

# Hearings Commissioner

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## **Notice of Meeting**

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

**Friday  
12 November 2010  
9.15 am**

**Application by  
Wilson Family Trust**

**Commissioners  
Greg Hill**

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# Planning Report and Recommendation to Hearings Commissioner Greg Hill on a Resource Consent Application by



Wilson Family Trust to subdivide Lot 2 DP 207869 into three lots in the Living 3 Environment. Proposed Lot 1 has an area of 1.2581 ha (1.0113 ha nett), Proposed Lot 2 has an area of 8676m<sup>2</sup> and Proposed Lot 3 has an area of 2123m<sup>2</sup> (2000m<sup>2</sup> nett). The configuration of these allotments is shown on the plan of subdivision prepared by Reyburn & Bryant 1999 Ltd reference S10902 B and dated August 2007. The proposal is assessed to be a controlled activity in terms of allotment size.

The residential lots will be serviced via a network of private accesses. As the number of existing users on Landowners Lane (a private access road) already exceeds eight (being approximately 23 lifestyle lots (including recently approved but not completed subdivisions), plus the Tutukaka Recreation Reserve), the proposal is a restricted discretionary activity under Rule 71.3.8 Property Access.

The proposal is also regarded as a restricted discretionary activity as per Rule 47.2.7 Formation Standard and Rule 47.2.9 Shared Access Widths as the proposed upgrade to Landowners Lane is not of sufficient standard to satisfy the District Plan requirements as the proposed upgraded standard will not meet 'road' standard.

The property is located within the Living 3 Environment of the Operative Whangarei District Plan and there are no resource area overlays applying to the site.

This report was written and peer reviewed by the following signatories:

Consultant Environmental Planner  
(Consents):

Date: 29 October 2010

Team Leader (Consents):

Date:

Resource Consents Manager:

Date:

# Resource Management Act 1991

**Hearing By:** Hearing's Commissioner Greg Hill relating to an application by Wilson Family Trust to subdivide Lot 2 DP 207869 into three lots in the Living 3 Environment.

**Evidence By:** Ian McAlley BPlan (Hons.) MNZPI, Consultant Environmental Planner

**File Refs:** SD1000001 P101110.SD

**Dated:** 28 October 2010

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## 1. The Proposal

- 1.1 Wilson Family Trust proposes to subdivide Lot 2 DP 207869 into three lots in the Living 3 Environment. Proposed Lot 1 has an area of 1.2581 ha (1.0113 ha nett), Proposed Lot 2 has an area of 8676m<sup>2</sup> and Proposed Lot 3 has an area of 2123m<sup>2</sup> (2000m<sup>2</sup> nett). The proposal is assessed to be a controlled activity in terms of allotment size.
- 1.2 The residential lots will be serviced via a network of private accesses. As the number of existing users on Landowners Lane (a private access road) already exceeds eight (being approximately 23 lifestyle lots (including recently approved but not completed subdivisions), plus the Tutukaka Recreation Reserve), the proposal is a restricted discretionary activity under Rule 71.3.8 Property Access.
- 1.3 The proposal is also regarded as a restricted discretionary activity as per Rule 47.2.7 Formation Standard and Rule 47.2.9 Shared Access Widths as the proposed upgrade to Landowners Lane is not of sufficient standard to satisfy the District Plan requirements as the proposed upgraded standard will not meet 'road' standard.
- 1.4 An existing right of way easement over adjoining properties provides access from the subject site onto Landowners Lane and there is also pedestrian access provided across the subject site to an unformed road that abuts the coastal marine area.

## 2. The Site and its Setting

- 2.1 The subject site has an area of approximately 2.3380 ha and is contained in certificate of title NA 136B/508.
- 2.2 The property is accessed via Landowners Lane, a private access road servicing approximately 23 lifestyle lots and the Tutukaka Recreation Reserve. The lane extends east from Matapouri Road for an estimated 1.3 kilometres to the Tutukaka Recreation Reserve. The Tutukaka Recreation Reserve is administered by the Department of Conservation and includes a network of walkways. Kukutauwhao Island and the Tutukaka Lighthouse are to the east of the reserve and public access is obtained via the reserve.
- 2.3 The site is located on the northern side of Landowners Lane and there is one dwelling on the site, located towards the seaward western portion. A formed driveway services the existing dwelling with the remainder of the site being a mixture of pasture and native planting. A small amenity pond is located in the middle of the site, against its boundary with the existing driveway.

- 2.4 The allotments surrounding the property are also in pasture with scattered native plantings, with a number of smaller residential allotments located to the north of the site along the coastal edge. The surrounding area is characterised by lots ranging in size from 3000m<sup>2</sup> to 5ha.
- 2.5 The site is subject to low, medium & high instability hazard designations identified on the eastern corner of the site on the Whangarei District Council's (WDC) GIS Maps. The engineering report compiled by Richardson Stevens submitted by the applicant includes a site investigation that identifies moderately expansive soils on each lot. Lot 3 has uncontrolled fill which is unsuitable for dwelling foundations unless the fill area is removed.
- 2.6 The existing formation of Landowners Lane has cracks in the pavement in several locations which could indicate slips/instability in the underlying subgrade which may require retaining. Matapouri Road is a collector road having an operating speed environment of 60 – 70 kph in the area of its intersection with Landowners Lane, requiring sight lines of 65-85 metres.
- 2.7 The Council's GIS database indicates that the site is included within an area of kiwi presence.
- 2.8 It is noted that similar applications have recently been applied for to subdivide properties that access Landowners Lane. These applications have been granted following assessment and subject to associated conditions requiring the formation standards of portions of Landowners Lane to be improved to ensure that the potential effects of these proposals on safe and efficient traffic movement are mitigated.

### **3. Whangarei District Plan**

- 3.1 The site is located within the Living 3 Environment of the Operative Whangarei District Plan, with no resource notation overlays or coastal hazard areas shown on planning map 29.
- 3.2 The site is within an area of mixed zonings including the Living 3 Environment generally surrounding the site and further north and the Countryside Environment to the south with Coastal Countryside Environment further south. Areas of Open Space Environment are also scattered in the vicinity.
- 3.3 The activity complies with the relevant rules for controlled activities within Chapter 71 of the District Plan (subdivision rules in the Living 1, 2 and 3 Environments) relating to:
  - i. allotment area (minimum net site area of 2,000m<sup>2</sup> applying to sites in the Living 3 Environment or where sites are not connected to a reticulated sewage system, the allotment area rules do not apply to access lots),
  - ii. allotment shape (each lot can contain a circle of 16 metre diameter and a 14 metre by 14 metre square),
  - iii. building area (the Council's Senior Environmental Engineering Officer is satisfied that a building site of at least 100 m<sup>2</sup> is available on each of the vacant lots),
  - iv. existing buildings,
  - v. sites of significance to Maori (none shown on Planning Map 29),
  - vi. provision for extension of services,
  - vii. water supply (all lots will require on-site supply and reticulation as there is no public system available for connection),

- viii. stormwater (on-site stormwater attenuation will be required to limit flows to predevelopment levels),
  - ix. sewage,
  - x. electricity,
  - xi. telecommunications, and
  - xii. earthworks.
- 3.4 Rule 71.3.8 Property Access provides that subdivision is a controlled activity if:
- a) *every allotment is capable of having vehicular access to a road; and*
  - b) *access shall be provided where it is shared by 2 or more allotments; and*
  - c) *the access complies, in all respects, with the relevant standards in Appendix 6 and Appendix 9; and*
  - d) *no more than 8 allotments, or 8 residential units, are served by a shared access.*
- 3.5 The proposal does not satisfy the road transport provisions in Appendix 6. Appendix 6J specifies the standards relating to shared access widths where up to eight vacant allotments and/or residential units are serviced in the Living 3 Environment.
- 3.6 Landowners Lane is a private road that is not maintained by Council and it is not currently formed to a standard in keeping with the Council's standard formation widths for the existing level of use (approximately 23 lifestyle lots and the Tutukaka Recreation Reserve). Tutukaka Recreation Reserve located at the southern termination of Landowners Lane at Tutukaka Head has a right of access over the private way and generates multiple traffic movements.
- 3.7 This application if successful would increase the number of users on Landowners Lane to approximately 25. Therefore, having regard to the number of users on Landowners Lane Appendix 6J does not apply and as such Landowners Lane should be formed to meet 'road' standards.
- 3.8 The applicant is not proposing to increase the formation standard of Landowners Lane to meet road standards and has instead offered to undertake upgrading works in the area where the subject site has frontage to Landowners Lane as a means of mitigating any effects with regard to the additional number of users on Landowners Lane.
- 3.9 As the applicant is not proposing to upgrade Landowners Lane to road standard the subdivision is assessed to be a **restricted discretionary** activity under Rule 71.3.8, with the Council's discretion restricted to the following matters:
- i. *The relevant provisions of the Whangarei District Council's Environmental Engineering Standards 1998;*
  - ii. *The adequacy of the access for the anticipated use;*
  - iii. *The ability of the access to contain required services;*
  - iv. *Traffic safety and visibility;*
  - v. *The need for acceleration and deceleration lanes;*
  - vi. *Type, frequency and timing of traffic;*
  - vii. *Access design, number and location of vehicle crossings;*
  - viii. *Efficiency and safety of roads;*
  - ix. *Need for forming or upgrading of roads in the vicinity of the site;*
  - x. *Need for traffic control, including signs, signals and traffic islands;*

- xi. the need for access to the allotment;*
- xii. the safe and efficient movement of people, vehicles and goods;*
- xiii. the ability of the road structure to withstand anticipated loads;*
- xiv. the effects of water runoff.*

3.5 Chapter 47 of the District Plan includes road transport rules. Rule 47.2.7 relating to formation standards requires all shared access ways to be constructed to meet the requirements of Appendix 9. As outlined above, on the basis of the upgrade offered by the applicant the subdivision does not comply in this respect. Therefore the proposal is a **restricted discretionary** activity under this Rule, with the Council's discretion restricted to the following matters:

- i. Surfacing material;*
- ii. Gradient of the area to be surfaced;*
- iii. Amenity values;*
- iv. Stormwater control;*
- v. Type and frequency of use;*
- vi. Pedestrian safety;*
- vii. Traffic safety and visibility.*

3.6 Rule 47.2.9 Shared Access Widths requires that shared access be constructed in accordance with Appendix 6J. As previously discussed, the current formation and the improvements proposed will not result in Landowners Lane being constructed to a road standard. Therefore the proposal is a **restricted discretionary** activity under this Rule, with the Council's discretion restricted to the following matters:

- i. Effects on amenity values;*
- ii. Road safety and efficiency;*
- iii. Type and frequency of use;*
- iv. Traffic safety and visibility;*
- v. Effects of dust;*
- vi. Effects of stormwater.*

3.7 Overall, the subdivision is assessed to be a **restricted discretionary** activity.

#### **4. Whangarei Coastal Management Strategy – Structure Plan: Tutukaka**

4.1 The Council adopted the structure plan for Tutukaka on the 11<sup>th</sup> February 2009. The Sandy Bay – Tutukaka Policy Area extends south along the rocky east coast shoreline to the mouth of the Ngunguru River. The structure plan provides for a community/village centre within a pedestrian orientated area immediately southwest of the site.

4.2 In terms of its legal status, the Structure Plan is a non-statutory policy document. Therefore the Plan is not required or enforced by legislation and the provisions in the Plan do not have statutory or legal status until they are incorporated into Council's statutory documents, such as the Long Term Council Community Plan (LTCCP), District Plan and Asset Management Plans. The Structure Plan is intended to guide future development patterns, but is not considered to be of significant relevance to this application.

## 5. Consultation and Notification

- 5.1 The applicant did not provide any written approvals with the application and stated that as other recent subdivision applications on Landowners Lane were subject to a limited notification process that there was some anticipation that the same process would be applied to this application.
- 5.2 Following assessment, the application was notified on the 4<sup>th</sup> February 2010, on a limited basis, specifically to the owners and occupiers of properties that had access to Landowners Lane.
- 5.3 The Council received four submissions on the application, all within the required statutory timeframes and the individual submissions are summarised as follows:

Submitter	Issues and Relief Sought
<p><b>Director-General of Conservation</b></p> <p><b>Seeks Amendments</b></p> <p><b>Requests to be heard</b></p>	<ul style="list-style-type: none"> <li>♦ Administers the Tutukaka Recreation Reserve at the end of Landowners Lane. Public access to the reserve is via car access at the end of Landowners Lane.</li> <li>♦ Past, current and future subdivision located on Landowners Lane has adverse cumulative effects on the safe use and enjoyment of the recreation reserve. The standard of road is inadequate for the level of development that has been allowed along it.</li> <li>♦ The application does not meet the purpose of sustainable management under the Resource Management Act 1991.</li> </ul> <p><i>Relief sought: Upgrade the entire length of the road to the required standard.</i></p>
<p><b>New Zealand Historic Places Trust</b></p> <p><b>Neutral stance</b></p> <p><b>Does not wish to be heard</b></p>	<ul style="list-style-type: none"> <li>♦ The Trust does not consider that heritage will be at any increased level of risk from the proposal.</li> </ul> <p><i>Relief sought: Include a standard advice note.</i></p>
<p><b>R &amp; G Sanders</b></p> <p><b>Oppose</b></p> <p><b>Does not wish to be heard</b></p>	<ul style="list-style-type: none"> <li>♦ Concerned about the impact of the proposal on the safe use of Landowners Lane.</li> <li>♦ Consider that Landowners Lane is not constructed to accommodate the extra traffic, both current and proposed and that the cost of upgrading Landowners Lane will fall on existing landowners.</li> </ul> <p><i>Relief sought: Decline the application.</i></p>
<p><b>SJ Bretherton</b></p> <p><b>Oppose</b></p> <p><b>Does not wish to be heard</b></p>	<ul style="list-style-type: none"> <li>♦ Consider that further development will affect amenity values.</li> <li>♦ Concerned that additional road users will add to the safety concerns that the submitter has regarding Landowners Lane.</li> <li>♦ Concerns with regard to possible sediment discharge from earthworks into the coastal marine area.</li> </ul> <p><i>Relief sought: Decline the application.</i></p>



## 6. Resource Management Act 1991

### 6.1 Section 104 – Consideration of Applications

6.2 As a restricted discretionary activity the application is subject to the provisions of Section 104 and 104C of the Resource Management Act 1991 (RMA). When considering such an application and any submissions received the consent authority must, subject to Part 2, have regard to Section 104 of the RMA which states:

*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 policy statement*
  - (ii) *a New Zealand coastal policy statement*
  - (iii) *a regional policy statement or proposed regional policy statement;*
  - (iv) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

6.3 When forming an opinion 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 and when considering an application affected by section 124 of the RMA, the consent authority must have regard to the value of the investment of the existing consent holder.

6.4 The matters to be considered in the assessment of a restricted discretionary activity and any consent conditions to be attached to such an approval are restricted by the provisions of section 104C of the RMA, which states:

- (1) *When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—*
  - (a) *a discretion is restricted in national environmental standards or other regulations;*
  - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*
- (2) *The consent authority may grant or refuse the application.*
- (3) *However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which—*
  - (a) *a discretion is restricted in national environmental standards or other regulations;*
  - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*

### 6.5 Part 2 RMA

6.6 Part 2 of the RMA details the purpose and principles of the Act and as such forms the backbone for all the documents and processes that are prepared under the Act.

6.7 The principle purpose of the Resource Management Act (RMA) is to promote the sustainable management of natural and physical resources (Part 2, Section 5). It is considered that the purpose of the Act accords pre-eminence to promoting sustainable management of natural and physical resources, not just their “management”.

- 6.8 After Section 5, Sections 6 – 8 of the RMA provide guidance to decision makers on a hierarchy of considerations, being:
- Matters of national importance
  - Other matters that must be given particular regard
  - Principles of the Treaty of Waitangi
- 6.9 The matters set out in Sections 6 – 8 while important, are all considered to be subordinate to the overall purpose of the RMA, set out in Section 5.
- 6.10 **Section 5 – Purpose**
- Section 5 of the RMA states:
- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
  - (2) *In this Act 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.*
- 6.11 It is considered that the proposal is promoting development of land, however, the proposal is only considered to provide for economic wellbeing of individuals. The wellbeing of the wider community is considered to be provided for through the proposal adequately avoiding, remedying and/or mitigating all potential adverse effects of creating the three proposed allotments (along with attendant future development) on the surrounding environment. As a result the proposal is considered to be consistent with the principal of sustainable management of natural and physical resources.
- 6.12 In terms of sustaining the potential of natural and physical resources, case law has established that an area zoned for a particular purpose is considered a natural and physical resource in itself and the sustaining (utilising of that resource for the purpose proposed) of the resource is a means of according with the Act's sustainable management purpose.
- 6.13 In seeking to grant approval to the proposal, the development is regarded as achieving the purpose of the Act in that the large lot residential/lifestyle development will allow future landholders to provide for their social and economic well being as members of the community. The proposal also assists in meeting the environmental outcomes anticipated by the site's zoning and hence the reasonably foreseeable needs of future generations. Whilst there is a concern regarding community health and safety, particularly with respect to the formation of Landowners Lane and traffic safety/efficiency matters, I am satisfied that these matters can be overcome by conditions of consent requiring upgrading works to occur, mitigating the associated effects. Subject to considering the matters raised in section 8 of this report, if approval is granted it is recommended that these conditions are imposed.

**6.14 Section 6 – Matters of National Importance**

6.15 Section 6 of the RMA lists matters of national importance that must be recognised and provided for in the assessment of a consent application. In this particular instance no matters of national importance, as outlined in Section 6 of the Act, are considered relevant to this application.

**6.16 Section 7 - Other Matters**

6.17 Section 7 of the Act details those matters that a consent authority shall have particular regard to in the assessment of a consent application. With regard to this application the following matters as outlined below are considered to be relevant to this application:

*(b) The efficient use and development of natural and physical resources;*

*(c) The maintenance and enhancement of amenity values;*

*(f) Maintenance and enhancement of the quality of the environment.*

6.18 The view of the Environment Court as noted in *Shell NZ Ltd v Auckland CC*<sup>1</sup> is that section 7(c) does not require that the amenity in question be enhanced. The RMA contemplates applications for consent that not only fail to enhance amenity, but also fail to even maintain it.

6.19 In respect to this application, by virtue of its controlled activity status under the allotment area rules applying in the Living 3 Environment it is reasonable to assume that the proposed subdivision will not undermine local amenity values.

6.20 Furthermore, the resultant addition of further (complying) built development within the environment to the level proposed will maintain amenity values and will maintain the quality of the environment and on this basis the application as presented is considered to satisfy the relevant requirements of Section 7 of the RMA.

**6.21 Section 8 – Treaty of Waitangi**

6.22 Section 8 of the RMA requires council to take into account the principles of the Treaty of Waitangi. With respect to this site there is no evidence of previous habitation or reference to cultural or environmental issues on the site, it is not identified as being subject to any recorded archaeological features and is not listed in the District Plan as being a Site of Significance to Maori.

6.23 The Historic Places Act 1993 provides protection for unrecorded sites and in their submission the New Zealand Historic Places Trust (NZHPT) has stated that there is no record of any archaeological sites on the property and NZHPT did not request any further assessment of possible archaeological sites. It is not anticipated that the subdivision would impact adversely upon the relationship of Maori and their culture and traditions, with their ancestral lands, water, sites of waahi tapu and other taonga. The proposal is considered to satisfy section 8 in that it is unlikely to undermine the principles of the Treaty of Waitangi. As requested by the New Zealand Historic Places Trust, an advice note can be attached to any consent granted indicating the protective provisions of the Historic Places Act 1993.

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<sup>1</sup> *Shell NZ Ltd v Auckland CC* [1995] NZRMA 490 - upheld by Court of Appeal, *Shell New Zealand Ltd v Auckland CC* (1996) 2 ELRNZ 147, [1996] NZRMA 189 (CA)

## 6.24 Restricted Discretionary Activity

- 6.25 In *Auckland City Council vs. The John Woolley Trust and S J Christmas HC AK CIV 2004-404-3787*, the High Court sought to address questions of statutory interpretation in relation to resource consents for restricted discretionary activities, more particularly whether Part 2 of the Act applies to resource consent for a restricted discretionary activity under Part 6. In considering the matter, the High Court emphasised the following:

*“In terms of s 77B(2) and s 104A, a resource consent is required for a controlled activity but the consent authority must grant the application unless it has insufficient information to determine whether or not the activity is indeed a controlled activity. The consent authority must specify in a plan, the matters over which it has reserved control and the power to impose conditions on the consent is restricted to those matters. The activity must also comply with the standards, terms or conditions specified in the relevant plan. Under these provisions, the consent authority’s discretion is severely limited. Its discretion is limited to the imposition of conditions in relation to matters specified in the relevant plan.*

*Under s 104C, the discretion in respect of restricted discretionary activities is wider than for controlled activities but is nevertheless constrained. While the consent authority may grant or refuse the application, it is obliged by s 77B(3)(b) to specify in the plan the matters to which it has restricted its discretion. It is not in dispute that, at least in relation to the provisions of the plan, s 104C(a) means that the consent authority must not consider matters outside those to which it has restricted its discretion. If it grants the application, then conditions imposed under s 108 must relate only to the matters specified in the plan over which the consent authority has restricted its discretion: s 104C(c).”*

- 6.26 In Judge Randerson’s judgment of the 31<sup>st</sup> January 2008, it was determined that:

*“any application for consent to a restricted discretionary activity is subject to Part 2 but with the important proviso, evident from s 77B(3)(c), that matters under Part 2 may not be relied upon to decline consent for a restricted discretionary activity. Similarly, Part 2 matters may not be relied upon to impose conditions on a grant beyond those relevant to the matters upon which the consent authority has restricted its discretion in the plan”.*

- 6.27 To summarise, whilst Part 2 of the Act is to be regarded as irrelevant in instances whereby the Council is contemplating declining an application for a restricted discretionary activity, on the other hand it is to be taken into account where consent is to be granted.
- 6.28 In this instance the subdivision complies with the relevant rules for controlled activities relating to allotment area, allotment shape, building area, existing buildings, Sites of Significance to Maori, provision for extension of services, water supply, stormwater, sewage, electricity, telecommunications and earthworks.
- 6.29 As stated earlier the proposal is regarded as a restricted discretionary activity in terms of the rules relating to property access. Section 3 of this report outlines the limits of Council’s discretion with respect its assessment of this application (the matters over which discretion is reserved under rules 71.3.8; 47.2.7; and 47.2.9) and these matters include, amongst others, Council’s Environmental Engineering Standards.
- 6.30 Notwithstanding the above, section 106 of the Act provides that Council may refuse to grant a subdivision consent or may grant a subdivision consent subject to conditions, if it considers that sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision. Any conditions imposed must however be for the purpose of remedying, avoiding or mitigating the associated effects.

- 6.31 The following sections of this report address those matters considered relevant to this application including an analysis of the proposal against the relevant objectives and policies of the Operative Whangarei District Plan and an assessment of the environmental effects in order to reach a conclusion as to whether the application should be granted or declined pursuant to section 104C of the Resource Management Act 1991.

## 7. Policy Statements and Plan Provisions

- 7.1 Under section 104(1)(b) of the Act, regard has to be given to the New Zealand Coastal Policy Statement 1994, any relevant policy documents (including the Regional Policy Statement and the Regional Land Transport Strategy for Northland), the Regional Water and Soil Plan for Northland, and the Operative Whangarei District Plan.

### 7.2 New Zealand Coastal Policy Statement 1994 (NZCPS)

The purpose of the NZCPS is to state policies designed to achieve the purpose of the Act with respect to the coastal environment. The NZCPS is of relevance to this proposal due to its location within the coastal environment. The following policies (with comments) are considered to be the most relevant to the proposal.

#### **Policy 1.1.1**

*It is a national priority to preserve the natural character of the coastal environment by:*

- (a) *Encouraging appropriate subdivision, use or development in areas where the natural character has already been compromised and avoiding sprawling and sporadic subdivision, use or development in the coastal environment.*
- (b) *Taking into account the potential effects of subdivision, use, or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location; and*
- (c) *Avoiding cumulative adverse effects of subdivision, use and development in the coastal environment.*

Comment: The subdivision is located within the Living 3 Environment and meets the controlled activity standard for this Environment (with respect to lot sizes), therefore the level of future built development (assuming such development is complying) will be consistent with the intent of Policy 1.1.1.

#### **Policy 3.1.1**

*Use of the coast by the public should not be allowed to have significant adverse effects on the coastal environment, amenity values, nor on the safety of the public nor on the enjoyment of the coast by the public.*

#### **Policy 3.2.1**

*Policy statements and plans should define what form of subdivision, use and development would be appropriate in the coastal environment, and where it would be appropriate.*

#### **Policy 3.2.4**

*Provision should be made to ensure that the cumulative effects of activities, collectively, in the coastal environment are not adverse to a significant degree.*

Comment: The subdivision will not impact adversely on the coastal environment as it is in context with the existing level of development and is consistent with the development rights established by its Living 3 Environment zoning.

### 7.3 **Regional Policy Statement for Northland (RPS)**

7.4 The overall emphasis of Section 29, 'Transport' relates to impacts on the Region's major transport network (particularly strategic and arterial roads and railways). Two of the issues identified in the RPS with respect to transport relate to the adverse impact that adjacent land use development and subdivision can have upon the efficiency and safety of roads, particularly heavily trafficked routes in rural areas and potential contamination caused by vehicles on unsealed roads that can also be a nuisance to adjacent properties.

7.5 In terms of the policies relating more directly to the effects of land use activities on transport the RPS also seeks to ensure that safe and convenient vehicle access is available to all sites.

7.6 As stated above potential issues with respect to the formation of Landowners Lane and traffic safety/efficiency matters can be overcome by conditions of consent. Therefore the application is assessed as achieving the relevant issues, objectives and policies of the Regional Policy Statement for Northland.

### 7.7 **The Regional Land Transport Strategy for Northland 2006 – 2016 (RLTS)**

7.8 The RLTS is prepared as a requirement of the Land Transport Act 1989. The Strategy details that its purpose is to provide a planning framework for future investment decisions and research related to land transport in the Region. The strategy focuses primarily on land transport (road and rail transport of freight and people) and to a lesser extent on cycling and pedestrian use of roads. As this document focuses on Regional issues, as opposed to localised urban transport matters, it is assessed to be of limited application to the proposal.

### 7.9 **Regional Water and Soil Plan for Northland (RWSP)**

7.10 The RWSP covers the land and water resources of the Northland Region and controls discharges and land disturbance activities. The Plan aims to prevent activities occurring which would result in unacceptable adverse effects.

7.11 Concerns have been raised in submissions with respect to the control of sediment discharge from earthworks. Council's Senior Environmental Engineering Officer has considered matters relating to the development of the site and site servicing and is satisfied that with appropriate conditions of consent, combined with the requirements of RWSP, future development will achieve the environmental results anticipated by the RWSP.

### 7.12 **The Operative Whangarei District Plan**

7.13 In terms of the aspects of the proposal for which consent is required as a controlled activity, it is assessed as reasonable to assume that the subdivision is consistent with the District Plan's objectives and policies as the proposal meets the prescribed standards of the Plan. On this basis it is considered unnecessary to reference all of the objectives and policies of relevance. Rather, the focus should be upon those objectives and policies relating more directly to access matters, for which consent is required as a restricted discretionary activity.

7.14 Chapter 22 of the District Plan relating to road transport includes objectives and policies to ensure that the intensity and nature of activities along particular roads is compatible with road capacity and function, ensuring vehicle and pedestrian safety. The following identifies those objectives and policies assessed to be of relevance:

#### ***Chapter 22 – Road Transport***

***Objective 22.3.1 – Establish and maintain a safe and efficient road transport network.***

**Policy 22.4.5 Location of Activities** – To locate activities and developments in a manner that makes best use of the existing and proposed road transport infrastructure, and minimises adverse effects on traffic flows.

**Policy 22.4.5 Location of Activities** – To locate activities and developments in a manner that makes best use of the existing and proposed road transport infrastructure, and minimises adverse effects on traffic flows.

**Policy 22.4.6 Pedestrian Safety** – To ensure that cyclists and pedestrians, including vulnerable groups such as the young, the elderly and the disabled, are safe from vehicles and other road traffic.

- 7.15 It is assessed that provided that Landowners Lane is upgraded to the standard recommended in the conditions of this consent that Council's Senior Environmental Engineering Officer is satisfied that any adverse effects related to traffic movements and pedestrian safety will be no more than minor. As such the proposal is considered consistent with the intent of the relevant objectives and policies of the Operative Whangarei District Plan.

## **8. Assessment of Environmental Effects**

### **8.1 The Permitted Baseline**

- 8.2 With all environmental effects assessments it is firstly useful to establish what could occur as of right as a permitted activity (i.e. without the need for a resource consent). This is known as the permitted baseline principle.

- 8.3 The permitted baseline approach to effects assessment enables the consent authority to disregard any adverse effects on the environment if those effects are related to an activity/activities permitted by the plan. Existing activities and any activity which could be carried out as a permitted activity may be discounted as giving rise to any adverse effects.

- 8.4 Since the proposal does not comply with rule 47.2.9 Shared Access Widths two residential units could not theoretically be permitted as of right on the site, without a resource consent. Also, any subdivision requires a minimum of controlled activity consent. Therefore, the permitted baseline principle is not applicable in this case.

### **8.5 Matters Considered**

- 8.6 In terms of the environmental effects of the proposal the primary matter requiring consideration relates to the standard of access on Landowners Lane and the potential effects related to the granting of this consent with regard to traffic safety resulting from increased traffic from residential development established on the proposed lots.

- 8.7 Primary access to the site is via Landowners Lane, which is a private access road servicing approximately 23 lifestyle lots and the Tutukaka Recreation Reserve. Landowners Lane does not currently meet the required formation standards of the WDC Environmental Engineering Standards with regard to the current level of use (i.e. the number of lots served by this access).

- 8.8 The application as lodged was supported by an assessment of traffic effects, provided by Northern Civil Consulting Engineers. This assessment considered the existing formation and traffic volumes on Landowners Lane and the potential effects of increased development and concluded that subject to specific works being undertaken the access would be suitable for the proposed use.

- 8.9 In the assessment of this application WDC engaged Wes Edwards Consulting to provide an independent review of the traffic engineering aspects related to the proposed subdivision. Mr Edwards in his report (Attachment 6) states that Landowners Lane is for the most part a relatively low speed environment, where the narrow carriageway and limited visibility contribute to lower speeds. Most of Landowners Lane between Matapouri Road and the subject site has sufficient carriageway width to allow two cars to pass slowly, with sufficient forward visibility, although there are some points where improvements should be made.
- 8.10 The assessment of the application concluded that the traffic volumes generated by the additional lots is relatively small and that the adverse effects generated by the two additional lots is relatively minor in isolation. Overall Landowners Lane is considered to be generally appropriate for its existing function to the point where the proposal gains access, aside from a few locations where minor upgrading to ensure a consistent standard is recommended. However, the cumulative effects of the additional lots together with the other traffic using the access road is considered to be at the level where some mitigation is warranted.
- 8.11 As a result of this assessment consent conditions are recommended requiring an increase in the seal width (to 5.5m) to ensure that a minimum sealed width is provided along the portion of Landowners Lane between Matapouri Road and the subject site (approx 545m), with the seal width to be further widened (to approx 6.0m) on the tighter bends. Overhanging branches are to be trimmed to ensure a clear passage and vegetation on the inside of bends is to be trimmed or removed to improve forward visibility. In addition pedestrian refuges are to be provided at locations where visibility is limited.
- 8.12 Councils Senior Environmental Engineering Officer has reviewed the report of Mr Edwards and is satisfied that if the proposed conditions are applied to the application, the effects of the proposal on the safe and efficient vehicle and pedestrian use of Landowners Lane will be no more than minor.
- 8.13 In order to ensure a full assessment of the potential traffic issues related to the application the proposal is assessed against an amalgam of matters over which discretion is reserved pursuant to rules 71.3.8; 47.2.7; and 47.2.9 of the Whangarei District Plan.
- i. The relevant provisions of the Whangarei District Council's Environmental Engineering Standards 1998  
*The width of the proposed access improvements will not bring the formation width of Landowners Lane up to road standard, but the improvements proposed by way of conditions of consent are considered to meet with the overall outcomes of the engineering standards.*
  - ii. The adequacy of the access for the anticipated use  
*The access (subject to improvements) is assessed to be adequate for the anticipated use.*
  - iii. The ability of the access to contain required services  
*It is not considered necessary for any further services to be provided within the accessways, however if necessary this matter will be dealt with at the time of engineering plan approval.*
  - iv. Traffic safety and visibility and pedestrian safety  
*The improvements to the access way are specifically designed to ensure that traffic safety and visibility and pedestrian safety will meet required standards.*
  - v. The need for acceleration and deceleration lanes  
*The assessments undertaken have not demonstrated a need for acceleration and deceleration lanes.*
  - vi. Type, frequency and timing of traffic



*The type, frequency and timing of traffic has been assessed and from this assessment proposed improvements to the accessway have been determined, which when implemented will ensure there is sufficient provision in terms of access width and visibility for the traffic volumes proposed.*

vii. Access design, number and location of vehicle crossings

*Access to the subject site will be via an existing vehicle crossing with improvements made as necessary to ensure safe vehicle access.*

viii. Efficiency and safety of roads

*Landowners Lane is not a public road, however notwithstanding this the improvements proposed will ensure that the efficiency and safety of roads (including private accessways) is maintained, including safety at the intersection of Landowners Lane and Matapouri Road.*

ix. Need for forming or upgrading of roads in the vicinity of the site

*There has been no need assessed to form or upgrade roads in the vicinity of the site (i.e. Matapouri Road), other than the improvements to Landowners Lane (a private accessway).*

x. Need for traffic control, including signs, signals and traffic islands

*There has been no need assessed to include traffic control signs, signals or traffic islands with the improvements proposed.*

xi. The need for access to the allotment

*There is a need to provide legal vehicular access to the proposed allotments and this will be undertaken as part of the conditions of consent.*

xii. The safe and efficient movement of people, vehicles and goods

*The improvements proposed by way of conditions of consent will ensure the safe and efficient movement of people, vehicles and goods along Landowners Lane.*

xiii. The ability of the road structure to withstand anticipated loads

*Council's Senior Environmental Engineering Officer will assess the adequacy of the engineering plans provided, taking into account the ability of the road structure to withstand anticipated loads. Any engineering plans must be designed by an engineer competent and qualified in such work and inspections of physical works will be required to ensure that the standard of physical access provided is sufficient to meet the required standards.*

xiv. Surfacing material

*Both Landowners Lane and the access to the new lots proposed will be finished and an all-weather surface provided to Council standard.*

xv. Gradient of the area to be surfaced

*No concerns have been raised in the engineering assessments undertaken with regard to the gradient of the area to be surfaced.*

xvi. Amenity values

*The improvements to Landowners Lane are improvements to an existing access and it is not considered that the works required or the increased vehicle traffic will have a negative impact on amenity values.*

xvii. Stormwater control

*Requirements for stormwater control will be a matter that is assessed as part of the engineering plan approval; however the engineering assessments undertaken to date have not raised any concerns with the ability to adequately control stormwater.*

xviii. Effects of dust

*Both Landowners Lane and the access to the new lots proposed will be finished with an all-weather surface to Council standard, therefore it is assessed that there will be no negative impact related to dust generated by the use of the accessway. It is recognised that there is the potential for dust generation during the earthworks process when improvements are being undertaken to the existing accessways and there is an onus on the contractors undertaking these improvements to control dust and avoid negative effects from such.*

- 8.14 Overall it is assessed that the potential effects of the proposal on the safe and efficient use of Landowners Lane will be no more than minor.
- 8.15 With regard to the issue of overland flow and wastewater disposal the site is identified as being medium unsuitability for effluent disposal on the (WDC) GIS Maps and all lots will require provision of an on-site treatment and disposal system as there is no public reticulated wastewater disposal system available to connect to.
- 8.16 The engineering report provided by the applicant includes a site plan for Lot 3 that details the extent of the 20 year ARI and 100 year ARI storm water overland flows. The information provided details the available area for effluent disposal and clearance of the building site from overland flows, however Councils Senior Environmental Engineering Officer is concerned that Northland Regional Council discharge consent may be required because in his opinion the detailed effluent field reserve area for Lot 3 is within 15.0m of the 5% AEP flood level.
- 8.17 The Senior Environmental Engineering Officer has proposed in his report that the application be suspended in accordance with section 91 of the RMA until the applicant obtains a granted discharge consent from the Northland Regional Council for the proposed on-site effluent disposal for Lot 3, if as detailed the effluent field reserve area is within 15.0m of the 5% AEP flood level.
- 8.18 The applicant's engineer is of the opinion that if some filling is undertaken, or a smaller dwelling (less bedrooms) is placed on the property (that would result in a lesser requirement for effluent disposal), that the required separation distance can be achieved. The applicant's engineer has proposed that the matter of the separation distance from the overland flow to the effluent field (in particular the reserve area) can be finalised at the time of building consent.
- 8.19 Rather than delay the application at this stage, but recognising that there is some uncertainty associated with this matter, it is proposed that this matter be attended to at the time of engineering plan approval for the subdivision as it is considered that there are means available to address this matter adequately and avoid any possible adverse effects. If the engineering design is not able to provide the separation distance required, then the applicant may be required to obtain consent from the Northland Regional Council for a lesser separation distance and this consent (if required) will have to be obtained prior to engineering plan approval.
- 8.20 In any event it is proposed (and has been communicated to the applicant's agent) that the applicant's engineer and the Council's Senior Environmental Engineering Officer further discuss this issue prior to the hearing to see if resolution can be achieved at this juncture to ensure that agreeable consent conditions can be included with any approval of this application.

## 9. Section 37

- 9.1 This application has required further engineering information to be provided, both before and after notification. Additionally the applicant requested in a letter to WDC dated 3 August 2010 that the application be heard by the same commissioner that has heard similar applications, as Commissioner Mr. Greg Hill was familiar with the issues related to vehicle access on Landowners Lane. This request was considered appropriate to enable thorough consideration of the matters at hand.
- 9.2 Therefore, pursuant to Section 37 of the Resource Management Act 1991 it is recommended that the timeframes for the processing of this resource consent be increased to accommodate the request made by the applicant that this application be heard by the same commissioner that has heard similar applications and to enable revised engineering information to be provided. This request requires the timeframe for holding a hearing after submissions have closed (normally 25 working days pursuant to section 101(2)(c) RMA) to be increased to 80 working days.

## 10. Conclusion

- 10.1 Having considered the application against the relevant requirements of the Whangarei District Plan and the provisions of the RMA, it is recommended that this application be granted subject to conditions requiring an upgrade to Landowners Lane, on the grounds that:
1. On the basis of the mitigation measures required under the conditions of consent, the granting of consent to the subdivision will not be contrary to or compromise the relevant objectives and policies of the operative Whangarei District Plan and there are no apparent conflicts with Part 2, 'Purpose and Principles', of the Resource Management Act 1991.
  2. The development meets the intent of the New Zealand Coastal Policy Statement 1994.
  3. The Council is satisfied that pursuant to section 106 of the Resource Management Act 1991 sufficient provision can be made for legal and physical access to each allotment to be created by the subdivision. The Council has considered the existing traffic environment and is of the opinion that the proposal is unlikely to compromise road safety off-site, with any potential affects associated with the increase in traffic capable of being mitigated by conditions of consent.
  4. The proposal is a controlled activity with respect to allotment size and is of a nature envisaged by the rules within the operative Whangarei District Plan

### Recommendation 1

**THAT pursuant to Section 37 of the Resource Management Act 1991 the timeframes for the processing of this resource consent be increased, with the timeframe for holding a hearing after submissions have closed (normally 25 working days pursuant to section 101(2)(c) RMA) be increased to 80 working days, to accommodate a request made by the applicant that this application be heard by the same commissioner that has heard similar applications and to enable revised engineering information to be provided.**

## Recommendation 2

THAT pursuant to sections 104, 104C, 108 and 220 of the Resource Management Act 1991, the Council grants consent to Wilson Family Trust to subdivide Lot 2 DP 207869 into three lots in the Living 3 Environment. Proposed Lot 1 has an area of 1.2581 ha (1.0113 ha nett), Proposed Lot 2 has an area of 8676m<sup>2</sup> and Proposed Lot 3 has an area of 2123m<sup>2</sup> (2000m<sup>2</sup> nett). The configuration of these allotments is shown on the plan of subdivision prepared by Reyburn & Bryant 1999 Ltd reference S10902 B and dated August 2007. Consent is granted subject to the following conditions:

1. That before the survey plan is approved the following requirements are to have been satisfied:
  - (a) That the survey plan submitted for approval shall be in general accordance with the layout shown on the '*Proposed Subdivision of Lot 2 DP 207869*' prepared by Reyburn and Bryant 1999 Ltd, reference S109012 Rev: A, dated August 2007.
  - (b) That the consent holder shall provide written confirmation from power and telecommunications utility service operators of their consent conditions in accordance with the Council's Environmental Engineering Standards and show necessary easements on the survey plan to the approval of the Subdivision Officer.
  - (c) That all easements shown on the subdivision plan are to be duly granted and reserved.
  - (d) That the consent holder shall create easements over overland stormwater flow paths to the approval of the Council's Senior Environmental Engineering Officer.
  - (e) That the consent holder shall submit a detailed set of engineering plans prepared in accordance with the Council's Environmental Engineering Standards (2007). The engineering plans are to be submitted to the Senior Environmental Engineering Officer for prior approval. The plans are to include but are not limited to:
    - i. Design details of the upgrading of Landowners Lane in accordance with the recommended conditions contained in the Traffic Review compiled by Wes Edwards Consulting dated 23 February 2010, Ref: 100734.
    - ii. Design details of works to be undertaken to the pavement of Landowners Land including: pot hole repairs; seal patching; vegetation spraying; and the rehabilitation of slips adjacent to and instability issues below the pavement formation (in accordance with the Richardson Stevens Consulting Engineers engineering report dated 28 November 2010, Ref: 8526), for the length of Landowners Lane starting at its intersection with Matapouri Road and finishing at the southern boundary of the entrance to the subject site.
    - iii. Design details of upgrading of the existing formation of proposed rights of way A & C has a 4.0m seal width which requires some repair to comply with table 3.2 WDC Environmental Engineering Standards.
    - iv. Design details of the effluent disposal field and the effluent disposal field reserve area associated with Lot 3 and confirmation that the permitted activity standard(s) for separation distances required between the overland flowpath and the effluent disposal field and the effluent disposal field reserve area, as detailed in the relevant Northland Regional Council Planning documents, is achieved; or

- v. If the separation distance required between the overland flowpath and the effluent disposal field and the effluent disposal field reserve area, as detailed in the relevant Northland Regional Council Planning documents, can not be achieved, that the required consent(s) from the Northland Regional Council have been obtained and any requirements of relevant conditions have been incorporated into the engineering plans provided.

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

- (a) That 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 the Council's Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer.
- (b) That the consent holder shall notify the 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.
  - ii. Site address to which the consent relates.
  - iii. Activities to which the consent relates.
  - iv. Expected duration of works.
- (c) A copy of the approved engineering plans and a copy of the resource consent conditions and the above letter are to be held onsite at all times.
- (d) That no construction works are to commence on site until relevant engineering plans required by condition 1(e) have been approved and all associated plan inspection fees have been paid.
- (e) That all work on the approved engineering plans in condition 1(e) is to be carried out to the approval of the Council's Senior Environmental Engineering Officer. Compliance with this condition shall be determined by way of a favourable site inspection by the Senior Environmental Engineering Officer or their delegated representative, to be confirmed in writing.
- (f) Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Certificate of Title of Lots 1, 2 and 3 at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
  - i. Restrictions and recommendations identified in the Richardson Stevens Consulting Engineers engineering report dated 28 November 2010, Ref: 8526 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by the council.
  - ii. At the time of building consent for any dwelling or accessory building, stormwater attenuation will be required to ensure that the total peak runoff from the site post-subdivision shall not exceed the total peak runoff from the site pre-subdivision for both the 5 year and 100 year average recurrence interval (ARI) plus 20 %, assessed using the Auckland Regional Council (ARC) TP108 methodology for a 24 hour duration event to the satisfaction of the Senior Environmental Engineering Officer.

A formal request should be made to the Council to have the notice/s prepared at the appropriate time.

### ***Reasons for the Decision:***

Pursuant to section 113 of the Act the reasons for the decision are:

1. On the basis of the mitigation measures required under the conditions of consent, the granting of consent to the subdivision will not be contrary to or compromise the relevant objectives and policies of the operative Whangarei District Plan and there are no apparent conflicts with Part 2, 'Purpose and Principles', of the Resource Management Act 1991.
2. The development meets the intent of the New Zealand Coastal Policy Statement 1994.
3. The Council is satisfied that pursuant to section 106 of the Resource Management Act 1991 sufficient provision can be made for legal and physical access to each allotment to be created by the subdivision. The Council has considered the existing traffic environment and is of the opinion that the proposal is unlikely to compromise road safety off site, with any potential effects associated with the increase in traffic capable of being mitigated by conditions of consent.
4. The proposal is a controlled activity with respect to allotment size and is of a nature envisaged by the rules within the operative Whangarei District Plan.

### ***Advice Notes:***

1. The Consent Holder shall pay all charges set by Council under section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
2. Any works carried out within the Whangarei District Council road reserve will require an approved road opening notice / traffic management plan.
3. The Council will not be responsible for vehicle access maintenance beyond the existing Council road maintenance termination unless it is constructed within a legal road in accordance with prior approved engineering plans complying with Table 3.2 of the Council's Environmental Engineering Standards and to the satisfaction of the Council's Senior Environmental Engineering Officer.
4. The consent holder is responsible for complying with necessary Northland Regional Council requirements for dust suppression, stormwater and sediment control, and monitoring associated with these conditions.
5. The subject site is located in a rural area outside the protected fire district and the response times from the New Zealand Fire Service in an emergency situation may be constrained. The New Zealand Fire Service recommends upon the construction of all habitable buildings within the subdivision water supply be provided to comply with the NZFS Fire Fighting Water Suppliers Code of Practice SNZ PAS 4509:2003 and recommends that the best way of meeting this standard is by installing a sprinkler system to NZS 4517. This information should be passed on to future owners of the individual lots within the subdivision. The New Zealand Fire Service Commission has advised that the Assistant Fire Region Commander, Mike Lister, and his office are happy to be contacted to assist with further queries on (09) 438 9199.

6. Pursuant to Section 102 of the Local Government Act 2002, the Whangarei District Council has prepared and adopted a Development Contributions policy. Under this Policy, the activity to which this consent relates is subject to Development Contributions. You will be advised of the assessment of the development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which this consent relates or, in the case of a subdivision, prior to the issue of a Section 224 (c) Certificate. Further information regarding Council's Development Contributions Policy may be obtained from the Long Term Community Consultation Plan (LTCCP) or council's web page at [www.wdc.govt.nz](http://www.wdc.govt.nz).
7. This resource consent will expire five years after the date of commencement of consent unless:
  - (a) It is given effect to before the end of that period; or
  - (b) An application is made to the Council to extend the period after which the consent lapses and the Council decides to grant an extension. The statutory considerations that apply to extensions are set out in Section 125(1)(b) of the Resource Management Act 1991.
9. Section 120 of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal, and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties.
10. All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
11. Section 357B of the Resource Management Act 1991 provides a right of objection in relation to the imposition of additional charges or recovery of costs.

### **Attachments:**

1. Copy of the Application
2. District Plan Planning Maps
3. Submissions Received
4. Engineering Report Prepared by Richardson Stevens Ltd
5. Engineering Report Prepared by Council's Environmental Engineering Team Leader
6. Report by Wes Edwards Consulting