baseline are as follows:

- Restrictions on light reflective values for finishing colours.
- Building heights restricted to below the permitted standard for the zone.

6.4 Landscape Character

The subject property is one of approximately 35 properties located on this southward facing hill overlooking the Whangarei Harbour. Much of the area has been extensively subdivided with lot sizes in the subject Countryside zoning being as small as 3,000m². Many of these properties are located off Te Rongo Road to the north, and in two locations located southwest and southeast of the subject site along Whangarei Heads Road. In this location, there are only 3 lots that are over 20ha in size. Two of these lots are located immediately northwest and southeast of the subject site, and are predominantly covered by native bush.

The landscape assessment undertaken by Simon Cocker Landscape Architecture (**SCLA**) has assessed effects of the subdivision on the landscape character of the locality. The report attached in appendix 8. The report has stated that

“with respect to landscape character and quality, the pattern of development will be consistent with the existing pattern. The existing development has resulted in the creation of a settled rural landscape with clusters of dwellings. For the most part, built development close to and to the north of the site has been

integrated within a landscape structure that is dominated by vegetation. Development on the open portion of the Te Rongo Road Ridge is more exposed to wider views.”

Mr Cocker has then concluded:

“since the proposal will be consistent with the existing built pattern of the landscape, and will only require limited physical change, it is my opinion that the potential effects will be less than minor overall”

It is also noted that this site is not currently used for production purposes due to the restrictions in topography and existing vegetation. As such the subdivision will not result in a loss of productive land. Nevertheless, due to the topography and existing vegetation the visibility of the site is limited from public places. The addition of two future residential units on this allotment will not adversely affect the landscape or character amenity values in this area.

6.5 Amenity Effects

SCLA has identified 3 groups of potentially affected parties in respect to this subdivision. An assessment of visual effects on these groupings is contained in the attached report. The assessment is summarised as follows:

Occupants of dwellings to the north of the site.

This grouping includes occupants of dwellings at numbers 118, 100, 94 and 92 Pepi Road. **SCLA** has identified that while the new buildings have the potential to be seen in certain locations from some of these sites, the views are restricted by existing vegetation and topography. **SCLA** also points out that the new dwellings will not impose on the principle views from the sites which are generally focused towards the panoramic views to the north. Overall effects on these parties will be less than minor.

Occupants of dwellings situated on or accessed off Te Rongo Road.

As with the previous viewer group, the majority of dwellings within this viewer group are located in elevated locations and are orientated to take advantage of the panoramic views toward the harbour and ocean. **SCLA** has assessed that while some of these dwellings may be able to see the future dwellings on these sites at a distance, these views will not detract from the landscape, nor result in cumulative adverse effects given the existing character and existing pattern of development in the vicinity. Effects on this group will be less than minor.

Occupants of dwellings in the wider area, including Parua Bay, and Headland Farm Park.

Given the separation distance between this group and the subdivision site, and the existence of lifestyle development already established nearby, **SCLA** considers that the occupants of

dwellings in the wider area are unlikely to be adversely affected. Effects on this grouping will be less than minor to negative.

6.6 Precedent Effects

The likelihood of this subdivision setting a precedent for continued non-complying subdivision in the vicinity is low. The reasons for this are as follows:

1. The topography of the site is unique in a way that the two new lots are in locations where views of the new dwellings are restricted
 - The Lot 2 Building site is on an existing small paddock adjacent to existing dwelling on Lot 1.
 - The building site on Lot 3 is located on North facing ridge, reducing its visual impact on the coastal environment to the south.
2. Existing native vegetation is located on all sites created by this subdivision. It is proposed to covenant these areas of bush to assist in reducing visual impact of the additional dwellings, as well as protecting ecological values that are existent on this site.
3. The site is not located within the Coastal Environment according to the Proposed Regional Policy Statement Maps. This is unlike many other lots in the vicinity that are located within this area.

6.7 Reverse Sensitivity

The subdivision will not result in reverse sensitivity with regards to residential and agricultural activities as is sometimes the case in the Countryside Environment. This case is somewhat unique for Countryside Environments, where neighbouring sites are currently either used for rural residential purposes or covered by native bush. Agricultural activities are limited to small scale lifestyle grazing which is often accessory to the residential activity on sites.

6.8 Traffic Effects

Due to the breach of District Plan Rule 73.3.7(d) it is proposed that where practicable the existing right of way extension from Pepi Road will be upgraded to service proposed Lot 2 and 3 as part of the subdivision works. The following upgrades are proposed:

- To install a passing bay on the existing right of way on Lot 2 DP 398000 on or about the south-western portion of their property. The passing bay is to be constructed in accordance

with the Councils engineering standards and will be formed with a sealed surface. The passing bay is to be constructed on the northern side of the right of way corner, just before the upgraded culvert mentioned below and approximately 80m past the entrance to 49 Pepi Road.

- To upgrade the existing culvert crossing, generally located at the boundary between proposed Lots 2 and 3, where the new driveway will exit onto the existing right of way. The intention is to upgrade the existing culvert to ensure that it meets the **WDC EES** and to ensure that it has adequate capacity to convey stormwater from the eastern to the western side of the existing right of way.

The results of these upgrades will mean the effects associated with the 9 users of this access will be less than minor. It is also noted that the written approval of 4 of these users have been obtained and are included in [Appendix 7](#).

6.9 Overall Effects

Overall the proposed subdivision will not generate any adverse environmental effects that are more than minor, and the effects beyond the adjoining properties will be less than minor.

7. OBJECTIVES AND POLICIES ASSESSMENT

The operative Whangarei District Plan is an effects based plan. As a result, unlike some other district plans, the District Plan objectives and policies are not zone specific. Rather they are topic specific (i.e. amenity, landscape, transport etc.), meaning that an assessment has to be made as to which ones are relevant for particular activities in particular zones on a case by case basis.

The District Plan has 24 policy chapters. Of these, the objectives and policies of particular relevance to the proposed subdivision are found in Chapter 5 'Amenity Values' and Chapter 8 'Subdivision and Development'. In general terms, the relevant provisions of both these chapters seek to locate subdivision and development in areas where existing amenity values will not be compromised. They also seek to avoid adverse effects, including:

- Reverse sensitivity effects.
- Adverse effects on landscape features.

Specific provisions that relate to these matters are listed as follows:

5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.

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.

5.4.5 Countryside Environments

To ensure rural amenity values in the Countryside Environments are protected from subdivision, use or development that is sporadic or otherwise inappropriate in character, intensity, scale or location.

8.3.2 Subdivision and development that does not detract from the character of the locality and avoids conflicts between incompatible land use activities.

8.4.3 Density of Development

To ensure that subdivision and development results in a pattern and density of land use which reflects flexibility in allotment size, and is of a density appropriate to the locality.

8.4.4 Cumulative Effects

To ensure that the cumulative effects of on-going subdivision and development do not compromise the objectives and policies of this Plan, in particular those objectives and policies relating to reducing conflicts between incompatible landuse activities, the consolidated and orderly development of land and the density of development.

8.4.5 Reverse Sensitivity

To ensure that subdivision and development in, or adjacent to:

- 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.

8.4.7 Design and Location

To ensure subdivision and development is designed and located so as to avoid, remedy or mitigate adverse effects on, and where appropriate, enhance:

- Natural character of the coastal environment, indigenous wetlands, lakes and rivers and their margins;
- Landscape values;
- Ecological values;
- Amenity values and sense of place;
- Archaeological, cultural (including tangata whenua) and heritage features;
- Sites of Significance to Maori;
- Heritage areas of significance to Maori;
- The relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
- Infrastructure, particularly roads and the Airport;
- Water and soil quality;
- Versatile soils;
- Mineral resources;
- Business growth and development opportunities within defined Business Environments;
- Cross boundary coordination;
- Human health and safety.

8.4.23 Design and Location

To ensure that subdivision and development does not detract from, or compromise, identified landscape features (including the natural character of the feature(s) when viewed from the sea), or significant ecological features identified in the Plan or through assessment against Appendix 3 of the Regional Policy Statement.

The proposed subdivision will, by implication, increase the density of development on Pepi Road. However, this area along Whangarei Heads Road and including Te Rongo Road has been extensively subdivided with lot sizes in this part of the Countryside Environment being as small as 3000m². It is noted that in this vicinity, there are only 3 lots that are over 20ha in size. Two of

these lots are located immediately northwest and southeast of the subject site, and are predominantly covered by native bush. The proposed subdivision has an average density of 1.2550ha, which is generally consistent with the rural residential development densities and patterns in this particular landscape unit [policies 5.4.5 and 8.4.3].

The site is screened from all nearby public roads, and from other external locations by existing topography and vegetation. These features restrict views of the site, and potential views of future dwellings on the lots, from external locations [objective 5.3.5 and policy 8.4.7]. They also create the appearance of fragmentation within the landscape. This existing pattern will not be exacerbated by the proposed subdivision as the proposed new boundaries generally follow the lay of the land and the large areas of vegetation already evident on the site [policies 8.4.7 and 8.4.23].

With regards to reverse sensitivity, it is not possible that the establishment of three rural residential allotments in this vicinity would result in any reverse sensitivity effects given that the lots adjacent to the subject site are either already rural residential in nature, or predominantly covered by native bush. It is therefore considered that the proposal is entirely consistent with policy 8.4.5.

Overall, the proposed subdivision does not compromise the relevant objectives and policies of the District Plan, subject to the adherence to the proposed conditions of consent outlined in Section 10 of this report.

8. PART 2 ASSESSMENT

Applications considered under Section 104(1) are subject to Part 2 of the **RMA**. Section 5 sets out the purpose of the Act. Section 6 sets out the matters of national importance that shall be recognised and provided for in achieving the purpose of the Act. Section 7 deals with other matters that regard shall be had to in achieving the purpose of the Act. Section 8 deals with Treaty of Waitangi matters that shall be taken into account in achieving the purpose of the Act.

The purpose of the Act, as stated in Section 5(1) is to promote the sustainable management of natural and physical resources. Section 5(2) of the Resource Management Act, 1991 defines sustainable management as:

“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 reasonable foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying any adverse effects of activities on the environment”*

The proposed subdivision is consistent with the purpose of the RMA for the following reasons:

1. The subdivision enables the efficient use of resources by allowing the land to be developed along the same lines as other land in the vicinity of the site.
2. The subdivision does not compromise existing landscape and amenity values, and is consistent with the development pattern in the area.
3. The subdivision will not compromise existing agricultural activities and will not result in a combination of incompatible land uses in the vicinity.

The proposal does not offend any matters of national importance in Section 6 of the Act, or any of the other matters set out in Sections 7 and 8. Overall the subdivision enables better utilisation of the land.

9. OTHER PLANNING DOCUMENTS ASSESSMENT

9.1 New Zealand Coastal Policy Statement

The preamble to the NZCPS states that:

The New Zealand Coastal Policy Statement (NZCPS) is a national policy statement under the Act. The purpose of the NZCPS is to state policies in order to achieve the purpose of the Act in relation to the **coastal environment** of New Zealand [my emphasis].

The Northland Regional Council has recently prepared a new Regional Policy Statement. Policies 4.5, 4.5.1, and method 4.5.4 collectively require the “coastal environment” to be mapped and incorporated into the District Plan.

Policy 4.5 - Identifying the coastal environment, natural character, outstanding natural features, outstanding natural landscapes and historic heritage resources

Policy 4.5.1 Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character

The areas identified in the Regional Policy Statement - Maps will form Northland's:

- (a) **Coastal environment**; [my emphasis]
- (b) High and outstanding natural character areas within the coastal environment (except where the coastal marine area beyond harbours /estuaries remain unclassified); and
- (c) Outstanding natural features and outstanding natural landscapes.

Where an area in the Regional Policy Statement – Maps has been amended in accordance with Method 4.5.4(a), and the amended area is operative in the relevant district or regional plan, it shall supersede the relevant area in the Regional Policy Statement – Maps.

4.5.4 Method – Statutory plans and strategies

- (1) Within two years of this Regional Policy Statement becoming operative (or the first relevant plan change after the Regional Policy Statement becoming operative, whichever is the earlier) the regional and district councils shall notify a plan change to their relevant regional and district plans to incorporate the Regional Policy Statement – Maps.

The RPS contains maps that identify *inter alia* the extent of the coastal environment. The subject site is not located within this area. The extent of the coastal environment in this location (as mapped in the RPS) is beyond legal challenge. As a result the NZCPS does not apply to the subject site, and is therefore not a matter that needs to be considered in respect to the proposed subdivision.

9.2 Operative and Proposed Regional Policy Statement

Context

The Regional Policy Statement for Northland (RPS) was made operative in July 2002. In October 2012, a new Proposed Regional Policy Statement for Northland (PRPS) was publicly notified, with a view to eventually replacing the operative RPS. Hearings have taken place for the PRPS, and as of 17th September the Regional Council has adopted the Commissioners recommendations as its decision. Accordingly, both documents currently have legal effect.

Both documents contain high level policy guidance for the development of lower order Regional and District Plans, and for the activities of local authorities in carrying out their functions Section 30 and 31 of the Act.

Operative RPS

In regard to the operative RPS, this contains a broad range of topic related objectives and policies. Overall, the design of the proposed subdivision, will not fragment or compromise what potential exists on the property, and to this end is not in conflict with the operative RPS.

Proposed RPS

The proposed RPS has a strong focus on landscape preservation, as is evidenced by the incorporation of the Northland Mapping Project in the document. The property has not been identified with any proposed RPS overlays. By implication the proposed subdivision will not offend the policy direction in the PRPS for the following reasons:

Overall the proposed subdivision will not compromise the objectives and policies of either the operative of proposed Regional Policy Statements.

10. AFFECTED PARTIES, CONSULTATION & NOTIFICATION

10.1 Potentially Affected Parties and Notification

Notification of resource consent applications is at the discretion of the consent authority. However, an application must be notified if the adverse effects of the activity are more than minor, it is requested, or a rule or a national environmental standard requires it.

Based on evidence provided by the attached SCLA report, visual and character effects of the proposed subdivision are considered to be less than minor. Similarly, the application is generally consistent with the objectives and policies of the District Plan.

With regards to traffic effects the resulting effects of 2 additional users to the driveway will be less than minor given the upgrading works that will be undertaken to improve the existing situation. Notwithstanding this, the applicant has sought and obtained the written approval of four adjoining landowners. These written approvals are attached Appendix 5.

Given these considerations, it is requested that the application be processed on a non-notified basis.

11. CONCLUSION

On the basis of the assessment of effects on the environment provided in Section 6 of this report, and subject to appropriate conditions of consent, the effects of the proposed subdivision can be avoided, remedied or mitigated in terms of the requirements of Section 104(1)(a) of the Act.

On the basis of the planning and Part 2 assessment provided in Sections 7 and 8 of this report, and subject to appropriate conditions of consent, the proposed subdivision is in accordance with the policy direction contained in the Whangarei District Plan, and with the purpose of the RMA.

Having regard to all of the relevant matters in Section 104(1), the proposed subdivision can be approved subject to appropriate conditions of consent.